



GATEWAY REVIEW

Justification Assessment

Purpose: To request that the Independent Planning Commission review the Gateway determination, taking into account information provided by the Proponent and to provide advice regarding the merit of the review request.

Dept. Ref. No:	GR-2025-1
LGA:	Central Coast
LEP to be Amended:	Central Coast LEP 2022
Address/ Location:	310 Terrigal Drive, Terrigal
Proposal:	To enable mixed use development with approximately 38 residential units by increasing the height of buildings to 25 metres, increasing the floor space ratio to 1.3:1, and permitting 'retail premises' with a maximum gross floor area of 150sqm as an additional permitted use.
Review request made by:	<input type="checkbox"/> The council <input checked="" type="checkbox"/> A proponent
Reason for review:	<input checked="" type="checkbox"/> A determination has been made that the planning proposal should not proceed. <input type="checkbox"/> A determination has been made that the planning proposal should be resubmitted to the Gateway. <input type="checkbox"/> A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal	<p>The planning proposal (Attachment B) relates to land at 310 Terrigal Drive, Terrigal, Lot 27 / DP 1223375, (the site) and seeks to amend the Central Coast LEP 2022 to enable mixed use development with approximately 38 residential units by increasing the height of buildings from 8.5 metres to 25 metres, increasing the floor space ratio from 0.5:1 (0.7:1 with bonuses) to 1.3:1, and permitting 'retail premises' with a maximum gross floor area of 150sqm as an additional permitted use.</p> <p>Site description</p> <p>The site is approximately 4,262m² in area, with frontages to Terrigal Drive and Charles Kay Drive (Figure 1). 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.</p> <p>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 2 & 3).</p>
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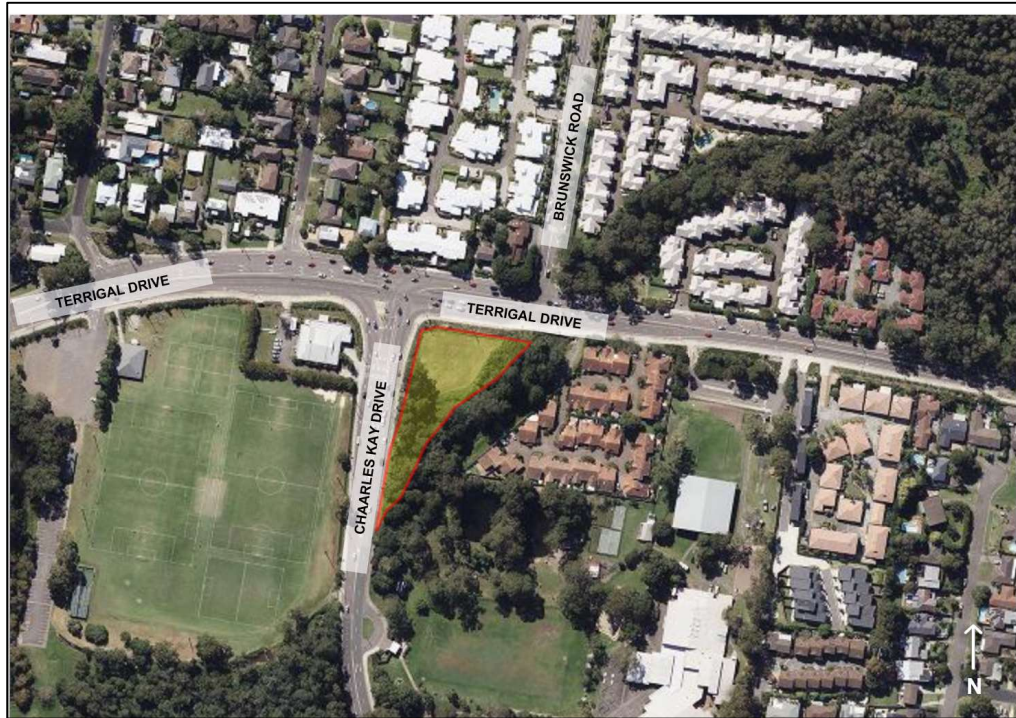
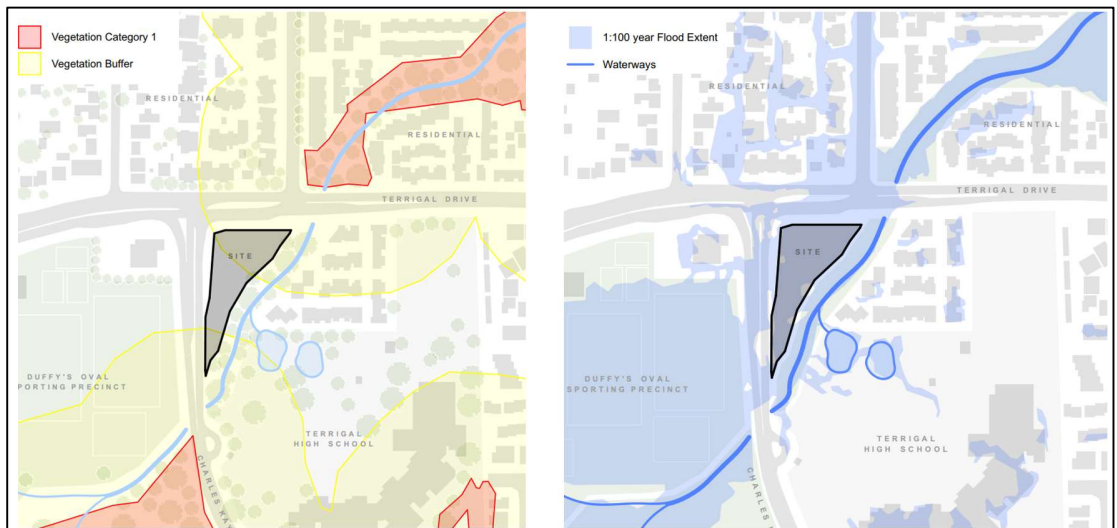


