



IRF24/2814

Gateway determination report – PP-2023-1899

310 Terrigal Drive, Terrigal

December 24



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Gateway determination report – PP-2023-1899

Subtitle: 310 Terrigal Drive, Terrigal

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

| Relevant reports and plans |
|--|
| Due Diligence Report for Aboriginal Objects, Integrated Site Planning (June 2023) |
| Planning Proposal Acoustic Assessment, Acoustics Consultants Australia (28 May 2023) |
| Bushfire Assessment Report – 30 Terrigal Drive, Terrigal (25 September 2023) |

Relevant reports and plans

Response to referral regarding Gateway assessment for proposal for 310 Terrigal Drive, Terrigal, NSW Department of Climate Change, Energy, the Environment and Water (26 June 2024)

Preliminary Site Investigation Report, Geo-Logix Pty Ltd (July 2023)

Central Coast Council Ordinary Council Meeting Minutes (26 March 2024)

Draft DCP Chapter 5.11 – Terrigal Corner Charles Kay Drive and Terrigal Drive

Visual Impact Assessment – 310 Terrigal Drive, Terrigal, OG Urban (27 March 2024)

Flood Impact Assessment – 310 Terrigal Drive, Terrigal, Civil Stormwater Engineering Group (17 April 2024)

Floodplain Risk Management Plan – 310 Terrigal Drive, Terrigal, Reinco Consulting (11 May 2023)

Ecological Assessment Report – 310 Terrigal Drive, Terrigal, Integrated Site Planning (June 2023)

Geotech and Acid Sulfate Soils Report – 310 Terrigal Drive, Terrigal, Geo-Logix Pty Ltd (June 2023)

Central Coast Council Letter to DPHI – Response to Adequacy assessment – PP-2023-1899 – 23 April 2024

Stormwater, Servicing and Civil Infrastructure Assessment – 310 Terrigal Drive, Terrigal, Tagro Engineering Consultants (May 2023)

Landscape Strategy – 310 Terrigal Drive, Terrigal, OG Urban (2 June 2023)

Central Coast Local Planning Panel Meeting Minutes – Planning Proposal: 310 Terrigal Drive, Terrigal (30 November 2023)

Arboricultural Impact Assessment – 310 Terrigal Drive, Terrigal (1 June 2023)

Water Supply Pressures – 310 Terrigal Drive, Terrigal, Central Coast Council – Water Assessment Team (28 June 2023)

Survey Plan – 310 Terrigal Drive, Terrigal, Bannister & Hunter (11 April 2022)

Traffic and Transport Assessment – PP-2023-1899 – Arc Traffic and Transport, July 2023

Urban Design Report – PP-2023-1899 - CKDS, June 2024

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|---------------------------------|---|
| LGA | Central Coast |
| PPA | Central Coast Council |
| NAME | Proposal to permit 'retail premises' as an additional use and increase the permissible height of buildings and floor space ratio controls for land at 310 Terrigal Drive, Terrigal. |
| NUMBER | PP-2023-1899 |
| LEP TO BE AMENDED | Central Coast Local Environmental Plan (LEP) 2022 |
| ADDRESS | 310 Terrigal Drive, Terrigal |
| DESCRIPTION | Lot 27 / DP 1223375 |
| RECEIVED | 2/04/2024 |
| FILE NO. | IRF24/2481 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose and a political donation disclosure is not required |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal |

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that explain the intent of the proposal.

The proposal seeks to facilitate the redevelopment of 310 Terrigal Drive, Terrigal for mixed use purposes, comprising approximately 38 residential units, ground floor café retail premises, basement parking and greenspace.

The intended outcomes of the proposal are to:

- *Unlock development and uplift potential on a vacant and underutilised site in a prominent corner location with strong connectivity to other local centres within the Central Coast region.*
- *Facilitate the immediate delivery of housing within an area identified as a focus for future housing development.*
- *Address the 'missing middle' policy objective of the NSW Government through the delivery of medium density housing.*
- *Permit a mixed-use development that will contribute to the much-needed supply and variety of housing in Central Coast and offer local retail service to the community.*

- *Facilitate the delivery of an exceptional urban design outcome that responds to environmental and site constraints to mark the significant corner location.*
- *Rejuvenate the riparian zone on the site through the removal of weeds and improvement of stability and water quality.*
- *Provide local employment opportunities in close proximity to public transport, local services and amenities.*

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provision

The planning proposal seeks to amend the planning controls for the site under the Central Coast LEP 2022 to apply per the changes outlined in **Table 3** below.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. However, the Department does not support the proposal proceeding has not demonstrated sufficient strategic and site-specific merit, see assessment in **Section 3** of this report.