Figure 1 site location (NearMap, November 2024)



Figures 2 & 3 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 and townhouses 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 4**).

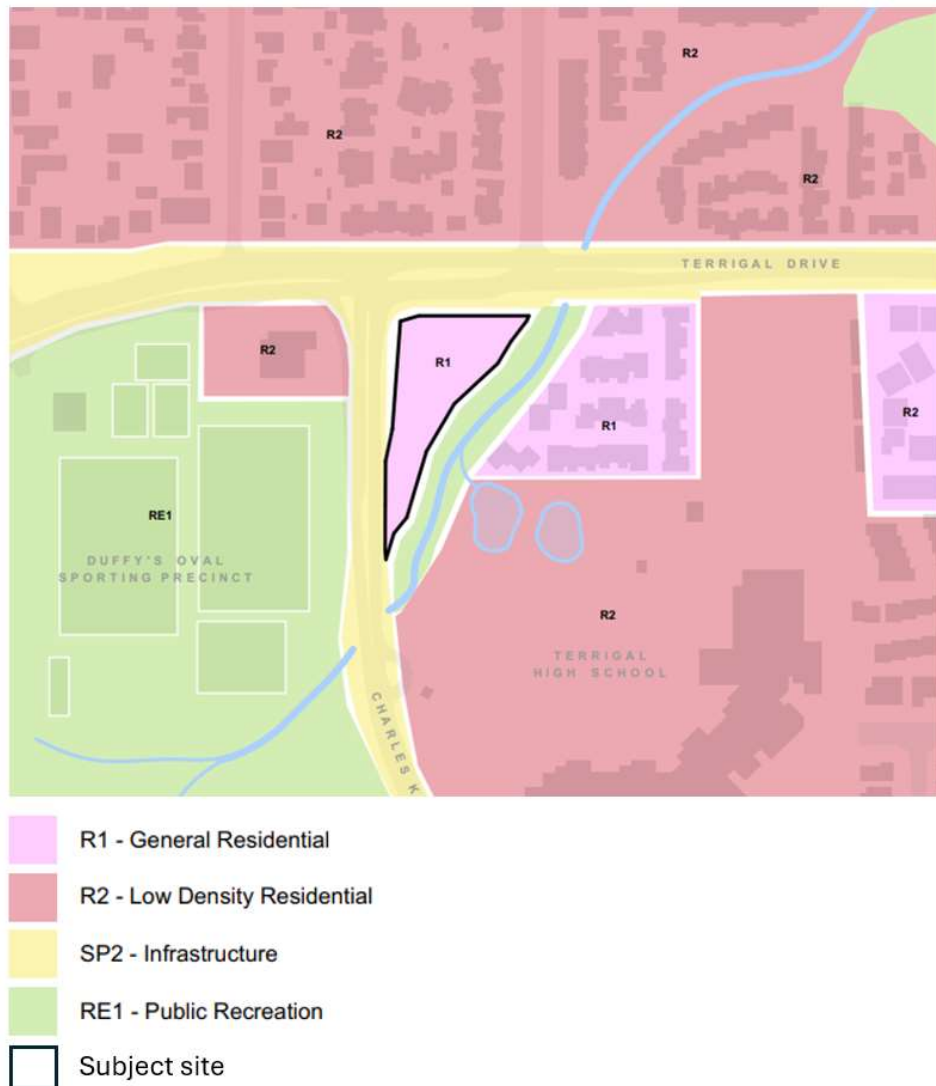


Figure 4 Current land use zoning (Urban Design Study, June 2024, p.16)

Planning proposal background

The proposal was submitted to Central Coast Council on 31 August 2023 after continued consultation with Council, which commenced in December 2021.

It is noted a development application (DA/1928/2023) for the site was submitted to Council in September 2023 for the proposed 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 (with Mezzanine) of 171.49m², and 3 levels of basement parking comprising 89 car parking spaces on the site. This DA was subsequently withdrawn on 26 February 2024.

It is noted Council's Local Planning Panel (LPP) did not support an earlier version of the proposal (**Attachment E**). 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*

	<p><i>development capacity. In the absence of such a strategy the planning proposal has no contextual planning justification and is not supported.</i></p> <p>3. <i>The Panel considers the planning proposal fails the site specific merit test for the following reasons:-</i></p> <ul style="list-style-type: none"> <i>a. The site shape and dimensions constrain future development.</i> <i>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.</i> <i>c. The density proposed would conflict with the ecological sensitivity of the site together with the potential bushfire and flooding risk.</i> <i>d. Surrounding development is predominantly single storey and two storey form and the proposed 32 metre tower would be anomalous.</i> <i>e. The site is not considered a gateway site to Terrigal.</i> <p>4. <i>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.</i></p> <p>The proposal was subsequently revised in response to the LPP's comments to:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>The proposal was supported by Council on 26 March 2024 (Attachment D1) and submitted to the Department of Planning Housing and Infrastructure (the Department) for Gateway Assessment on 2 April 2024.</p> <p>On 9 April 2024, the Department issued a request for further information, including an update to the flood assessment report to include the hazard category during the post and pre-development Probable Maximum Flood (PMF) event and appropriate arrangements for shelter-in-place and/or evacuation in a PMF event. Council responded to the Department's request on 23 April 2024 (Attachment D2).</p> <p>On 1 May 2024, the Department accepted the proposal as adequate for assessment, however requested minor clarifications that were considered appropriate to be addressed during the Gateway assessment stage.</p> <p>This was then followed by consultation with Department of Climate Change, Energy, the Environment and Water – Conservation Programs, Heritage and Regulation (CPHR) (former Biodiversity, Conservation and Science division (BCS)), including the provision of additional and further flood modelling and a revised Flood Impact and Risk Assessment (Attachment F1).</p>
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Department of Planning, Housing and Infrastructure

	<p>The Department wrote to Council on 9 July 2024 acknowledging the additional information provided by Council seeking to address the proposal's consistency with the Central Coast Regional Plan 2041, Ministerial Directions 4.2 Coastal Management and 4.1 Flooding. Considering the advice from CPHR and the Department's initial assessment of the proposal, the Department advised Council it is unlikely to support the proposal in its current form (Attachment G). The Department advised Council to consider withdrawing this proposal and resubmitting when revised information had been prepared to address Ministerial Direction 4.1. Following this letter, the Department had ongoing consultation with CPHR and Council (Attachment G).</p>
Reason for Gateway determination	<p>On 17 December 2024, a Gateway determination (Attachment A1) was issued which determined that the amendment to the Central Coast Local Environmental Plan (LEP) 2022 should not proceed. The reasons for Gateway determination are outlined below:</p> <ol style="list-style-type: none"> 1. The proposal has not demonstrated sufficient strategic merit as it does not give effect to the Central Coast Regional Plan 2041 and has not provided sufficient justification to demonstrate consistency with: <ul style="list-style-type: none"> • 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. 2. 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. 3. The proposal has not adequately demonstrated that the proposal would result in improved social and economic outcomes.

Council views

Council response	<p>Council provided a response to the Gateway review on 3 March 2025 (Attachment D2). Council noted the planning proposal was considered by Council at its Ordinary Council meeting on 26 March 2024 where Council resolved to endorse the proposal (Attachment D1). Council's report notes:</p> <ul style="list-style-type: none"> • <i>The proposal will enable the development of a 6-storey residential building, providing medium density housing within close proximity to the Terrigal local centre, aligning with State-led policy responses and addressing gaps in housing supply, as described in the draft Central Coast Local Housing Strategy (page 5).</i> • <i>The proposal aligns with the objectives of the Central Coast Regional Plan 2041, by encouraging accessible 15-minute neighbourhoods (page 6).</i> • <i>Due to site characteristics, the developable area is limited and therefore has been strategically positioned to ensure minimal environmental impacts in relation to traffic and transport, flooding and biodiversity (page 6).</i> • <i>The proposal site is situated within 40m of a 3rd order stream and is classified as waterfront land subject to the requirements of the Water Management Act 2000. The proposal currently falls short of the vegetated riparian zone (VRZ) offsetting requirements under the Act, however Controlled Activity Approval will be required for development on waterfront land (page 6).</i>
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	<ul style="list-style-type: none"> • <i>Mitigation measures have been identified in the Environmental Assessment to reduce indirect impacts to biodiversity values of the site. Assessments of significance were conducted for the threatened flora and fauna species detected on the site, which concluded that the proposal would not result in a significant impact. The impacts have been reviewed by Council staff, who agree with the report conclusion (page 6).</i> • <i>The site is flood affected, with peak 1% AEP flood depths varying across the site. Towards the creek and within the site, peak 1% AEP flood depths reach 1.5 metres. However, in the vicinity of the site where the development is proposed, 1% AEP flood depths range from 400mm to 900mm. In the Probable Maximum Flood (PMF) event, flood depths range from 1,600mm to 2,500mm where the development is proposed. The impacts resulting from the proposed development are generally isolated to the subject site or the adjoining RE1 zoned watercourse. There is a minor 12mm increase in peak flood surface levels adjacent to Terrigal Drive, however this does not affect the trafficability of Terrigal Drive and only exceeds the CCDCP 2022 threshold for a few minutes. This was considered acceptable by Council's Development Flooding Engineer. Further studies assessing the impact of climate change induced rainfall intensity are being undertaken as requested by Council staff (page 6).</i> • <i>Trip generation is considered moderate and will have no significant impact on the operation of the local road network. Key intersections at Terrigal Drive and Charles Kay Drive, and Charles Kay Drive and Scenic Highway have been assessed and currently operate well, with low average delays. However, the intersection of Charles Kay Drive and Scenic Highway operates near capacity. SIDRA intersection modelling indicates that the proposal would have no significant impact on the future operation of these intersections. ... This assessment was supported by Council's Transport and Traffic Engineer (page 7).</i> <p>Council's response notes (Attachment D2) Council staff consider the planning proposal to have strategic merit given its location on key transport corridors into Terrigal, and within close proximity to the Terrigal Local Centre and Erina. Further, Council notes the proposed amendment to CCLEP 2022 would enable uplift in the residential development potential of the site, providing an opportunity to increase housing supply whilst utilising existing infrastructure and services. It is acknowledged that the site is subject to several constraints that would need to be mitigated to support development of the site.</p>
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Proponent's view