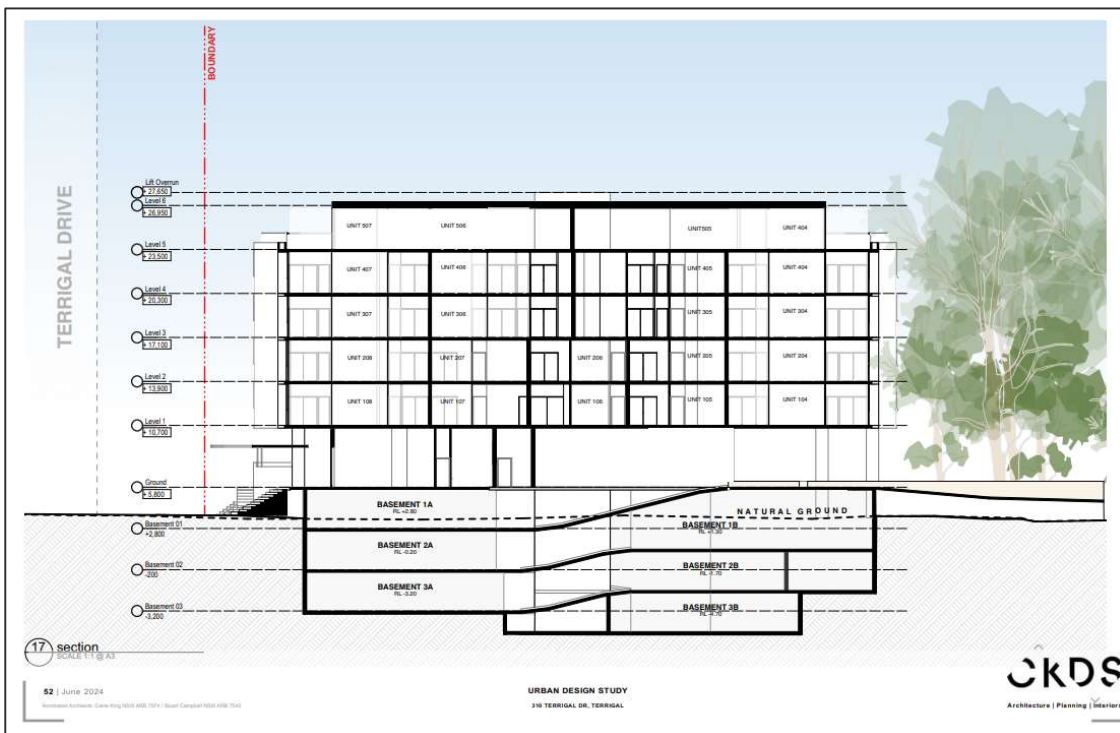
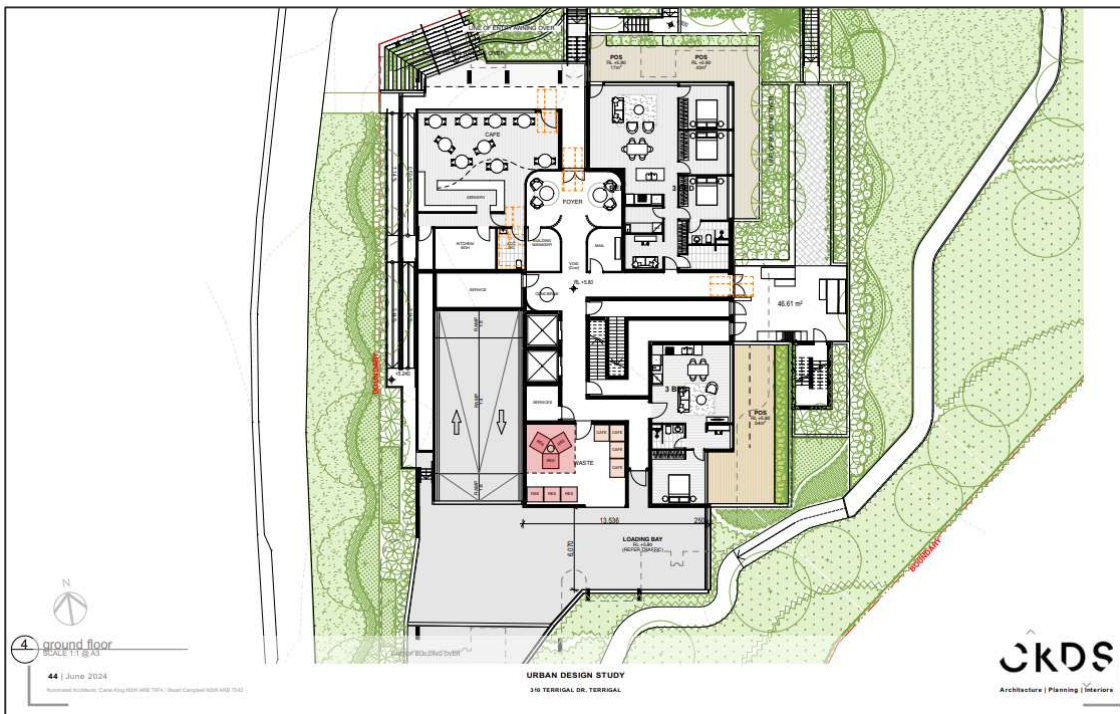
Table 3 Current and proposed controls

| Control | Current | Proposed |
|---|---|--|
| Land Zone | R1 General Residential | No change |
| Height of buildings | 8.5m | 25m |
| Floor space ratio | 0.5:1 Clause 4.4A (4)(a) and (b) permits FSRs of 0.6:1 or 0.7: for residential flat buildings or multi dwelling housing with basement parking on sites less than or greater than 1000sqm respectively. | 1.3:1 |
| Minimum lot size | 500m ² | No change |
| Schedule 1 Additional permitted uses | N/A | Permit 'retail premises' with a maximum GFA of 150m ² as an additional permitted use. |
| Number of dwellings | 0 | Approximately 38 dwellings |

A draft site specific development control plan has also been prepared to amend the Central Coast Development Control Plan 2022 (draft Chapter 5.11 *Terrigal: Corner Charles Kay Drive and Terrigal Drive*).

1.3.1 Indicative development concept

The supporting Urban Design Study (CKDS Architecture Planning Interiors, June 2024) illustrates a potential 6-storey mixed-use development outcome for the site under the proposed LEP provisions, comprising approximately 38 residential units, café, basement parking for approximately 85 car spaces, and greenspace (**Figures 1 & 2**).



Figures 1 & 2 Ground floor concept plan and indicative section (Source: Urban Design Study, CKDS, June 2024; pp.44 & 52)

1.4 Site description and surrounding area

The planning proposal applies to 310 Terrigal Drive, Terrigal (Lot 27 in DP 1223375). The site is approximately 4,262m² in area, with frontages to Terrigal Drive and Charles Kay Drive (**Figure 3**).

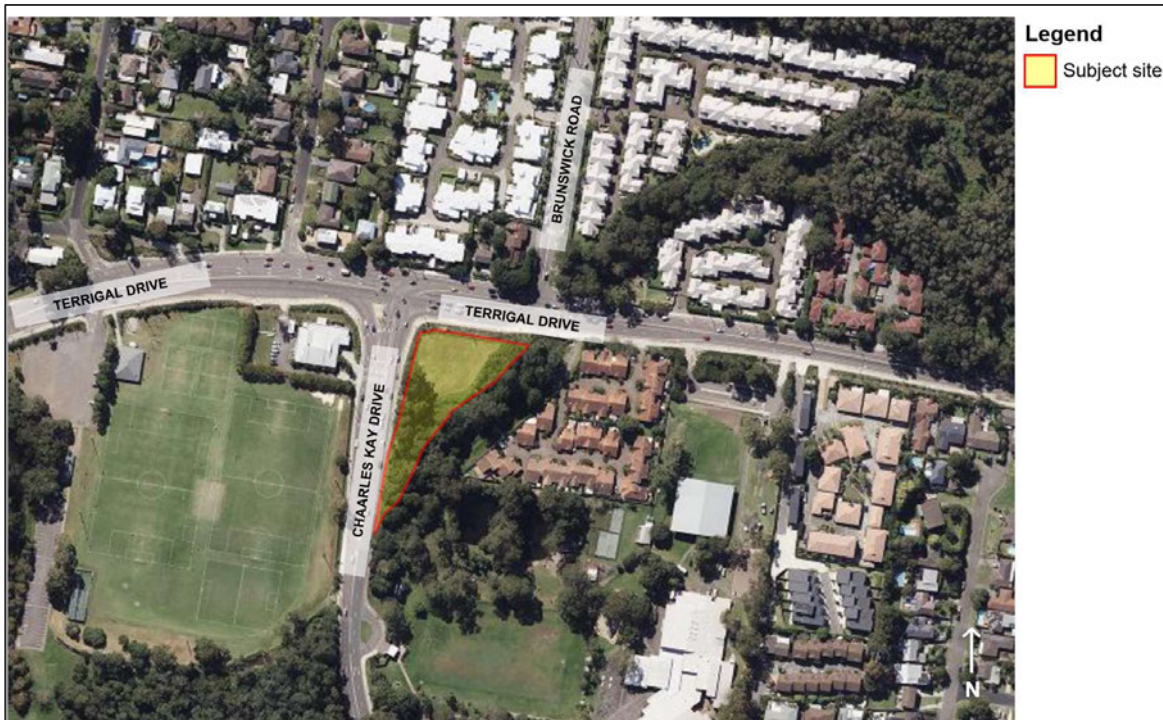


Figure 3 Subject site (Source: Nearmap, November 2024)

There are no existing buildings on the site which is vegetated with grass and shrubs to the north, mature trees to the south and south-west, and is located adjacent to (within 40m) an existing 3rd order watercourse to the east.

The proposal and supporting documentation identify the site as flood affected, with the southern, northern and north-eastern portion of the site also mapped as bushfire prone 'vegetation buffer' land (**Figures 4 & 5**).



Figures 4 & 5 Bushfire and flood affectation (Source: Urban Design Study, June 2024, pp.23-24)

The surrounding area is zoned a mix of SP2 Infrastructure, R1 General Residential, R2 Low Density Residential and RE1 Public Recreation, and predominantly comprises one to two storey dwellings to the north; vegetation and Terrigal High School to the south; townhouses to the east; and Terrigal Ambulance Service Station, Duffy's Reserve and sporting facilities to the west (**Figure 6**).

The site is located within the Narara district, Central Coasts major urban area, and is approximately 4.7km east of Erina strategic centre and just over 2km west of Terrigal centre, with direct road and public transport access provided to these centres via Terrigal Drive.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the height of building and floor space ratio maps (see **Figures 7 to 10**).

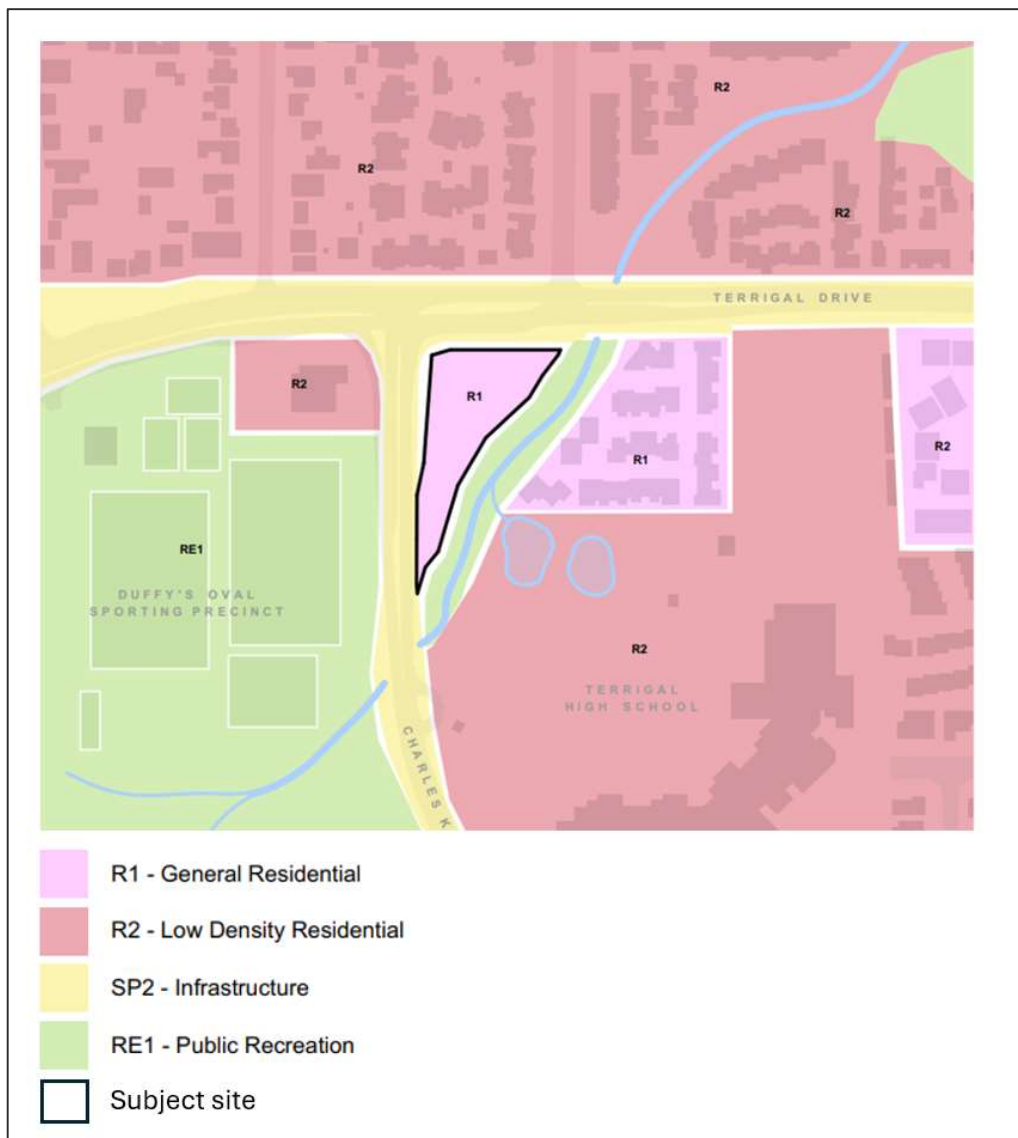


Figure 6 Current land use zoning (Urban Design Study, June 2024, p.16)

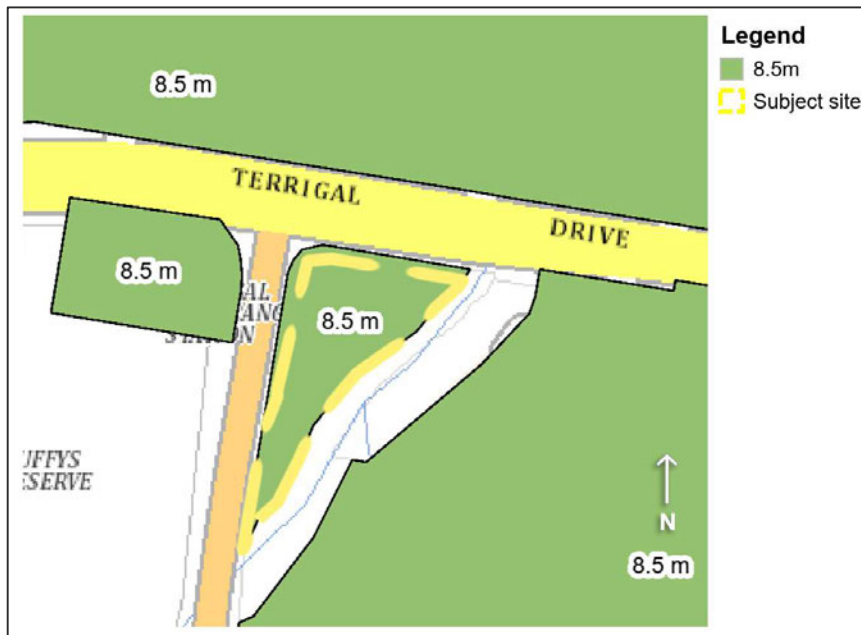


Figure 7 Existing height of building controls (Source: NSW Planning Portal Spatial Viewer, November 2024)



Figure 8 Proposed height of building controls (Source: Planning Proposal, May 2024, p.35)