Details of justification	<p>The review of the Gateway determination was prepared by Urbis Pty Ltd, on behalf of the proponent, and submitted 11 February 2025 (Attachment Request).</p> <p>The proponent requested to meet with the Department and CPHR on 3 March 2025 to discuss risk mitigation. Additional information was sent to the Department and CPHR on 11 March 2025. This included the presentation on Flood Response Planning: Identified Risks and Mitigation 3 March 2025 (Attachment I1), previously prepared Fire Safety Building Code of Australia (BCA) Report (prepared as part of the former development application for the site) (Attachment I2) and email correspondence proposing a reduced FSR for the proposal of 1.15:1 noting density is a key concern for the proposal (Attachment I3).</p>
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Overview

The proponent's request disputes the Department's Gateway Assessment Report (**Attachment A2**), namely *"that the site is within a high hazard floodway and that the development results in a substantial intensity of the site."*

The proponent's request notes the site is in a highly urbanised area and the proposal seeks to permit the vertical extension of a building, with all dwellings located above flood freeboard levels. The proponent notes during the PMF the area is subject to flood and shelter in place would be required for 44 minutes. The proponent states the PMF is not intended to be a tool used to prohibit dwellings in low hazard areas. Rather, it is an emergency management response representing the estimated upper limit in an extremely rare flooding event. The proposal's supporting Flood Emergency Response Plan (FERP) (**Attachment F1**) concludes that the site is suitable from a flood risk and impact perspective.

Strategic merit

The proponent states the planning proposal demonstrates strategic merit as the proposal:

- Is consistent with the Central Coast Regional Plan 2041, which seeks to conserve waterways and create 15-minute neighbourhoods and diverse housing to support inclusive and vibrant communities.
- Includes a commitment to revitalise the riparian corridor along the eastern boundary, with the draft DCP including site specific controls.
- Is consistent with the Central Coast Community Strategic Plan 2018-2028 – One Central Coast, which seeks to increase housing diversity, active transport and community safety.
- Assists Council in achieving housing targets identified in Council's draft Local Housing Strategy, which requires an additional 32,550 dwellings by 2041.
- Achieves a variety of housing typologies through the delivery of residential apartments which reflect the vision for Central Coast to deliver greater housing choice and diversity.
- Unlocks the development potential for the site and activates a prominent corner as the gateway to Terrigal, with 38 new dwellings and a café to activate the corner.

Central Coast Regional Plan 2041

The Central Coast Regional Plan 2041 identifies Terrigal as a key local centre with potential for additional infill housing and sufficient infrastructure, jobs, services and transport to support this growth. The proponent states the planning proposal is consistent with the following objectives of the Regional Plan:

Objective 5 Plan for 'nimble neighbourhoods', diverse housing and sequenced development - The proposal seeks to deliver a diverse mix of residential apartments and a retail premise in a prominent location at the corner of two main connecting roads in Terrigal and located within cycling distance from Terrigal Town Centre, supporting the creation of an accessible, 15- minute neighbourhood.

Objective 7 Reach net zero and increase resilience and sustainable infrastructure - The proposal seeks to restore the existing waterway along the site's south-eastern boundary, which is currently full of weeds and is a low-quality water system. This will increase the resilience of the water system and the surrounding environment as per the priority. There are no threatened flora species and no significant fauna habitat on the site that may be impacted. The Flood Risk Management Plan (**Attachment**