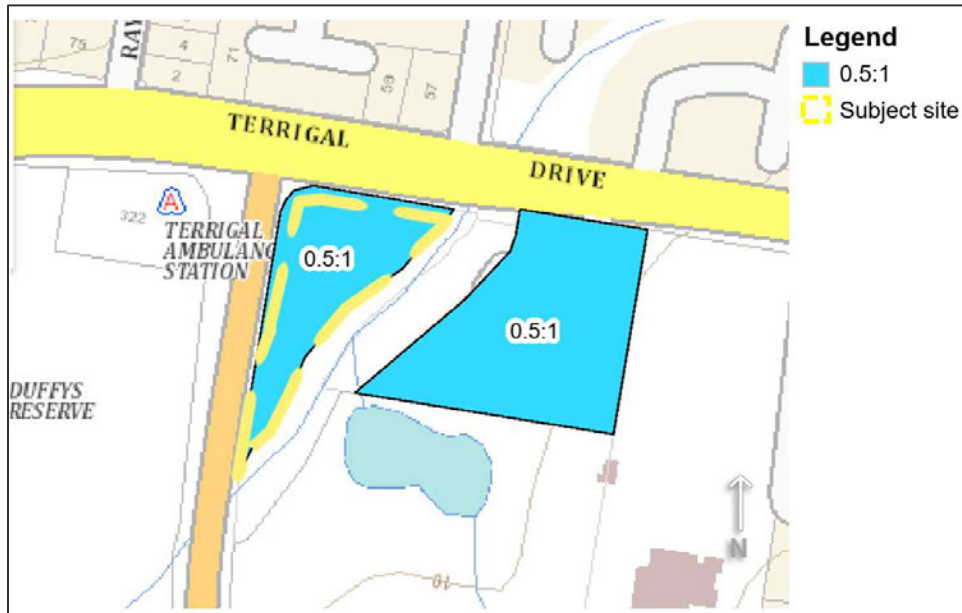


Figure 9 Existing floor space ratio controls (Source: NSW Planning Portal Spatial Viewer, November 2024)

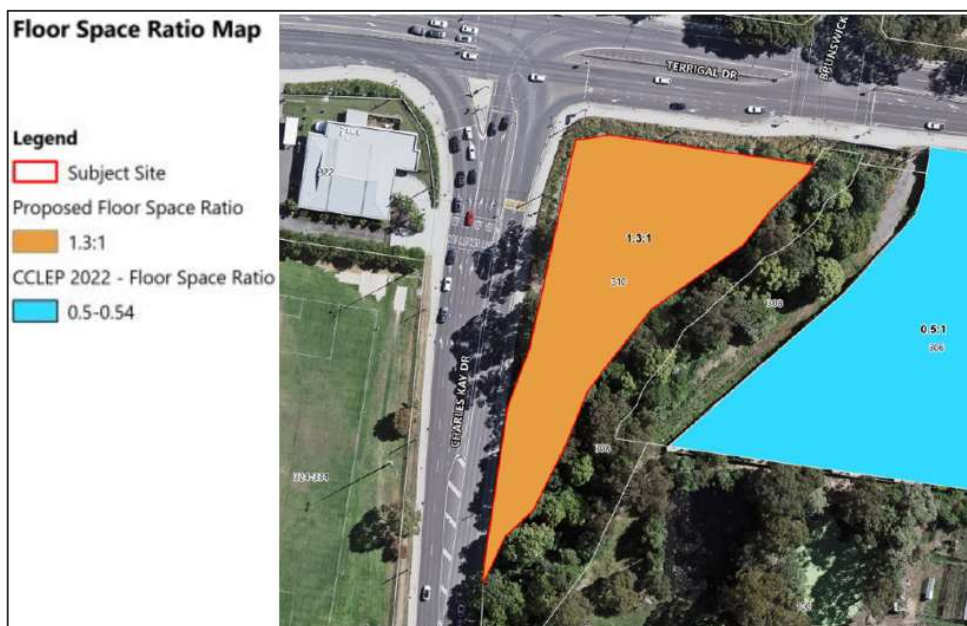


Figure 10 Proposed floor space ratio controls (Source: Planning Proposal, May 2024, p.34)

1.6 Background

A summary of key background information of relevance to the proposal is provided in **Table 4** below.

Table 4 Background relating to the planning proposal

| Date | Event |
|-------------------|--|
| 31 August 2023 | <p>Proponent submitted request for a planning proposal to Council seeking to:</p> <ul style="list-style-type: none"> increase the maximum height of building control from 8.5 metres to 32 metres increase the FSR from 0.5:1 (plus bonus) to 1.4:1 permit retail premises as an additional permitted use <p>The proposal was accompanied by a draft site-specific DCP.</p> |
| 28 September 2023 | <p>Development application (DA/1928/2023) lodged with Council for removal of 15 trees and vegetation, excavation, civil works, and construction of a 9-storey mixed use building comprising 50 residential units, a ground floor café, and three levels of basement parking (89 car spaces).</p> <p>Note: This DA was subsequently withdrawn on 26 February 2024.</p> |
| 30 November 2023 | <p>Central Coast Local Planning Panel advised Council that it did not support the proposal as it did not consider it to have strategic or site-specific merit (see Section 3.3 of this report).</p> |
| 26 March 2024 | <p>Council resolved to support a revised proposal to:</p> <ul style="list-style-type: none"> Increase the maximum height of buildings from 8.5m to 25m. increase the maximum FSR from 0.5:1 to 1.3:1. Permit retail premises up to 150m² as an additional permitted use. <p>The proposal was accompanied by a draft site-specific DCP.</p> |
| 2 April 2024 | <p>Planning Proposal submitted for Gateway assessment.</p> |
| 9 April 2024 | <p>Request for additional information required for the proposal to be considered adequate for Gateway assessment sent to Council.</p> |
| 23 April 2024 | <p>Additional information submitted, including updates to the proposal and a Flood Management Plan.</p> |
| 1 May 2024 | <p>Request sent Council for further additional information.</p> |
| 3 May 2024 | <p>DPHI referred the planning proposal to the Biodiversity, Conservation and Science (BCS) team with the Department of Climate Change, Energy, the Environment and Water for advice on flood risk.</p> |
| 7 May 2024 | <p>Updated proposal submitted.</p> |
| 26 June 2024 | <p>BCS raised concerns about the proposal and inconsistencies with Section 9.1 Ministerial Direction 4.1 Flooding.</p> |

| Date | Event |
|-------------------|--|
| 10 July 2024 | DPHI advised Council of BCS' comments on updated planning proposal and the outcome of DPHI's preliminary assessment. |
| 18 September 2024 | Council sought BCS' advice on the revised Flood Impact and Risk Assessment. |
| 4 October 2024 | BCS advised Council that the inconsistency with Ministerial Direction 4.1 Flooding remains unresolved. |

2 Need for the planning proposal

The planning proposal is not the result of a strategy or study endorsed by the Department. The planning proposal was initiated by the proponent to facilitate redevelopment of the site for mixed use development.

The intended outcomes of the proposal cannot be delivered under the current planning framework, as the proposed development concept exceeds the applicable maximum allowable height and FSR controls for the site under the Central Coast LEP 2022, while retail premises are a prohibited use under the sites current R1 General Residential zoning.

A planning proposal is the best mechanism to amend the existing height of building and floor space ratio controls and introduce site specific provisions Central Coast LEP 2022 to achieve the intended development outcomes for the site.

However, as discussed in Section 3 of this report, the Department does not support the planning proposal proceeding as it lacks strategic and site-specific merit. The proposal is not adequately aligned with the NSW strategic planning framework for housing growth in the Central Coast and is inconsistent with Ministerial Direction 4.1 Flooding.

3 Strategic assessment

3.1 Regional Plan

The site is located within the Central Coast local government area. The Central Coast Regional Plan 2041 (the Regional Plan), released by the NSW Government in 2022, sets a land use vision to 2041 and contains objectives, strategies and actions which provide the strategic direction to manage growth and change across the Central Coast in the context of social, economic and environmental matters over the next 20 years. The Regional Plan also includes planning priorities for the future growth of its four districts, including the Narara district, Central Coasts major urban area within which the subject site is located.

Under section 3.8(2)(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning proposal is to give effect to the relevant regional strategic plan.

The Department's assessment of the proposal against the relevant objectives, strategies and actions of the Regional Plan outlined in **Table 5**, has identified limited strategic alignment of the proposal with the objectives and priorities which seek to facilitate the delivery of resilient and vibrant places and ensure land use planning avoids and mitigate the effects of natural hazards.

While the proposal has the potential to increase the supply and diversity of housing choice within the Central Coast LGA, the Department considers the proposal to be misaligned with objectives 5

and 7 and the identified priorities for growth in the Narara District as it seeks to increase the permissible density of development of land subject to risks from natural hazards.

The Department is not satisfied the planning proposal adequately gives effect to the Regional Plan nor demonstrated adequate strategic or site-specific merit to proceed.

Table 5 Regional Plan assessment

| Regional Plan Objectives | Justification |
|--|--|
| Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities | <p>This objective is focused on creating 15-minute mixed use neighbourhoods where people can generally access most everyday needs within a 15-minute walk or cycle from where they live, which support people who want to live and work locally.</p> <p>While the proposal supports this objective as it seeks to facilitate the redevelopment of a site located within a general suburban area for mixed use retail and residential purposes, the subject site is environmentally constrained as it is highly flood affected and contains bushfire prone 'vegetation buffer' land. As discussed in the assessment of flood and bushfire risk in Section 3.4 of this Report, the Department is not satisfied that proposal has adequately demonstrated that it has addressed hazard risk to a level suitable for the proposed development uplift for residential purposes.</p> |
| Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development | <p>This objective encourages the delivery of an increased supply and diversity of housing to accommodate projected growth and to meet a range of needs.</p> <p>Whilst the proposal is consistent with the objective as it seeks to facilitate housing in an established and sought after area, the Plan also reiterates the importance of the NSW Housing Strategy (Housing 2041) Housing System Pillars of supply, affordability, resilience and diversity.</p> <p>The resilience pillar in Housing 2041 includes matching housing to community and environmental issues, so people, communities and their homes are safe, comfortable and resilient (p.48). In this regard, the Department considers the proposal to be inconsistent with this objective as it seeks to intensify permissible residential development on flood and bushfire affected land.</p> |
| Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments | <p>This objective highlights the importance of biodiversity and heritage conservation and protecting environmentally sensitive areas and waterways.</p> <p>The planning proposal is supported by an Ecological Assessment Report (June 2023) which has assessed the potential biodiversity impacts on threatened species. This assessment did not identify any threatened flora or fauna species or core koala habitat within the proposed development area however, noted that threatened flora and fauna species (species <i>Melaleuca biconvexa</i>, and the threatened fauna species Little Bent winged Bat) were observed on site in a patch of vegetation to be retained.</p> <p>The proposal acknowledges that the proposed future development of the site will encroach on the riparian zone of the existing waterway located to the east. While the supporting Ecological Assessment notes the future development of the site enabled by the proposal will require the removal of native vegetation, the assessment notes that it is not likely to adversely affect threatened species.</p> |

| Regional Plan Objectives | Justification |
|--|--|
| Objective 7: Reach net zero and increase resilience and sustainable infrastructure | <p>This objective is focused on improving environmental outcomes through planning and design to achieve net zero emissions and create resilient and sustainable places.</p> <p>Strategy 7.7 highlights the need for local strategic planning alignment with the NSW Government's natural hazard management and risk mitigation policy framework. Strategy 7.8 reinforces the importance of ensuring future residential is not planned in areas exposed to a high risk from bushfire, flood and/or coastal hazards, or where evacuation is likely to be difficult.</p> <p>Having regard to the above, the Department considers the proposal to be inconsistent with this objective as it seeks to facilitate the redevelopment of the site for mixed use residential purposes, on flood liable and bushfire prone land (see assessment in Section 3.4 of this report).</p> |

Narara District Planning Priorities

| | |
|---|---|
| Planning Priority 5: Identify appropriate urban expansion opportunities to ensure a sufficient supply of safe, diverse and affordable housing | <p>This priority is focused on identifying appropriate locations in the Narara District for urban expansion and highlights the need for Council to prioritise growth in areas in proximity to centres and employment areas with access to essential infrastructure and relatively few environmental constraints. The Plan identifies that this should occur on land not categorised as flood planning area and can be developed without increasing existing or future residents' risk of exposure to natural hazard.</p> <p>The Department considers the proposal to be inconsistent with this priority as it seeks to increase development controls to facilitate the redevelopment of the site for mixed use residential purposes on flood liable land that has the potential to increase future resident's exposure to flood risk (see assessment in Section 3.4 of this report).</p> |
|---|---|

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies, as outlined in **Table 6**.

Table 6 Local strategic planning assessment

| Local Strategies | Justification |
|--|---|
| <p>Local Strategic Planning Statement – The Framework for a Growing Central Coast Region (Interim Statement - August 2020)</p> | <p>The LSPS sets the land use vision to guide sustainable growth and development across the Central Coast Region to 2036 and beyond.</p> <p>The planning proposal identifies consistency with the LSPS, particularly:</p> <ul style="list-style-type: none"> • Planning Priority 1: Align development to our infrastructure capacity • Planning Priority 8: Provide for the housing needs of our growing region • Planning Priority 24: Map, protect and cherish natural areas and ecosystems • Planning Priority 35: Integrate land use and infrastructure <p>However, the Department also notes LSPS' focus on the provision of new housing within centres, with the need to 'Create Sustainable and Resilient communities' identified as a key environmental planning priority.</p> <p>The proposal does not align with the Plan's preference for housing supply to be focused within centres and low risk areas, as the site is significantly flood affected and is located outside the existing centres (approximately 4.7km from Erina strategic centre and 2.1km from Terrigal centre).</p> |
| <p>Draft Central Coast Local Housing Strategy (May 2024)</p> | <p>The draft Local Housing Strategy (LHS) seeks to guide residential growth within the Central Coast LGA to 2036.</p> <p>The proposal identifies consistency with the objectives and actions of the draft LHS, including the action to <i>"Investigate opportunities to increase housing density through the provision of R3 zones framing centres in high amenity locations (Forresters Beach, Terrigal, Wamberal)"</i> (p.21).</p> <p>Notwithstanding the above, the draft LHS also acknowledges the impact the Region's diversity of environmental qualities has on the availability of land for urban development and considers existing centres in less constrained locations to be more optimal locations for residential growth (p.13).</p> <p>Strategy 5 <i>'Introduce measures to promote design resilience'</i> of the draft LHS also recognises the importance of effective planning and design in managing and reducing hazard impacts and building resilient housing.</p> <p>The Department considers the proposal does not align with draft LHS as it seeks to facilitate the supply of housing on land vulnerable to natural hazards risk.</p> |