	<p>F1) demonstrates that flood impacts resulting from the proposed built form are generally isolated to the site and can be managed. The proposal will deliver a residential development in an accessible area with public transport available, thereby reducing private car use and achieving objectives of a low carbon city.</p> <p><i>Narara District Planning Priority 5 Identify appropriate urban expansion opportunities to ensure a sufficient supply of safe, diverse and affordable housing</i> - The proposal transforms underutilised residential zoned land to provide increased housing supply and diversity for the region, in the form of apartment typologies. This will enable a better use of the site for a greater variety of housing choices, noting that this is one of few infill opportunities in Terrigal.</p> <p>Site specific merit</p> <p>The proponent states the planning proposal demonstrates site-specific merit for the following reasons:</p> <ul style="list-style-type: none"> • The site sits at the intersection of two major roadways, being Terrigal Drive and Charles Kay Drive, providing strong connectivity to the surrounding local centres and accessibility to the local bus network. • The site is an island corner lot and substantially separated from adjoining properties, which makes it suitable for a vertical development, without overshadowing nearby properties or impacting on views or privacy. • Active frontages and passive surveillance are provided along the site frontages and to the pedestrian pathway to the south-east through a café and residential uses. • The concept design/planning proposal (Attachment B) demonstrates the site is capable of accommodating both the building footprint and the density without adversely impacting on the environmental qualities of the locality or the amenity of nearby residential properties. • Extensive consultation was held with BCS regarding the waterway and the flood impacts, prior to lodging the planning proposal. The advice received (Attachment H1) was reflected in the design of the building footprint and the flood freeboard levels. Based on preliminary feedback, the flooding matters were considered resolved. <p>Agency comments</p> <p>As noted previously, a concurrent development application was lodged with Central Coast Council (DA/1928/2023) (since withdrawn). That application was referred to State agencies, including NSW Rural Fire Service (RFS), Transport for NSW (TfNSW), Ausgrid and the former DPHI – Water. Agency comments have been addressed in the planning proposal and in principle support from agencies is noted.</p> <p>In summary this includes:</p> <ul style="list-style-type: none"> • Satisfied pre-planning advice/requirements regarding flooding from Central Coast Council (December 2021). • requirements for the Flood Emergency Response Plan and FERP being supported by CPHR and DPHI (June 2023) (Attachment H1). • confirmation the proposal will not have any significant impacts on the nearby classified State road network from Transport for NSW (November 2023) (Attachment H2).
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- Confirmation the proposal could proceed, subject to future relevant conditions of consent relating to bushfire management from Rural Fire Service NSW (October 2023) (**Attachment H3**).

Social and economic outcomes

The proponent states in relation to flood impact, flood damages would be minimal as future development will incorporate flood compatible materials and finished floor levels will be above the flood planning level. The proposal will therefore not result in any unsustainable social and economic cost. There will be no adverse social impact on risk to life through the proposed FERP (**Attachment F1**) which will manage safety during flood events.

Environmental outcomes - Flooding

The proponent contests that the Department's Gateway assessment (**Attachment A2**) has failed to recognise the existing capacity of the land under the current planning controls. Particularly in the context of Section 9.1 Direction 4.1 Flooding part (4)(c) which notes a planning proposal must not contain provisions that permits a significant increase in the dwelling density of the land in a flood area.

Under the Central Coast LEP 2022, the site is permitted the following density:

- Height: 8.5m
- Floor space ratio (FSR): 0.7:1 (in accordance with Clause 4.4A(4)).

A compliant development on the site under the LEP and the in-fill affordable housing provisions of the *State Environmental Planning Policy (Housing) 2021*, [subject to the provision of affordable housing as part of future development,] can result in:

- Height: 11.05m (base height of 8.5m + 30% permitted bonus).
- FSR: 0.9:1 (base FSR of 0.7:1 + 30% permitted bonus).

The total FSR permitted on the site under the current controls and bonus provisions is 0.9:1 which equates to a GFA of 3,878.42m², [provided 15% or approximately 582m² is provided as affordable housing in accordance with the Housing SEPP].

The planning proposal seeks to increase the FSR to 1.3:1 to deliver approximately 5,500m² of residential GFA. The proponent notes this is approximately 1,700m² greater than the current controls and when applying an 80% efficiency rate and adopting an average apartment size of 90m², the existing controls would yield 34 apartments [with approximately 5 to 6 units to be provided as affordable housing units]. The proposed controls would yield 48 apartments, resulting in 14 apartments in a vertical high-rise with all units located above the flood freeboard levels. The proponent states the proposal will not result in a significant increase in density of land in the flood area.

Further to the above, the proponent notes that the planning proposal may be inconsistent with Ministerial Direction 4.1 if the planning proposal authority can satisfy the Planning Secretary that the planning proposal is supported by a flood and risk impact assessment prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements.