| Local Strategies | Justification |
|--|---|
| One Central Coast - Revised Community Strategic Plan 2018-2028 (February 2022) | <p>One Central Coast – Revised Community Strategic Plan 2018-2028 sets out the Central Coast community's vision for the next 10 years.</p> <p>The proposal identifies consistency with the CSP, particularly:</p> <ul style="list-style-type: none"> • <i>Objective B4 - Activate spaces and places to complement activity around town centres, foreshores, lakes and green spaces for families, community and visitors</i> • <i>C1 Target economic development in growth areas and major centres and provide incentives to attract businesses to the Central Coast</i> • <i>I1 Preserve local character and protect our drinking water catchments, heritage and rural areas by concentrating development along transport corridors and town centres east of the M1</i> • <i>I2 Ensure all new developments are well planned with good access to public transport, green space and community facilities and support active transport</i> • <i>I3 Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management; and</i> • <i>I4 Provide a range of housing options to meet the diverse and changing needs of the community including adequate affordable housing.</i> <p>However, the CSP also recognises the Central Coast LGAs vulnerability to climate change impacts and highlights the need to ensure safety in extreme weather events and the Department is not satisfied the proposal is consistent with the CSP in this regard.</p> |

3.3 Local planning panel (LPP) recommendation

On 30 November 2023, the Central Coast Local Planning Panel advised Council:

- 1 *The Panel does not consider the planning proposal to have strategic or site specific merit.*
- 2 *There is a lack of strategic justification for the proposed increase in height and yield on the subject site. There is no precinct or local strategy to indicate the appropriateness of the site and the surrounding area for increased development capacity. In the absence of such a strategy the planning proposal has no contextual planning justification and is not supported.*
- 3 *The Panel considers the planning proposal fails the site specific merit test for the following reasons:-*
 - A. *The site shape and dimensions constrain future development.*
 - B. *The traffic access to the site on a busy intersection is constrained and access to the site results in the loss of significant and sensitive vegetation.*
 - C. *The density proposed would conflict with the ecological sensitivity of the site together with the potential bushfire and flooding risk.*
 - D. *Surrounding development is predominantly single storey and two storey form and the proposed 32 metre tower would be anomalous.*
 - E. *The site is not considered a gateway site to Terrigal.*

- 4 *While the Panel's advice is that it does not support the planning proposal for the reasons provided above, should the Council decide to proceed with the planning proposal a maximum size for the retail use should be nominated, because as currently drafted the whole development could potentially become a retail use.*

The proposal was subsequently revised in response to the LPP's comments to:

- reduce maximum height of building controls proposed for the site from 32m to 25m;
- reduce the maximum floor space ratio controls proposed for the site from 1.4:1 to 1.3:1;
- seek an amendment to Schedule 1 'Additional permitted uses' to permit retail premises on the site limited to a maximum GFA of 150m².

On 26 March 2024, Council considered the LPP's advice and the revised proposal and resolved to support the amended planning proposal proceeding to Gateway assessment.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|------------------------------|----------------------------------|---|
| 1.4 Site Specific Provisions | Inconsistent | <p>This Direction seeks to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The site is zoned 'R1 General Residential' and under the Central Coast LEP 2022 'Retail premises' are a prohibited use.</p> <p>The proposal seeks to facilitate the sites redevelopment for mixed use development whilst ensuring that retail premises does not exceed a total maximum gross floor area of 150m² so it does not compete with the primary residential purpose of the zone.</p> <p>Whilst the planning proposal seeks to introduce a site-specific provision, the inconsistency with this Direction is considered justified, as permitting through the land use table could lead to development misaligned to the objectives of the R1 zone.</p> |
| 4.1 Flooding | Inconsistent | <p>This Direction seeks to ensure that development of flood prone land is consistent with the Government's Flood Planning Framework and ensure LEP provisions are commensurate with the flood behaviour and consider the potential impacts on and off the land.</p> <p>A planning proposal must not contain provisions that permit development in floodway areas, development for the purposes of residential accommodation in high hazard areas, nor permit significantly intensify development in a flood planning area.</p> <p>This Direction applies, because the site and surrounding land are identified in Council's mapping as flood affected in the 1% AEP and probable maximum flood (PMF) events.</p> <p>The proposal seeks to enable the redevelopment of the site for mixed use purposes including residential accommodation, a café and</p> |

basement parking. This is a significant increase in the development capacity of land in the flood planning area.

The proposal is supported by a Floodplain Risk Management Plan (Reinco Consulting, 11 May 2023) and Flood Impact Assessment (Civil Stormwater Engineering Group Pty Ltd, 17 April 2024) (FIA).

The FIA considers Councils catchment-wide Coastal Lagoon Catchments Overland Flow Study (2020) and the NSW Government Floodplain Development Manual – The Management of Flood Liable Land (2005). In summary:

- In the 1% AEP flood event, the site has a flood hazard predominantly categorised as H3 (unsafe for vehicles, children and the elderly) under both existing and proposed conditions (**Figures 11 & 12**). Flood depths of 400mm to 900mm are shown in the proposed development area on the site, and depths of up to 1.5 metres near the creek.
- In the PMF event, the site has a flood hazard predominantly categorised as H5 (unsafe for vehicles and people, buildings require special engineering design and construction) under existing and proposed conditions (**Figures 13 & 14**). Flood depths of 1,600mm to 2,500mm are shown in the proposed development area on the site.
- Shelter in place is proposed as accessible routes within the vicinity become completely submerged making horizontal evacuation unsafe for people and vehicles.

It is noted that Council's mapping identifies the site as having a flood hazard ranging from H1 to H4 in the 1% AEP and H4 to H5 in the PMF, which is higher than the FIA findings.

The Department has consulted with the Biodiversity, Conservation and Science (BCS) team at the Department of Climate Change, Energy, the Environment and Water on the proposal, who advise that the proposal is inconsistency with Direction 4.1. BCS also raised concerns that:

- the supporting Flood Impact Assessment does not provide adequate detail commensurate with the sites flood risk
- there are risks associated with shelter-in-place as the preferred emergency management response in locations of high flood risk
- the high flood hazard may compromise the buildings structural integrity in an extreme event.

In its correspondence, BCS recommended that the proposal be supported by a Flood Impact Risk Assessment (FIRA) prepared in accordance with the Flood Risk Management Manual (FRMM) (NSW Government, 2023) and its associated guidelines, and provide an understanding the residual risk to life associated with sheltering-in-place during a flood event; and be referred to State Emergency Services for comment.

Consistent with the findings of the NSW Flood Inquiry, the Department recommends applying a risk-based approach when addressing flooding in planning decisions.

The Department considers the proposal to be inconsistent with the provisions of Direction 4.1 as it contains provisions which seek to permit a significance increase in the potential density of development on a site located in a floodway area, that is significantly flood affected during the 1% AEP event and subject to high flood hazard during the PMF event. This presents a significant health and safety risk. The proposal has not provided sufficient justification to demonstrate consistency with Section 9.1 Ministerial Directions 4.1 Flooding. It is recommended the proposal not proceed.

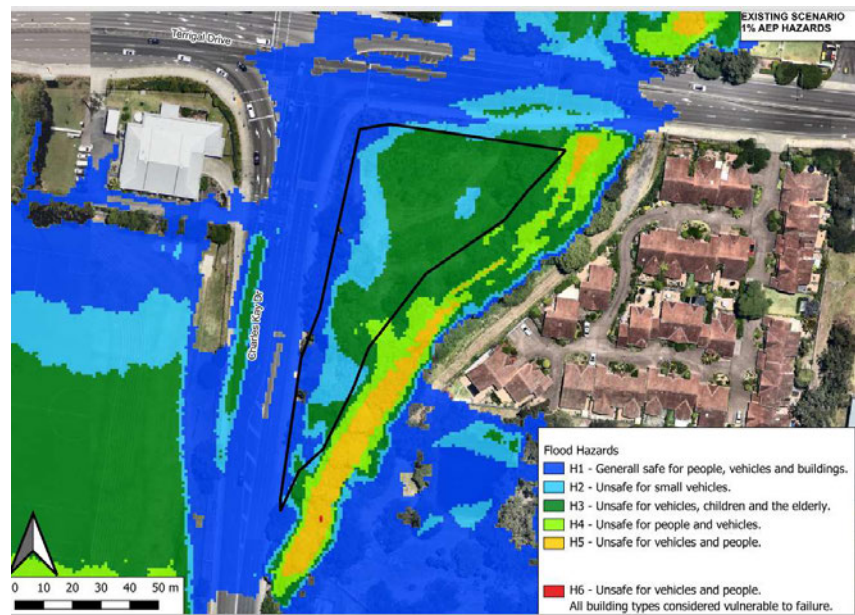


Figure 11 Subject site during 1% AEP event under existing conditions (Source: Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)

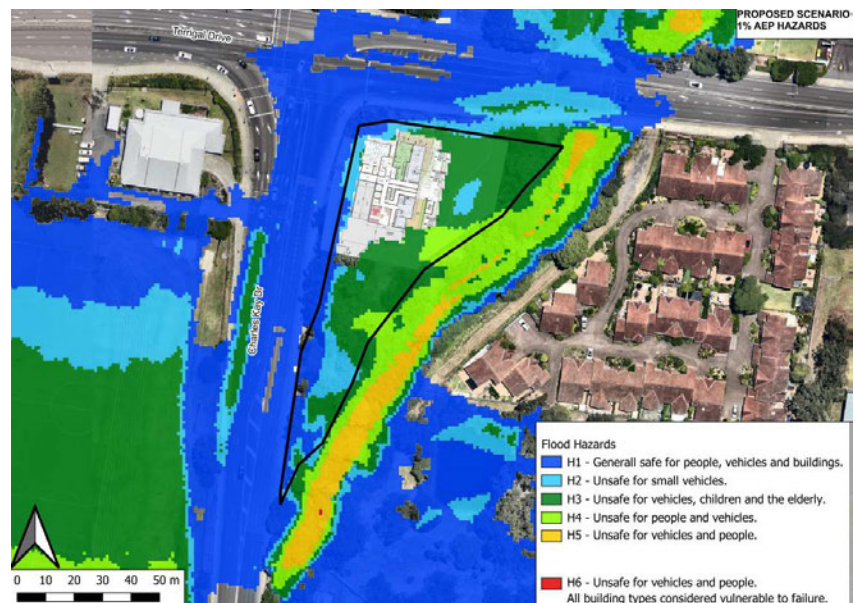
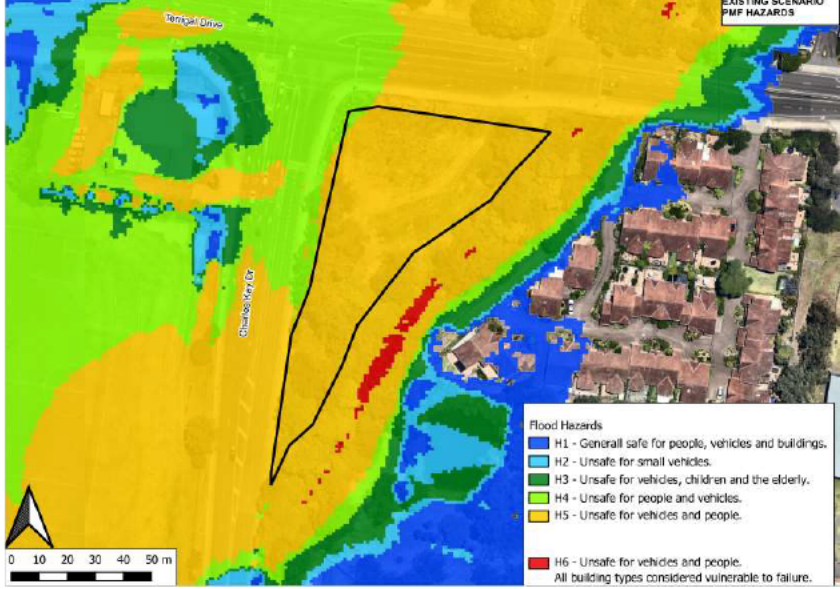
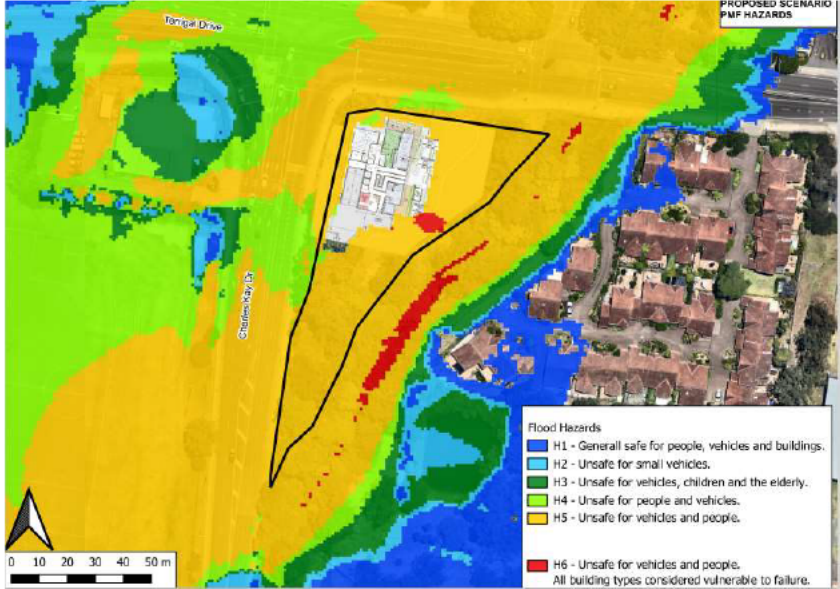




Figure 12 Subject site during 1% AEP event under existing and proposed scenarios (Source: Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|------------|----------------------------------|---|
| | |  <p>Figure 13 Subject site during the PMF event under existing conditions (Source: Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)</p>  <p>Figure 14 Subject site during the PMF event under proposed scenario (Source: Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|------------------------|----------------------------------|---|
| 4.2 Coastal Management | Unresolved | <p>This Direction seeks to ensure the protection and management of NSW coastal areas. The site is in the Coastal Environment Area and the north-eastern part of the site is in the Coastal Use Area under <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP) (Figures 15 and 16).</p>  <p>State Environmental Planning Policies SEPP (Resilience and Hazards) 2021 Coastal Use Area Map</p>  <p>State Environmental Planning Policies SEPP (Resilience and Hazards) 2021 Coastal Environment Area Map</p> <p>Figure 15 & 16 Hazards and Resilience SEPP 2021 Coastal Use Area and Coastal Environment Area map (Source: NSW Planning Portal Spatial Viewer, November 2024)</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--------------------------------------|----------------------------------|--|
| | | <p>Future development of the site would be subject to the provisions of Part 2.2 'Development controls for coastal management areas', Division 3 'Coastal environment area' and Division 4 'Coastal use area' under the Resilience and Hazards SEPP.</p> <p>The planning proposal states that it is not inconsistent with the management objectives of these areas as defined in the Coastal Management Act 2016, and maintains the environmental, social and cultural coastal values of the zones and that the Planning Proposal does not significantly impact coastal processes.</p> <p>While the proposal does not include any rezoning, it does seek to amend the existing height and FSR controls which will increase the development potential of the subject land. Given the coastal affectations on the site, this may have the potential to impact coastal processes. Accordingly, consultation with Fisheries NSW and the NSW Environment Protection Authority should be undertaken.</p> <p>Consistency with this Direction remains unresolved until consultation is undertaken with Fisheries NSW and the NSW Environment Protection Authority.</p> |
| 4.3 Planning for Bushfire Protection | Unresolved | <p>This Direction seeks to ensure the protection of life, property and the environment from bush fire hazards and encourage sound management of bushfire prone areas and applies to this planning proposal as the southern, northern and north-eastern portion of the site is mapped as bushfire prone 'vegetation buffer' land.</p> <p>The proposal is supported by a Bushfire Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Ltd (25 September 2023) which considers bushfire protection measures. It concludes that the proposal will <i>"not result in areas that are difficult to evacuate, create control difficulties during a bushfire or adversely affect other bush fire protection strategies or place existing development at increased risk"</i> (p.26).</p> <p>The direction requires that the PPA must consult with the Commissioner of the NSW Rural Fire Service (RFS). Until consultation has occurred the inconsistency of the proposal with the direction remains unresolved.</p> |
| 4.4 Remediation of Contaminated Land | Consistent | <p>The Direction seeks 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 proposal is supported by a Preliminary Site Investigation (PSI) Report prepared by Geo-Logix Pty Ltd (17 July 2023). It identifies potential for contamination on the site given its historical uses, noting that <i>"residential dwelling existed on-site between 1965 and 2010 and was demolished to make way for a construction site office and has a history orcharding activities"</i> (p.7). The PSI recommends further investigation and remediation give the sites low to moderate contamination risk. The preparation of a detailed investigation can be</p> |

| Directions | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|------------------------|----------------------------------|---|
| | | <p>undertaken as part of the preparation of any future development application (DA).</p> <p>The proposal does not seek to rezone the site and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 (the Resilience and Hazards SEPP) contains provisions that will ensure that this is suitably addressed prior to development occurring. The proposal is consistent with this Direction.</p> |
| 4.5 Acid Sulfate Soils | Consistent | <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The site is mapped as potentially containing Class 4 and Class 5 acid sulfate soils. The proposal is supported by a Geotechnical and Acid Sulfate Soils Report (2023) prepared by Geo-Logix. It confirms the presence of acid sulfate soils and recommends procedures for any disturbance of these soils to be managed.</p> <p>The Central Coast LEP 2022 contains suitable provisions to ensure that this matter can be appropriately considered during development assessment processes.</p> <p>The proposal is consistent with this direction.</p> |
| 6.1 Residential Zones | Consistent | <p>Direction 6.1 aims to encourage a variety of housing types, make efficient use of infrastructure and service and minimise the impact of residential development on the environment and resource lands.</p> <p>This Direction applies to as the proposal relates to land within an existing R1 zones.</p> <p>The proposal is consistent with this direction as it seeks to increase the permissible density of development on site, to facilitate its redevelopment for mixed use purposes comprising approximately 38 residential apartments, cafe and basement parking.</p> |

3.5 State environmental planning policies (SEPPs)

The planning proposal includes an assessment of consistency with the relevant SEPPs. The planning proposal will not hinder the application of any relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The site is affected by natural hazards including flooding and bushfire. An assessment against the provisions of Section 9.1 Direction 4.1 Flooding and 4.3 Planning for Bushfire Protection has been included in **Section 3.4** of this report.

Matters pertaining to potential biodiversity impacts are discussed in **Section 3.1** of this report.

As outlines in section 3 of this report the Department is not satisfied that risk from natural hazards has been sufficiently addressed to allow the proposal to proceed.

4.2 Social and economic

The planning proposal considers the proposed amendments have the potential to enable the renewal and activation of an underutilised site, by providing opportunity for medium density housing and improved public domain and ground floor activation through the proposed inclusion of a café in the future development of the site.

Given the site is significantly flood affected during the 1% AEP and PMF flood events, the Department is of the view that the proposal has the potential to result in negative social and economic impacts during flood events, by increasing the potential risk the safety of future residents and or occupants which may become isolated during floods, as well as emergency service workers should evacuation or rescue be required, and may also generate a requirement for government spending on emergency services and management measures.

4.3 Infrastructure

The site is located within an established urban area, and as such, could be suitably serviced in terms of water, wastewater, electricity, gas and telecommunications subject to any potential upgrade works. These matters would be subject to detailed design consideration at any future DA stage.

5 Consultation

The planning proposal is not recommended to proceed to consultation.

6 Timeframe

The planning proposal is not recommended to proceed.

7 Local plan-making authority

The planning proposal is not recommended to proceed.

8 Assessment summary

The planning proposal is recommended not to proceed as it does not demonstrate adequate strategic and site-specific merit as it does not give effect to the Central Coast Regional Plan and has not provided sufficient justification to demonstrate consistency with Section 9.1 Ministerial Directions 4.1 Flooding.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that the proposals inconsistency with section 9.1 Direction 4.1 Flooding is not adequately justified in accordance with the terms of the direction.
- Note that the proposals consistency with section 9.1 Directions 4.2 Coastal Management and 4.3 Planning for Bushfire Protection is unresolved.

It is recommended the delegate of the Minister determine that the planning proposal should not because:

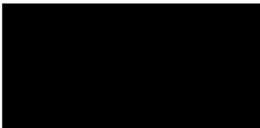
- The proposal has not demonstrated sufficient strategic merit as it does not give effect to the Central Coast Region Plan and has not provided sufficient justification to demonstrate consistency with the following:
 - Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development
 - Objective 7: Reach net zero and increase resilience and sustainable infrastructure
 - Narara District Planning Priority 5: Identify appropriate urban expansion opportunities to ensure a sufficient supply of safe, diverse and affordable housing.
- The proposal has not adequately demonstrated site-specific merit in relation to flood risk and has not provided sufficient justification to demonstrate consistency with Section 9.1 Ministerial Direction 4.1 Flooding.
- The proposal has not adequately demonstrated that the proposal would result in improved social and economic outcomes.



4 December 2024

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12 December 2024

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