	<p>The planning proposal is support by a Flood Impact & Risk Assessment (FIRA) (Attachment F1) that has been agreed and endorsed by Council. The FIRA identifies:</p> <ul style="list-style-type: none"> • The site is considered a H4 hazard category for both pre and post development [at 1%AEP] (identified as low hazard in the [superseded] Flood Risk Management Guide FB03). Additionally, the hazard category increases to H5 in the PMF for both pre and post development. • During all major flood events up to and including PMF, peak flood behaviour subsides in less than 2 hours, a shelter-in-place strategy has been supported as there is no need to evacuate during a flood. • During the 1% AEP flood event, the development presents no changes to risk level on the site and surrounds, despite a change in minor afflux. The development will result in a reduction in flood levels within Terrigal Drive, however from 60 minutes – 104 minutes shelter in place is required for approximately 44 minutes. At 104 minutes, horizontal evacuation to Scenic Highway is available and emergency vehicles can access the site. • During the PMF flood event, the development presents no changes to risk level on the site and surrounds, despite a change in minor afflux. The development will result in a reduction in flood levels within Terrigal Drive, however from 25 minutes – 99 minutes, shelter in place is required for approximately 74 minutes. At 100 minutes, horizontal evacuation to Scenic Highway is available and emergency vehicles can access the site. <p>The FIRA provides a Flood Emergency Response Plan (FERP) which will guide management of flood impacts. This includes a shelter in place strategy and risk mitigation measures as outlined in Attachments F1 and F2. It to be noted the Department's Shelter in Place Guideline for flash flooding was finalised January 2025.</p> <p>Additional flood letter prepared by Civil Stormwater Engineering Group (Attachment F3) to support proponent's request notes:</p> <p>The site is governed by three flood functions - floodway, flood storage and flood fringe, with the latter being the predominant based on area of coverage. Despite the site being categorized as a floodway, the development is proposed wholly within the flood fringe and flood storage area, the building footprint is located wholly outside the floodway as per the post development flood function map found on page 125 of the Flood Risk Assessment (Attachment F1) and shown at Figure 5.</p>
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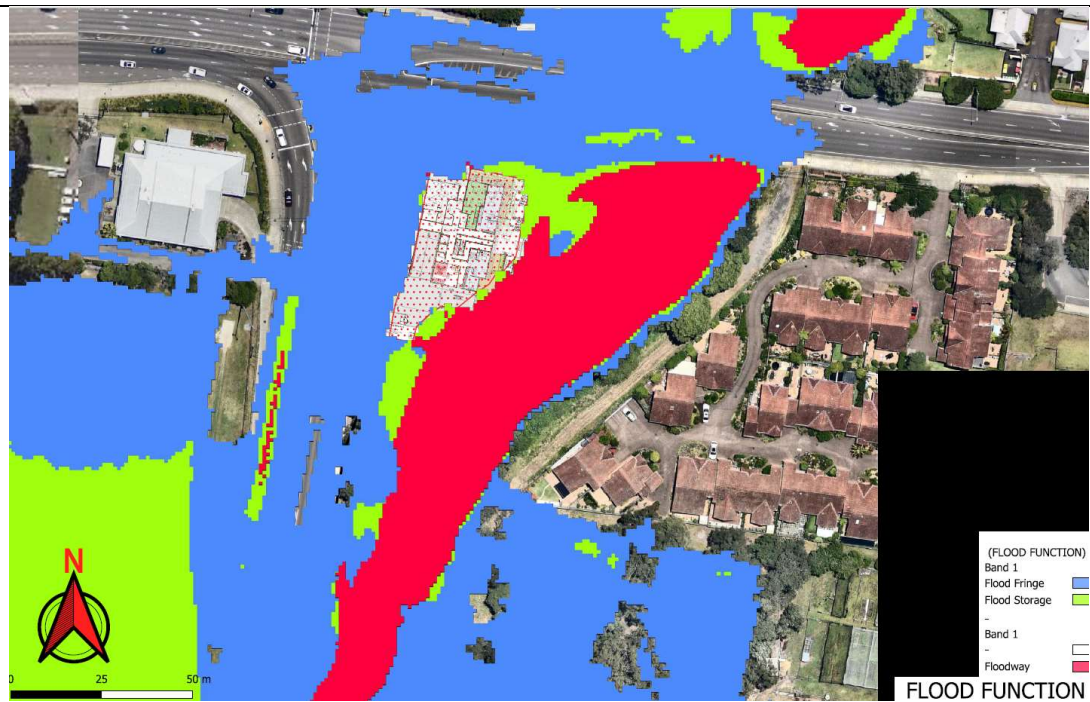
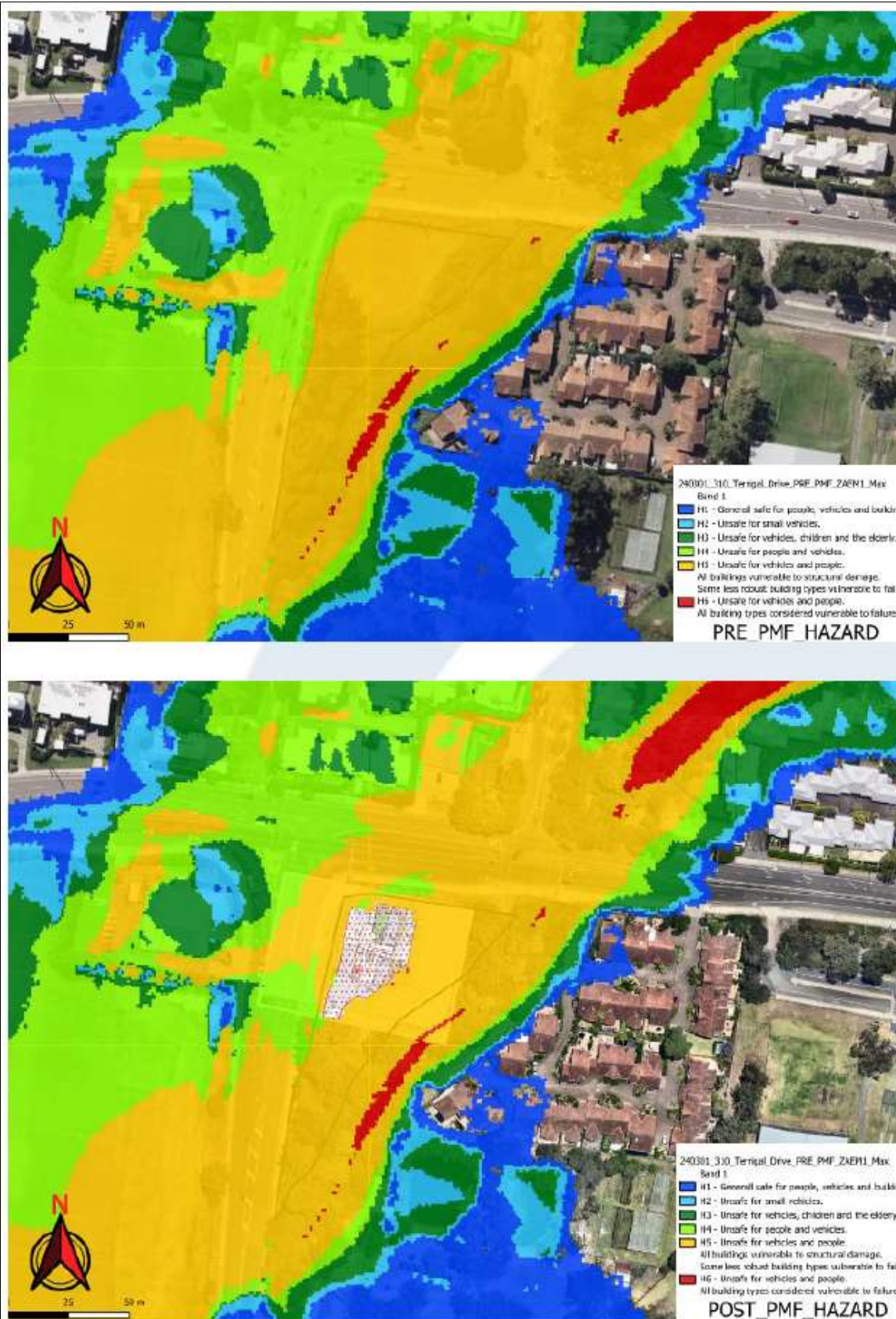


Figure 5 Potential development footprint and flood function map (Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)

The proponent states, the Gateway Determination Report presents the incorrect flood risk map under Figure 14 page 21. As previously mentioned, in revision 3 of the FIA, the TUFLOW model was updated to ensure risk levels were not increased in all flood events. This was successfully achieved by altering the proposed building footprint. The latest flood hazard map for the PMF post development shows similarity in risk levels with the PMF predevelopment scenario shown at **Figures 6 and 7**.



Figures 6 & 7 Subject site during the PMF event under existing conditions and proposed scenario (Flood Impact Assessment - Appendix A, Civil Stormwater Engineering Group, 17 April 2024)

Assessment summary

<p>Department's assessment</p>	<p>Strategic Assessment</p> <p><u>Regional Plan</u></p> <p>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 Coast's major urban area within which the subject site is located.</p> <p>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.</p> <p>The Department is not satisfied the planning proposal adequately gives effect to the Regional Plan nor demonstrated adequate strategic to proceed as outlined below.</p> <ul style="list-style-type: none"> • Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities – 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. • Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development - 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. 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). • Objective 7: Reach net zero and increase resilience and sustainable infrastructure - 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. • Narara District Planning Priority 5: Identify appropriate urban expansion opportunities to ensure a sufficient supply of safe, diverse and affordable housing - 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>The Department considers the proposal to be inconsistent with the above as it has not adequately addressed hazard risk to a level suitable for the proposed development uplift for residential purposes and has the potential to increase future resident's exposure to flood risk.</p>
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	<p><u>Local Strategies</u></p> <ul style="list-style-type: none"> Local Strategic Planning Statement: The Framework for a Growing Central Coast Region (Interim Statement - August 2020) - the Department 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. 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). Central Coast Local Housing Strategy (May 2024) (endorsed by Department September 2024): The proposal would support objectives of the LHS to increase both supply and diversity of housing in the LGA. However, the LHS notes 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). Strategy 5 'Introduce measures to promote design resilience' of the draft LHS also recognises the importance of effective planning and design in managing and reducing hazard impacts and building resilient housing. The Department considers the proposal does not align with the LHS as it seeks to facilitate the supply of housing on land vulnerable to natural hazards risk and outside existing centres. One Central Coast - Revised Community Strategic Plan (CSP) 2018-2028 (February 2022) - CSP 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><u>Section 9.1 Ministerial Directions</u></p> <p>The Department considers the planning proposal to be inconsistent with the following 9.1 Directions:</p> <ul style="list-style-type: none"> 4.1 Flooding - 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. 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. The Department consulted with Department of Climate Change, Energy, the Environment and Water – Conservation Programs, Heritage and Regulation (CPHR) (former Biodiversity, Conservation and Science division (BCS)) on the proposal, who considered that the proposal is inconsistent with Direction 4.1 (Attachment G). CPHR also raised concerns that: <ul style="list-style-type: none"> the supporting Flood Impact Assessment does not provide adequate detail commensurate with the site's 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.
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	<p>CPHR also 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.</p> <p>The Department's Shelter in Place Guideline for flash flooding (adopted in January 2025 following Gateway determination) notes emergency management strategies, such as shelter in place, need to minimise residual risks in strategic decision making. CPHR have noted while it is accepted that residents can safely shelter-in-place during a flood event, there remain residual risks associated with increasing the population living in a high hazard (H5 during PMF) location. The analysis presented in Section 3.6 of the FIRA indicates that the access roads to both Terrigal Drive and Charles Kay Drive will become un-trafficable during large flood events. For the design flood events modelled, both access roads will be un-trafficable for between 45 and 55 minutes. CPHR advised that there remain significant residual risks associated with shelter-in-place, particularly relating to residents returning to or leaving the site during flood events.</p> <ul style="list-style-type: none"> • 4.2 Coastal management - 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. The Department noted that consistency with this Direction would remain unresolved as it required consultation with relevant agencies. • 4.3 Planning for bushfire protection - The direction requires that the Planning Proposal Authority 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>Site specific merit</p> <p>In summary, the Department is not satisfied that risk from natural hazards has been sufficiently addressed to allow the proposal to proceed. The Department notes the site is subject to H5 category of flood during the PMF (as shown in Figures 6 & 7) and that the Shelter in Place Guidelines note that it should not be used for sites subject to H5/high hazard. Further, 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.</p> <p>Response to Gateway Determination Review request</p> <p>As noted previously in this report, additional information was sent by the proponent separate to the Gateway Determination Review (GDR) request and planning proposal package submitted for a Gateway Determination. Additional information was sent to the Department and CPHR on 11 March 2025. This included a presentation on Flood Response Planning: Identified Risks and Mitigation 3 March 2025 (Attachment I1), previously prepared Fire Safety Building Code of Australia (BCA) Report (prepared as part of the former development application for the site)</p>
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	<p>(Attachment I2) and email correspondence proposing a reduced FSR for the proposal of 1.15:1 noting density is a key concern for the proposal (Attachment I3).</p> <p>The Department's response noted the Department's GDR reporting package will refer to the matters raised in the additional information, however the Department and CPHR are not in a position in the process to provide an assessment on the additional information and a potential revised planning proposal/FSR. The Department considers this is a matter for the IPC's advice in consideration of potential pathways following the subject review of the issued Do Not Proceed Gateway Determination (Attachment A1).</p> <p>Density and FSR</p> <p>The proponent's Gateway Review Request (Attachment C) provides discussion regarding development density of the site as part of an additional assessment under Section 9.2 Direction 4.1 Flooding, in particular (4)(c). 4(c) under Direction 4.1 states <i>a planning proposal must not contain provisions that apply to areas between the flood planning area and probably maximum flood to which Special Flood Considerations apply which: ... permit a significant increase in the dwelling density of that land.</i></p> <p>As discussed previously in this report, the proponent states (Attachment C) that the proposal will not result in a significant increase in density of land in a flood area as the current maximum permissible FSR could be increased through bonus FSR provisions under the Housing SEPP (subject to the provision of affordable housing). As such the proposal would only result in an increase of 14 apartments. The Department notes these bonus provisions would be subject to merit assessment and development consent may not be issued for the full bonus available.</p> <p>The Department also notes that if the planning proposal is supported with a FSR of 1.3:1 and 25m maximum building height to be permissible under the LEP, future redevelopment of the site could seek to utilise a 30% bonus under the Housing SEPP resulting in greater density of the site. Therefore, the highest potential density that could be achieved for the site following the rezoning (if proceeding) would be approximately FSR 1.69:1 (Bonus 0.39:1) and 32.5m height (bonus 7.5m).</p> <p>The Department notes there is no measure of what a significant increase in density under Direction 4.1(4)(c) is, however, the Department does not consider the planning proposal sought or the potential density on the site that could be achieved after rezoning and calculation of bonus FSR under the Housing SEPP, represents a non-significant increase in density.</p> <p>Recommendation</p> <p>The Department recommends that no amendments to the Gateway determination are made.</p>
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Department of Planning, Housing and Infrastructure

Attachments	Attachment A1	Gateway determination
	Attachment A2	Gateway determination report
	Attachment B	Planning proposal
	Attachment C	Proponent's gateway review request
	Attachment D1	Council report 26 March 2024
	Attachment D2	Council response to gateway review
	Attachment E	Local Planning Panel minutes
	Attachment F1	Flood Risk Assessment
	Attachment F2	Proponent response to former BCS advice
	Attachment F3	Flood letter to support proponent's gateway review request
	Attachment G	Department of Planning, Housing and Infrastructure (Department) correspondence
	Attachment H1	Former development application BCS comment
	Attachment H2	Former development application Transport for NSW comment
	Attachment H3	Former development application RFS comment
	Attachment I1	Additional information provided after lodgement of gateway determination review request – Presentation to former BCS and Department on 3 March 2025
	Attachment I2	Additional information provided after lodgement of gateway determination review request – Fire Safety BCA report
	Attachment I3	Additional information provided after lodgement of gateway determination review request – Department response to revising FSR

COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Recommendation	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input type="checkbox"/>	<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments: