

14.4 NORTH TUNCURRY URBAN RELEASE AREA

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Date of Meeting	29 June 2022
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SUMMARY OF REPORT

The North Tuncurry Urban Release Area (URA) Explanation of Intended Effect, Rezoning Study, Biodiversity Certification Application, Statement of Intent, draft Development Control Plan (DCP) and associated technical reports, were placed on public exhibition by the Department of Planning and Environment (the Department) from 2 May to 17 June 2022.

This report provides a summary of the MidCoast Council Project Team's assessment of the proposal and provides a submission to the Department for Council's endorsement.

RECOMMENDATION

That Council endorse the lodgement of a submission to the Department of Planning and Environment, on the North Tuncurry Urban Release Area as provided in Attachment 6 to this report.

APPLICATION DETAILS



Planning Authority:

Department of Planning & Environment

Applicant:

Landcom

Owner:

NSW Department of Industry

Land:

Lot 331 DP 1104340, Lots 294 & 295 DP 43110

Current Zoning:

RU2 Rural Landscape, C2 Environmental Protection, RE1 Public Recreation and R2 Low Density Residential

Proposed Zoning:

C2 Environmental Protection, C3 Environmental Management, RE2 Private Recreation, R2 Low Density Residential, R3 Medium Density Residential, B2 Local Centre, B5 Business Development and IN1 General Industrial

FINANCIAL/RESOURCE IMPLICATIONS

Assessment of the North Tuncurry URA proposal, Bio-certification Application and associated documents required the establishment of a Project Team which includes representatives from all divisions of MidCoast Council. The assessment has been accommodated within existing operational budgets.

The terms of the Statement of Intent between Landcom and MidCoast Council would inform the preparation of a future Planning Agreement that may include:

- the completion of works-in-kind by Landcom or another developer in lieu of development contributions;
- dedication of land, assets and infrastructure to Council; and
- payment of funds for the on-going management and maintenance of those lands, assets and infrastructure.

The Statement of Intent also includes provisions for an IPART Special Rate Variation, that would apply only to land within the North Tuncurry Urban Release Area.

The North Tuncurry URA and associated Statement of Intent have significant financial and resource implications for MidCoast Council if the Special Rate Variation application is not approved by IPART.

The proposal also indicates that for certain environmental corridors, water basins and development areas adjacent to identified coastal hazards, where Council and/or Landcom will not be the on-going management authority; alternative ownership and management mechanisms may be required.

LEGAL IMPLICATIONS

The North Tuncurry URA proposal could have legal implications for MidCoast Council until the following matters are resolved:

- a Planning Agreement is made between Landcom and MidCoast Council;
- a Special Rate Variation to fund the on-going management and maintenance of lands, assets and infrastructure is approved by IPART; and
- the ownership and management mechanisms are in place for those environmental corridors, water basins and development areas adjacent to identified coastal hazards where Council and/or Landcom will not be the on-going management authority.

RISK CONSIDERATION

The Statement of Intent includes high-level agreements that provide terms for the preparation of a future Planning Agreement that include:

- the completion of works-in-kind by Landcom or another developer in lieu of development contributions;
- dedication of land, assets and infrastructure to Council; and
- payment of contributions and funds for the on-going management and maintenance of lands, assets and infrastructure.

Within the documents provided as part of the public exhibition, there remain several unresolved concerns regarding the lack of current information on how the development will provide:

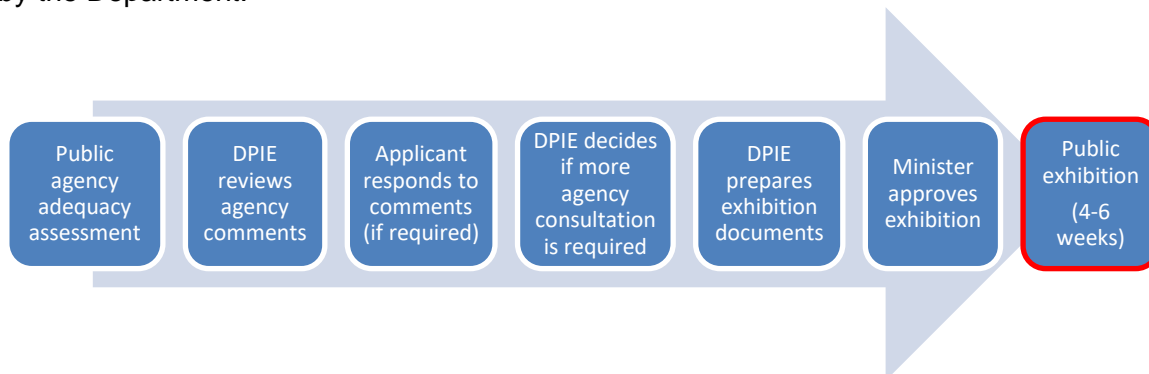
- permanent protection and associated governance and land management arrangements for biodiversity conservation areas;
- efficient and effective removal of stormwater and management of water generally;
- ongoing consideration and management of projected impacts of climate change; and
- a sustainable and integrated extension of the existing urban areas of Tuncurry.

The resolution of these issues prior to the finalisation of the rezoning process is necessary to avoid transfer of future financial, management, social and environmental risk to MidCoast Council and future residents of the North Tuncurry Urban Release Area.

BACKGROUND

The Minister for Planning and Public Spaces, the Hon Rob Stokes, endorsed the preparation of a self-repealing State Environmental Planning Policy (SEPP) Amendment to Great Lakes Local Environmental Plan (LEP) 2014 on the 18 March 2020.

The diagram below illustrates the pre-exhibition consultation and assessment process undertaken by the Department.



Public Exhibition

The Department have placed the North Tuncurry URA Explanation of Intended Effect (EIE) and associated documents on public exhibition between 2 May and 17 June 2022 inclusive.

Council and other public agencies have been invited to review the exhibition materials and can make a formal submission during this time.

The Department has granted an extension of time to accommodate consideration of this report and endorsement of the draft submission, at the scheduled Ordinary Council meeting on 29 June 2022.

The Department as the planning authority, will undertake an assessment of the submissions and determine whether the proposal can be approved as exhibited.

Post-Exhibition Process

If the Department approves the draft SEPP, it will:

- amend the Great Lakes Local Environmental Plan (LEP) 2014 by replacing the current zones, land uses and development controls with those consistent with the North Tuncurry Explanation of Intended Effect and Rezoning Study; and
- amend the existing Great Lakes Development Control Plan by inserting new site-specific provisions to guide future development within the North Tuncurry URA.

The Statement of Intent would inform the:

- lodgement of a Special Rate Variation application to fund the on-going management and maintenance of lands, assets and infrastructure with IPART; and
- drafting of a future Planning Agreement between Landcom and MidCoast Council to facilitate the dedication, funding and long-term maintenance and management of identified land, infrastructure, services and facilities.

The Bio-certification Application and Strategy when certified, would ensure the permanent protection and management of certain environmentally sensitive lands within the North Tuncurry URA.

It is unclear at this time when the ownership and management mechanisms for those environmental corridors, water basins and development areas adjacent to identified coastal hazards where Council and/or Landcom will not be the on-going management authority, will be resolved by the Department.

Development Assessment Process

Development consent for the subdivision of the site, construction of buildings or the carrying out of any other physical works does not form part of the current proposal.

Development consent would need to be obtained in the future for the staged subdivision, release of land and carrying out of development, consistent with the new land use framework.

STRATEGIC RELEVANCE

Mid North Coast Regional Strategy 2006-2031

The North Tuncurry URA was identified in the Mid North Coast Regional Strategy 2006-2031, Growth Areas Map 9 – Great Lakes North as shown below.



Map Legend:

Red outline:

Growth Area

White area:

Existing Urban Footprint

Orange area: *Proposed Future Urban Release Area*

Light Purple area:

Existing Employment Lands

Dark Purple area:

Proposed Employment Lands

Black hatched area:

Sites with significant issues; process underway to determine any development potential

Black speckled area:

Indicative areas of high level constraints within Proposed Future Urban Release Areas and Proposed Employment Lands

The Strategy included the following general statement on all Growth Area maps:

“Growth Areas show the boundaries of urban areas and as such, identify both existing and proposed urban lands.

Not all land identified within the Growth Areas can be developed for urban uses.

All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazards and/or environmental constraints will be excluded from development.”

Appendix 2 of the Strategy also made specific statements about ‘Growth Areas Requiring Significant Issues to be Resolved’. In Appendix 2 the North Tuncurry site was noted as having the following issues for consideration:

“Northern expansion (hatched) subject to an assessment which reviews:

- *level of significance of environmental values*
- *level of significance of environmental hazards*
- *the extent of development potential that exists.”*

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 identifies Regional Priorities for the MidCoast including but not limited to:

- *Manage development within sensitive water catchments and protect environments that sustain the oyster industry.*
- *Provide capacity for long-term employment through education and training, and by capitalising on intra- and inter-regional connections.*
- *Provide housing, services and facilities, as well as accessible public spaces for an ageing population.*

Specific priorities are also identified for the ‘regionally significant centre’ and ‘employment land cluster of Forster-Tuncurry’:

- *Maintain retail, education, civic and tourism activities.*
- *Manage the role of tourism and accommodation.*
- *Protect environmental and natural attributes.*
- *Consolidate commercial activities in existing precincts.*
- *Enhance the services and facilities to support the ageing population.*

However, the Plan also specifically identifies that Future housing and urban renewal opportunities in the MidCoast need to “*Manage environmental values and residential growth in North Tuncurry*”.

Therefore, while the North Tuncurry site has been identified as a potential urban release area within the relevant regional strategies; the Department has continued to acknowledge that significant environmental constraints exist within the North Tuncurry URA and that these constraints must be considered in determining the ‘*extent of development potential that exists*’ over the site.

PROPOSAL

The North Tuncurry Urban Release Area proposal if approved by the Minister for Planning would rezone 615 hectares of Crown Land at North Tuncurry by amending the Great Lakes Local Environmental Plan 2014; and amend the Great Lakes development control plan to add site-specific design controls.

The North Tuncurry URA proposal aims to provide:

- More than 2,100 dwellings to accommodate up to 4,500 residents in a mix of low rise homes in a staged release of 22 residential precincts, over 30 years
- Approximately 13 hectares of employment land for industrial and business development
- 327 hectares of land to be managed for biodiversity conservation (60% of the site)
- Infrastructure and services to facilitate development
- New active transport connections linking with the Tuncurry town centre via new and improved walkways and cycling links
- Nine parks providing 6.1 hectares of new open space
- Reconfiguration of the existing Tuncurry Golf Course
- A new golf clubhouse, community centre, cultural centre, mobile surf club and public gathering places.

An application for Biodiversity Certification on the North Tuncurry Urban Release Area has also been made under the Savings Provisions of the *Threatened Species Conservation Act 1995* (since repealed). The Biodiversity Certification package is being exhibited alongside the rezoning package.

There are three primary components North Tuncurry URA proposal:

1. Planning Instruments: Explanation of Inteded Effect, Rezoning Study and draft Development Control Plan
2. Biodiversity Certification Application Report and Strategy
3. Statement of Intention (2 November 2021) for a future Planning Agreement

These documents are summarised below, but provided in full as attachments to this report.

The technical reports exhibited with the proposal are also discussed within this report, however due to the volume of information, they are not provided as attachments. At the time of writing, the technical reports were available on the Department of Planning & Environment's planning portal exhibition page: [North Tuncurry Urban Release Area | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](https://www.nsw.gov.au/planning-portal/north-tuncurry-urban-release-area).

1. Planning Instruments: Explanation of Intended Effect, Rezoning Study and draft Development Control Plan

Numerous studies are provided with the application, the findings of which are generally brought together within the Rezoning Study. In this document the applicant provides a high-level analysis of significant environmental components, represented in the Urban Capability Land Analysis map below.



Map Legend:

-  Probable Maximum Flood
-  TMO Clusters
-  Road Noise +45dB(A)
-  2100 Coastal Hazard Line
-  High Ecological Value
-  Indicative Development Footprint
-  Aboriginal Archaeology
-  Biodiversity Corridor

The Study then outlines how these issues are addressed, based on the findings and recommendations of the supporting technical reports.



North Tuncurry Master Plan

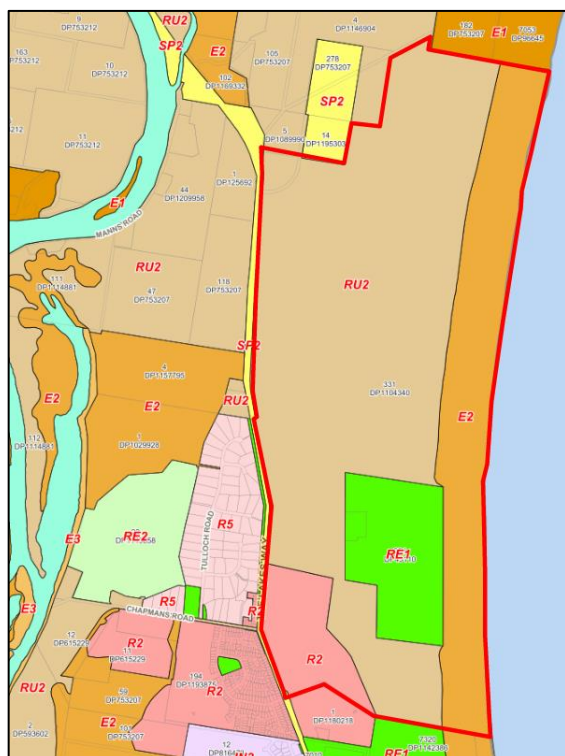


North Tuncurry Staging Plan

The Master Plan illustrates the intended development layout over the site, the majority of which is residential subdivision and development surrounding the realigned golf course. The proposed Village Centre components are identified in red, with new commercial and industrial precincts on the periphery of the site, adjoining The Lakes Way. The Staging Plan illustrates the anticipated release and development of the residential land over time in 22 Stages over 20-30 years.

The Explanation of Intended Effect provides an overview of the content of the Rezoning Study and draft Development Control Plan, which contain the land use zones, development standards and planning controls that will enable subdivision and development of the site in accordance with the North Tuncurry Master Plan and Staging Plan, as shown above.

The Explanation of Intended Effect also confirms that a new site specific State Environmental Planning Policy (SEPP) for North Tuncurry would be created to amend Great Lakes LEP 2014 by introducing new land use zones, building heights and minimum lot size (for subdivision) controls. For example, the draft land use zone changes are shown below:



Great Lakes LEP 2014 Zoning Plan



Proposed SEPP Zoning Plan

Zone

B5 Business Development	E1 National Parks and Nature Reserves	E2 Environmental Conservation
E3 Environmental Management	E4 Environmental Living	IN1 General Industrial
R2 Low Density Residential	R3 Medium Density Residential	R5 Large Lot Residential
RE1 Public Recreation	RE2 Private Recreation	RU2 Rural Landscape
SP2 Infrastructure	W2 Recreational Waterways	

New development standards are also proposed to achieve the desired development yield, density and built form outcomes, including:

- minimum lot size controls to facilitate a range of lots from 200sqm to 800sqm for low density residential development and 1,000sqm for medium density residential development;
- maximum building height controls between 8.5m (2 storeys) and 20m (5 storeys) for residential, commercial and industrial areas.

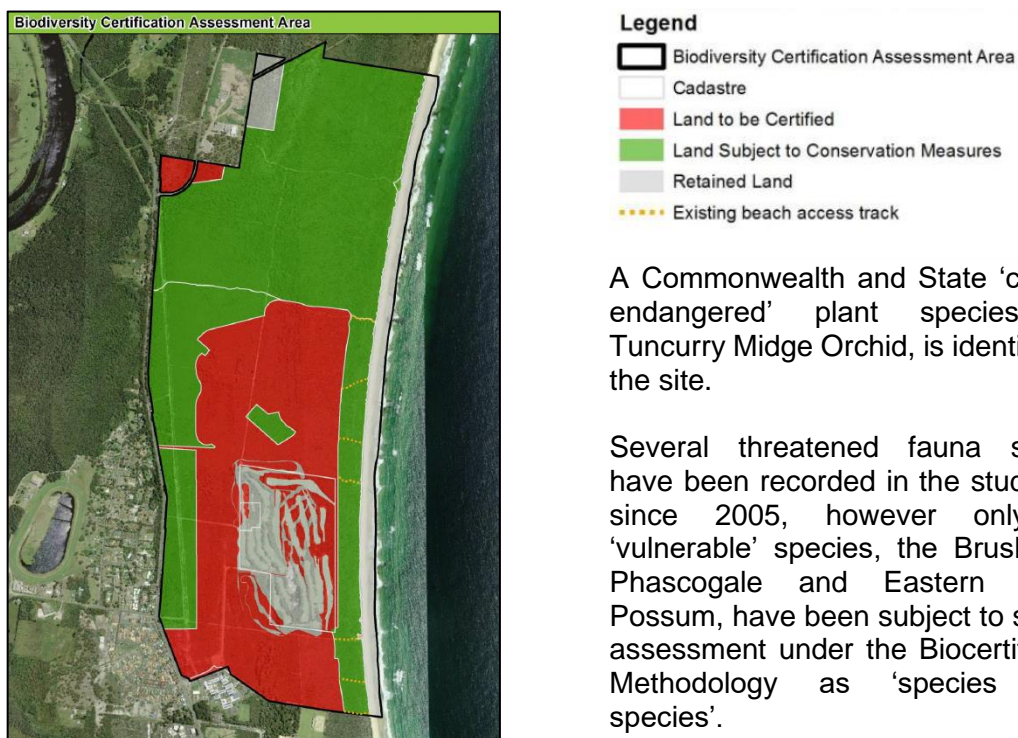
The Study also includes additional matters for consideration in future subdivision and development applications including several changes to existing local clauses in Great Lakes LEP 2014 to facilitate the proposed development.

The North Tuncurry DCP has been put forward to amend the Great Lakes DCP and introduce site-specific design controls, including but not limited to:

- detailed design controls for residential dwellings, commercial/retail development in the B2 Local Centre zone, and the public domain;
- road network layout, landscaping and water sensitive design components;
- identification and location of open space, drainage, environmental conservation lands, and local recreation facilities; and
- conservation of Aboriginal heritage located on the site.

2. Biodiversity Certification Report and Strategy

A Biodiversity Certification Assessment has been undertaken to seek 'biocertification of land' for the rezoning and mixed use development of the North Tuncurry Urban Release Area (NTURA) illustrated below. The Minister for the Environment may confer biocertification if a proposal 'improves or maintains' biodiversity values.

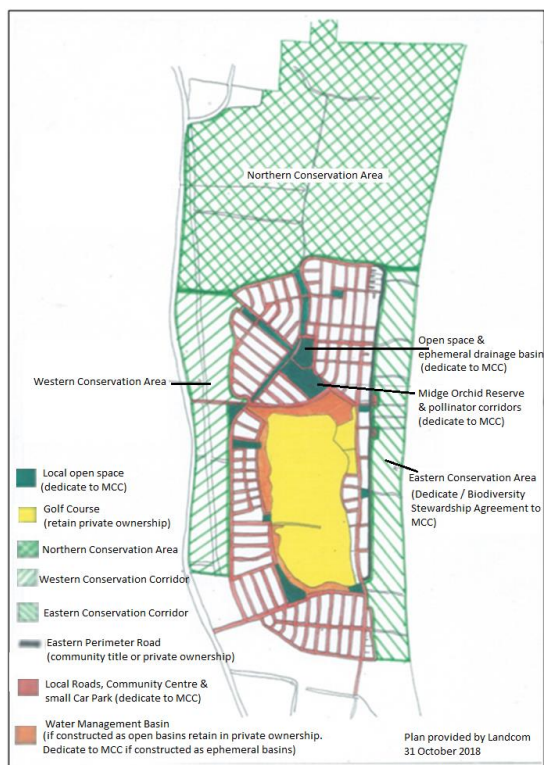


Should Biodiversity Certification be approved over the site, this provides a streamlined assesment process for the future subdivision, release and development of the 'certified land'. The only location within the MidCoast local government area that has Biodiversity Certification, is the Brimbin urban release area.

3. Statement of Intent (2 November 2021) for a future draft Planning Agreement

The North Tuncurry URA was the subject of discussions between Landcom, the former Great Lakes Council and former MidCoast Water for several years. Consultation between the organisations stalled in 2014 when several environmental, infrastructure and planning matters were identified as requiring significant additional investigation.

The matter of a future Planning Agreement between Landcom and MidCoast Council was most recently reported to Council on 10 April 2019 and 27 October 2021.



In 2019 Landcom sought advice on whether Council was prepared to enter into a Planning Agreement relating to the provision of services and facilities and potential dedication of land in the North Tuncurry URA.

The concept plan provided identifies the land put forward for Council's consideration in that report.

Council resolved at that meeting:

- A. *That Landcom be advised that Council will not accept the 270 hectares of western and northern conservation areas referred to as 'Management Areas 1 and 3' located adjacent to the Lakes Way and the Darawank Nature Reserve.*
- B. *That Landcom be advised that Council is prepared to consider entering into negotiations for a Planning Agreement for the North Tuncurry Release Area for:*
 1. *The dedication of Conservation Management Area 2, as described in the letter of offer from Landcom dated 23 November 2018, following the completion of the Biobanking Agreement and Stewardship Agreement, including payment of sufficient funding into the Biodiversity Conservation Fund.*
 2. *The application of developer contributions applicable to the proposed development and possible credits for works in kind and the provision of services and facilities.*
- C. *That Landcom be advised that any documentation placed on public exhibition should only refer to Council's position as set out in this resolution.*

Conservation Management Area 2 referred to in item B.1 of the resolution, is the 'Eastern Conservation Corridor' as identified on the concept plan.

The Statement of Intent publicly exhibited by the Department, was given in-principle support when it was reported to Council in October 2021. The Statement of Intent reflects the agreed aims, purpose and potential outcomes of a future Planning Agreement that would be required as planning for the precinct progresses.

The terms of a future Planning Agreement that have been discussed, but not determined include:

Monetary Contributions

- Based on relevant and existing Council Contribution Plans
- Provided on a per residential lot basis
- Offset by any works-in-kind or dedication of land

Land and assets dedicated to Council:

- 55ha Bio-banking site (Eastern Conservation Corridor) following completion of the Bio-banking Agreement and Stewardship Agreement, including payment of funds into a Biodiversity Conservation Fund
- Community Facility / Surf Club and associated 'small car park'
- Local open space – predominately parks (9 with total area of 6.21ha)
- Local roads and carparks

Works to be carried out by Landcom:

- Open space embellishment
- Major road works
- Community facilities
- Foreshore improvements and beach access
- Walking and cycling trails

Arrangements for the lodgement of an IPART Special Rate Variation that would apply to land holders within the North Tuncurry development area, are also identified in the Statement of Intent.

The estimated level of contributions required for the Special Rate are documented within the detailed submissions table attached to this report and these funds would be applied to ensure that any essential infrastructure is constructed and maintained for the life of the development.

CONSULTATION

It is important to note at this time, that the planning process for an amending SEPP is distinctly different to that of a standard planning proposal or development application, in that Council and other State agencies were notified in April 2021 that:

"The Department has commenced preparation of a self-repealing State Environmental Planning Policy (SEPP) to amend the Great Lakes Local Environmental Plan 2014 for the North Tuncurry Urban Release Area.

Your agency is being consulted about whether the rezoning study and supporting technical studies adequately addresses key planning matters before the Department prepares the SEPP explanation of intended effects and supporting documentation for public exhibition."

The documents provided to Council at that time have been the subject of ongoing discussion, negotiation and review by Council's Project Team with members of Landcom's consultancy team, the Department's Central Coast-Hunter Regional Team, the Department's Planning Delivery Unit and other State agencies.

These discussions have also informed the Project Team's assessment of the exhibition material, the preparation of this report and the draft submission to the Department of Planning provided in Attachment 6.

DISCUSSION – SUBMISSION ISSUES

The opportunity to provide comment on the recent exhibition of the North Tuncurry Urban Release Area Explanation of Intended Effect, Biodiversity Certification Assessment Report and Strategy and associated documentation is appreciated and Council's Project Team recognises the opportunity such a proposal creates for the region and the community of Tuncurry.

There is broad support for the concept of developing certain areas of the North Tuncurry site in an environmentally sensitive manner and establishing what would be a significant release of residential and employment land on the MidCoast. There is also strong support regarding Landcom's initiatives for the future housing supply to include:

- 7.5% affordable housing consistent with Landcom's Housing and Affordability and Diversity Policy;
- 20% of all dwellings are 'Design' and 'As-Built' Liveable Housing Australian Silver Certified; and
- 10-15% of diverse housing across the Site consistent with Landcom's diverse housing policy.

However, several unresolved concerns remain regarding the proposal and three of these are summarised in the bullet-points below:

- how the proposal reflects the expectations and aspirations of the MidCoast community in 2022 (hopefully the community consultation process undertaken during the exhibition period will shed light on these views);
- resolution of the biodiversity credits for the entire development footprint by the biodiversity certification application, which if approved, would streamline future subdivision and development application processes;
- how the proposed Integrated Water Management and Stormwater Management Systems ensure the ongoing management and removal of the estimated quantity of stormwater from the site.

Excluding these factors, Council continues to support the vision and desired outcomes of the Master Plan. Therefore, in order to accelerate the release of housing supply within the Master Plan Council requests that the Department of Planning & Environment consider a reduced development footprint that includes:

- residential development areas up to and including Stage 12 of the Master Plan; and
- employment lands located at the intersection of The Lakes Way and The Northern Parkway



North Tuncurry URA Proposal as exhibited.



Requested amendment to the North Tuncurry URA development footprint.

The Project Team is of the view that these areas of the Masterplan represent a range of development outcomes consistent with the vision and desired outcomes of the Master Plan. This smaller, less complicated development footprint can achieve immediate outcomes for the provision of a diverse and affordable housing supply, while also demonstrating:

- sufficient biodiversity offsets for the extent of land to be rezoned and released;
- opportunities for the provision of viable and cost-effective services and infrastructure;
- stimulation of employment opportunities, expansion of community services and revitalisation of business activity in Tuncurry; and
- a precautionary approach to the identified impacts of climate change on the site and future development.

Council's Project Team would also support the Department, State agencies and applicant, in progressing completion of the rezoning, biodiversity certification and establishment of land management mechanisms for conservation lands through a collaborative process to ensure the North Tuncurry Urban Release Area provides equitable economic, social and environmental outcomes for existing and future residents of Tuncurry and the MidCoast.

A detailed review of the exhibition documents has been undertaken by the MidCoast Council Project Team, and these comments are provided as an attachment to the submission to the Department of Planning Attachment 6.

The issues have been grouped based on themes and are summarised within the following section of this report however, it is critical to note that one of the recurring and fundamental concerns with the proposal is the reliance on out-dated and 'anecdotal' population, economic, employment and environmental information to support the proposal.

MidCoast Council has long identified the potential of the site for urban expansion (Forster Tuncurry Conservation and Development Strategy 2003). This Strategy identified the land suitable for future urban growth, taking into account the significant environmental assets, and provided a framework

for orderly, efficient and quality growth. The current rezoning proposal will also implement a key component of the MidCoast Housing Strategy.

It is noted within the Explanation of Intended Effect that *“In 2011, the site was declared a State Significant Precinct under Part 3A of the Environmental Planning and Assessment Act 1979 and State Significant Study (SSS) requirements were issued by the Department. However, when Part 3A was repealed in June 2011 the Part 3A North Tuncurry Urban Release Area Concept Plan was revoked.*

In March 2020, the Department approved a request by Landcom to allow the potential rezoning of the site to be considered under a State-led self-repealing State Environmental Planning Policy. Through that process it was agreed the previous SSS study requirements issued in 2011 would be used as a guide for the study requirements to support the proposed rezoning.”

The studies used to support the current proposal, as publicly exhibited, appear to have been prepared to support the original application for a Part 3A approval, or shortly after the State Significant Study requirements were issued in 2011.

As a result, most technical reports, findings and recommendations relied upon to support the North Tuncurry urban release area components were prepared in, or before, 2013-2014.

In comparison, current planning proposals for site-specific and generally less complex rezoning applications, are required to be supported by technical reports and studies that have been prepared within five (5) years of the application being submitted.

The age of the documents and lack of comprehensive reviews and amendments, particularly in response to the assessment of adequacy report provided prior to the public exhibition are of concern to the Project Team.

The primary concern is that the rezoning study, planning controls and biodiversity certification application provisions, which were substantially prepared before 2015, do not adequately or appropriately reflect current environmental conditions, community expectations, demographic projections, or changes in the employment, health, education and social circumstances of residents across the MidCoast, particularly within the last 5 years as a result of fires, flood and the Covid pandemic.

The full details of the Project Team’s assessment are provided as an attachment to the draft submission in Attachment 6 to this report.

To provide a summary of the key issues and concerns of the Project Team, comments from the assessment of key documents are provided in the following section of this report:

1. Explanation of Intended Effect for the North Tuncurry Urban Release Area (DPE)
2. Statement of Intent (for a future Planning Agreement) (DPE)
3. Independent Stormwater Management System Review (DHI for DPE) and Integrated Water Cycle Management Plan
4. Water Servicing Strategy and Waste Water Servicing Strategy

1. Explanation of Intended Effect for the North Tuncurry Urban Release Area (DPE)

The Explanation of Intended Effect has been prepared by the Department as an over-arching explanatory document that summarises the findings and recommendations of all associated documents while outlining the purpose and intent of the draft planning controls.

Many of the comments provided below therefore, are not only relevant to the EIE, but provide a summary of more detailed assessment comments from the Project Team's review of the supporting technical studies.

1.0 Introduction

The EIE includes a statement that *"The masterplan was informed by community engagement undertaken in 2013-14, which identified the site's guiding principles and community outcomes as discussed in the Urban Design Report (Appendix B)."*

The Urban Design Report was not provided on the DPE exhibition website and therefore any guideline principles or outcomes detailed in that document cannot be commented within this submission or public exhibition process. Council therefore requests that the Department consider the previous comments provided during the Assessment of Adequacy process.

The document also states that *"Landcom and MidCoast Council have worked together to identify local infrastructure needs" and that "Landcom has responded to submissions from Council and Government agencies in relation to the technical studies throughout 2020-2." "that has been reflected in the development of the final Rezoning Study for North Tuncurry."*

While MidCoast Council have provided in-principle support to the Statement of Intent documented in the public exhibition material, it must be noted that throughout this report that Council's previous concerns out-dated information and incorrect assumptions in the technical reports appear to have been given little regard or consideration in the 'reviews' and 'addendums' undertaken by Landcom prior to public exhibition.

The significance and ongoing relevance of these concerns are reflected in the "Register of remaining issues to be resolved"; and confirmation that neither the Rezoning Study or Draft DCP were amended prior to exhibition, but are noted as "will be updated" in the "Appendices Technical Reports" table provided by the Department.

1.2 Purpose, 1.3 Proposed Planning Instruments and 1.4 Objectives or intended outcomes

The EIE confirms that a self-repealing SEPP is proposed to amend the zones, development standards and relevant local clauses of Great Lakes Local Environmental Plan (LEP) 2014, to enable the North Tuncurry subdivision and development to occur.

It is noted that the proposed zones, development standards and amendments to local clauses do not reflect the recommendations of the recently adopted MidCoast Council Housing Strategy or Employment Zone Review, recently exhibited Draft Rural Strategy, or the Department's Employment Zone Reform program that is currently on exhibition (May-June 2022). These issues are discussed in detail in response to the Rezoning Study.

The EIE goes on to state that *"Should the rezoning occur... the project will deliver a range of quality housing products... including affordable diverse housing typologies. Local employment opportunities... in the local centre and industrial area..."*

However, the technical studies do not demonstrate how these outcomes will be achieved. This broad statement also fails to identify the potential for education, health or employment opportunities that may be achieved through development partnerships to activate the employment land at the intersection of The Lakes Way and The Northern Parkway.

Noting these concerns, the planning instruments and intended outcomes will also be undermined if the North Tuncurry URA is not identified as exempt from the provisions contained within the State Environmental Planning Policy for Exempt and Complying Development (Codes SEPP).

The Codes SEPP would apply to all proposed residential and employment lands within the NTURA site once land use zones are applied, and allow for a diverse range of buildings and structures, including but not limited to: garden sheds, dwelling houses, low-rise medium density residential buildings, commercial and industrial development.

Biodiversity and Conservation

The Biodiversity Certification Assessment Report and Strategy has been reviewed and is discussed in detail later in this report. However, there are concerns with the statements contained within the EIE, regarding the lack of certainty about the ecosystem credits required to offset the development:

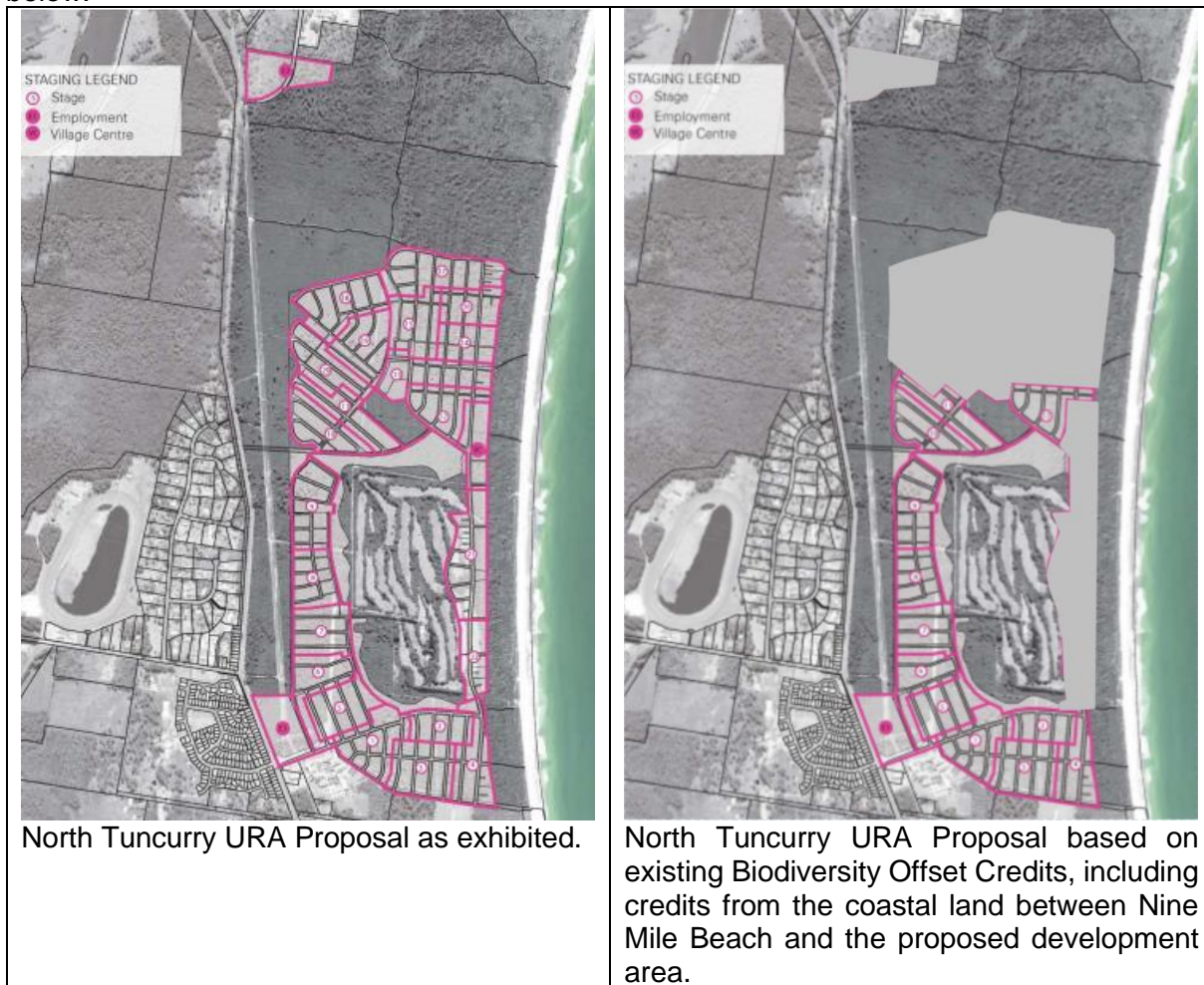
- The 327 hectares of Crown land at North Tuncurry to be submitted for registration will only generate enough “ecosystem and species credits required to offset the first 12 stages of residential development and the” employment lands at the intersection of The Lakes Way and The Northern Parkway;
- The area of “*approximately 380-400 hectares at Nabiac, owned by Council (formerly Mid Coast Water)*”, is required to “*meet the remaining offset requirements for Stages 13-22, the E2 Industrial Land, Village Centre and the redeveloped golf course*” but has only been the subject of “*preliminary ecological studies*”, is only identified as a “*possible Biodiversity Stewardship site*”, with “in principle agreement” to make this area available for the proposal “*if or when required*”.

The EIE does not acknowledge information from the Biodiversity Certification Report & Strategy that also notes that the coastal land between Nine Mile Beach and the proposed development area, is going to be affected by coastal hazards and erosion in the future and therefore in reality cannot provide for the permanent protection of ecological and species credits as proposed within this area.

The Commonwealth have not yet, approved the management and mitigation measures proposed for the Tuncurry Midge orchid. This is a risk to the project particularly in the later stages. Ideally this would have been addressed to give more certainty to the rezoning proposal.

Based on this information, the NTURA proposal only has sufficient ecological and species credits at the time of this report, to offset the impact of development for the employment lands at the intersection of The Lakes Way and The Northern Parkway, and up to Stage 12 of the residential release, unless all other required credits are satisfied by payment of funds to the Biodiversity Conservation Fund.

The comparison the existing proposal versus the proposal with on-site biodiversity credits is provided below:



Provision of local infrastructure

While Council has provided in-principle support for the Statement of Intent (for a future planning agreement), the completion of an IPART Special Rate Variation and the transition of the SOI into a detailed planning agreement remain reliant on the proponent:

- demonstrating efficient and effective methods of constructing, operating and maintaining the proposed infrastructure, and
- determining the ownership, in-perpetuity conservation and management mechanisms for those conservation and environmentally sensitive lands not subject to any future Biodiversity Certification agreement.

2.0 Explanation of Provisions

2.1 Land Use Zones and 2.2 Maximum height, floor space and minimum lot size

The recommendations in this section do not consider MidCoast Council's recently adopted Housing Strategy, Employment Zones Review, Council's Draft Recreation Zones Review or Rural Strategy, the Department's amendments to environmental zone classifications or the Department's Employment Zones Reform program, that is currently on exhibition.

The following amendments to the land use zone and development standards are recommended, and discussed in more detail within the Rezoning Study comments:

Changes to environmental zone classifications:

- E2 Environmental Conservation to C2 Environmental Conservation
- E3 Environmental Management to C3 Environmental Management
- The purpose and intent of applying the C3 Environmental Management zone instead of the current C2 Environmental Conservation zone to certain sections of the coastal dunes is not sufficiently justified given the environmental values of these areas.

Changes to Residential zones based on the adopted MidCoast Housing Strategy:

- The future R2 Low Density Residential will not accommodate the diversity of housing proposed within the NTURA site. These areas are to be included within the R1 General Residential zone, incorporating the zone objectives and land use table provisions from the Housing Strategy.
- It is noted that the intention for new residential development typologies definitions cannot be realised without an amendment to the Standard Instrument Principal Local Environmental Plan and cannot be included within a development control plan.

Changes to Recreation zones based on the Recreation zones review:

- The RE2 Private Recreation areas should have a reduced Height of Building control of 8.5m and a Minimum Lot Size (for subdivision) of 20ha, to reflect community expectations of development within these areas.
- The inclusion of 'Tourist and visitor accommodation' as a land use permitted with consent within the RE2 Private Recreation zone and should only be considered as an Additional Permitted Use in the zone within the NTURA site at this time.

Changes to Business and Industrial zones based on the adopted MidCoast Employment Zones Review and Department's Employment Zones Reform program:

- the B2 Local Centre zone should be replaced with the E1 Local Centre zone, zone objectives and land use table provisions for Great Lakes LEP 2014, retaining a Height of Building control of 8.5m.
- the B5 Business Development zone should be replaced with the E3 Productivity Support zone, zone objectives and land use table provisions for Great Lakes LEP 2014, retaining a Height of Building control of 12m and increasing the Minimum Lot Size for subdivision to 1500sqm instead of 450sqm.
- The Department should also ensure appropriate amendments to the SEPP (Transport and Infrastructure) 2021 to ensure educational establishments and health care facilities are permitted with consent within the E3 Productivity Support.
- The statement that the B5 Business Development zone "would also allow for the expansion of the sports clubs and facilities immediately south of the site" is misleading and inappropriate, given the distance separating these two sites.
- the IN1 General Industrial zone should be replaced with the E5 Heavy Industrial zone, retaining a Height of Building control of 10m and applying a Minimum Lot Size that allows for this area to be subdivided from the conservation areas of the existing allotment i.e. 6ha instead of 40ha.

Other general amendments that should be applied to ensure consistency with the future MidCoast LEP provisions include:

- No Floor Space Ratio provisions in any zone
- No Height of Building controls in environmental zones
- The dwelling density map for identified areas of Medium Density Residential development are supported, however additional consideration may be given to other areas to ensure the anticipated yield is achieved across the development area

- Business areas should be identified with a masterplan identifying future Minimum Lot Sizes of at least 1500sqm, to ensure larger sites are provided to accommodate the range of land uses to be permitted within these zones.
- The E2 land identified within the residential area must be provided with a Minimum Lot Size that allows for the creation of this allotment, which appears to be less than the 40ha MLS proposed.
- The purpose and intent of the Section 88B instrument is supported, however this may not be an appropriate mechanism to enforce the dwelling designs and requires further consideration, noting the development options already available through the SEPP for Exempt & Complying Development.

3.0 Next Steps

Council's Project Team acknowledge that the North Tuncurry URA proposal has the potential to create new housing, employment and social opportunities within Tuncurry and the MidCoast.

However, based on the information provided within the exhibition material and summarised within the Explanation of Intended Effect, Council is of the view that the existing masterplan is not supported by enough contemporary evidence and represents an over-development of the site.

To ensure the proposal can achieve an equitable social, economic, environmental and financially viable outcome for the community, region and State; it is recommended that the proposal progress with a reduced development footprint that can be rezoned and released in the short to medium term.

The release of residential stages 1-12 and the employment lands located at the intersection of The Lakes Way and The Northern Parkway would provide significant economic and social opportunities for existing and future residents of Tuncurry and realise major components of the Landcom vision and desired outcomes for the site, in an evidence-based and sustainable approach to development on the site.

2. Statement of Intent (for a future Planning Agreement) (DPE)

It is noted that this document, facilitated and prepared by the DPE Planning Delivery Unit to provide a framework for ongoing discussions regarding a future planning agreement between Landcom and MidCoast Council, was given in-principle support by MidCoast Council at the 27 October 2021 Ordinary Meeting.

The following comments reflect the Project Team's assessment of technical reports that relate directly to the content of this Statement of Intent and therefore any future Planning Agreement:

What We Will Do Next

1. Drainage infrastructure

References to *State Environmental Planning Policy – State and Regional Development 2011* are to be replaced with references to the repealing document - *State Environmental Planning Policy (Planning Systems) 2021*.

2. Drainage system maintenance (rates & IPART)

Water & Sewer infrastructure issues were identified most recently in 2019 and have not been recognised, acknowledged or included within the Statement of Intent.

Water and Sewer Developer Charges (contributions) are not to be included under "Monetary Contribution" provisions. Monetary contributions should include provisions for any infrastructure upgrades that may also be required directly as a result of the development i.e. components of Sewer Treatment Plant upgrade work.

Water and sewer assets including pipelines, pump stations, etc are to be included under "Carrying out of Works" and will include works-in-kind and payment of developer charges.

3. Short term and long-term location of the community centre (principles)

Council's Project Team have had ongoing discussions regarding the permanent location of the community centre since finalisation of the Statement of Intent.

The team have confirmed that the preferred location for a multi-functional community centre and associated facilities is within the areas identified as Stage 3 & 4 of the Masterplan, directly opposite the existing regional playing fields on the southern boundary of the North Tuncurry masterplan site.

This location has been identified to:

- better service the future Tuncurry population as a whole;
- ensure the facility is provided at an earlier stage of development; and
- to assist in minimising the noise, lighting and traffic impacts that the region sporting fields will have on future NTURA residents, particularly during sporting and special events that occur regularly in the evening and on weekends.

During these discussions the Project Team acknowledged that to accommodate a permanent multi-function centre of a size and location that provides services and facilities for the existing and future residents of Tuncurry (including North Tuncurry), the masterplan will need to be amended prior to finalisation of the rezoning proposal.

The amendments are likely to be minor but would involve the relocation of a limited number of "residential allotments" currently located opposite the regional sporting fields.

The team confirmed that the relocation of affected residential allotments to the "Gateway Park" (Item 9.4 in the Landscaping Plan) would be supported to ensure an optimal outcome for future NTURA residents and the broader Tuncurry community, through the co-locating of a permanent multi-functional community centre and the regional sporting fields and associated facilities.

4. The Beach Street Extension (need and evidence base)

The applicant cannot make the statement that roads east of Manning Street have "spare capacity" while also acknowledging that the additional traffic will have a negative effect on the residents and businesses, without any plan to address these impacts.

Therefore, it will be important to assess the traffic impacts of each stage of the development's release as additional vehicles are generated from North Tuncurry.

This would enable timely and appropriate actions to be taken to address the impact of additional traffic through these areas, i.e. staged traffic calming plan, that will ensure the amenity of the area is not reduced by the additional traffic from North Tuncurry.

3. Independent Stormwater Management System Review (DHI for DPE) and Integrated Water Cycle Management Plan

Council's Project Team have undertaken preliminary estimates of maintenance and replacement costs for the gravity-drain pipe as proposed for the NTURA development, which are in excess of the costs required to maintain conventional stormwater infrastructure associated with the development, normally covered by the general fund and stormwater levy. These estimates are detailed in full in the attachment to the submission for transparency and completeness.

Based on industry standards and \$2020 cost estimates, approximately \$80 per lot per year, will be required for maintenance and replacement costs for the gravity-drain pipe, and these costs are

accounted for in the Statement of Intent, to be addressed either through the future Planning Agreement or IPART Special Rate Variation.

Independent Stormwater Management System Review

Council was party to and supported the outcomes of the independent review of the stormwater management system.

However, the documentation provided as part of the public exhibition, including the addendum to the IWCMP, indicates that despite the independent review the applicant has included information in the addendum that contradicts the agreed outcomes in the letter of intent which are drawn from the independent review.

Water Quality

The information below provides a concise summary of the assessment and calculations undertaken within the review of water quality concepts and mechanisms across the NTURA site. The full details are documented within the attachment to the draft submission, for the purposes of transparency and completeness.

The Integrated Water Cycle Management Strategy proposes that the treated water from the bioretention and high flows that are not treated by the bioretention are directed to water management basins within the development.

The water management basins are proposed to cover 18.1ha and will be a combination of open water and ephemeral areas and form a central focus for the development.

Interventions over and above the water quality treatment systems (bioretention) that will provide water quality protection for these basins will need to be identified in the detailed designs and a maintenance, monitoring and adaptive management plan will be required.

The maintenance, monitoring and adaptive management plan must identify preventative measures, routine maintenance and monitoring and contingency actions for both water quality and weed management.

Action:

Prior to approval of the first development application provide:

- Detailed designs for the water management basins that will assist with optimising water quality
- Maintenance and monitoring and adaptive management plan to address water quality issues and the management of weeds and biosecurity threats.

Maintaining water quality and managing weeds within the water management basins present a lot of unknowns for Council. Even with a comprehensive maintenance and monitoring plan, the quality of water and abundance of weeds in the water management basins cannot be guaranteed. While the risk of these systems failing is low, there is residual biosecurity risk and risk of water quality decline.

Dedicated funding will reduce these residual risks. This funding will need to include a reserve fund to address major maintenance issues and cover the cost of ongoing maintenance when the development has not reached its development potential and as such rates / special rates do not cover the ongoing cost of maintenance. Note: these water management basins will be constructed prior to any development lots being released thus limiting rate revenue for maintenance.

Actions:

- Developer to maintain the water management basins for 2 years following the release of the first subdivision certificate.
- Include a developer funded 'reserve fund' in the planning agreement to cover major maintenance of water management basins and ongoing maintenance (to address the shortfall in funds available from rate revenue while the development is released) - \$1,700,000 Reserve fund based on maintenance costs for 8 years.
- Include the cost of ongoing maintenance of water management basins in an application to IPART so that ongoing maintenance costs are funded by rate revenue (\$100 per year per dwelling).

The water quality management strategy proposes 8,300m² of bioretention swales within the road reserve (distributed throughout the development). Council supports the construction of bioretention systems as our preferred approach to water quality treatment and represent a key feature of the water quality management strategy for this development.

Research has shown that bioretention swales within the road reserve are significantly more expensive to maintain than centralised bioretention systems, this is largely due to the costs of traffic control during maintenance and the impacts of residents' activities on swales in front of their property (\$11.50/m² compared to \$5.75/m² in 2022) (*Water Sensitive Urban Design Lifecycle Costing data, Melbourne Water, 2013*).

These figures equate to a range between \$109 - \$135 per household per year). Further investigation of design options for centralised systems is required to determine if it is feasible to centralise the bioretention thereby reducing the ongoing costs for maintenance.

Action:

Include the need to identify a water quality treatment option that will minimise the ongoing operational and maintenance liability to Council in the planning agreement. This should include an independent review of water quality treatment design options for a centralised water quality treatment, the final approach to be agreed with Council.

Significant areas of bioretention are proposed for this development. Without dedicated funding for their maintenance there is the risk that they won't be maintained effectively contributing to reduced water quality within the water management basins, the Wallamba River and the receiving groundwater ecosystems.

Given this shortfall in funding and the uncertainty around the cost estimates, the risk can only be reduced by establishing dedicated funding for maintenance. This funding will need to include a developer reserve fund to address ongoing maintenance when, at the beginning of the development the rate base is low as development potential has not been reached.

Actions:

- Developer to maintain the bioretention during the establishment phase (2 years following the release of the first subdivision certificate).
- Include a developer funded 'reserve fund' in the planning agreement to cover ongoing maintenance of bioretention (to address the shortfall in funds available from rate revenue while the development is released) – Total \$2.95M Reserve fund based on maintenance costs for 8 years to be paid proportionally at the release of each stage of the development.
- Include the cost of ongoing maintenance of bioretention in an application to IPART so that ongoing maintenance costs are funded by rate revenue (\$123 per dwelling per year).

If bioretention swales distributed throughout the development are the preferred approach to water quality treatment the typical street raingarden configuration proposed in the Integrated Water Cycle Management Plan will need to be modified to be more practical.

Whilst these details can be resolved at a later stage of the development, it is important that sufficient space is allocated in the road reserve for water quality treatment without having to compromise on design standards (or require higher cost designs) due to road reserve widths being insufficient.

Action:

Include the need for further assessment of the constructability of bioretention swales and size of the road reserve in the planning agreement (if bioretention swales are the chosen approach to stormwater management).

4. Water Servicing Strategy and Waste Water Servicing Strategy

Previous comments provided in 2019 have not been incorporated into the Servicing Strategy. The Servicing Strategy requires a comprehensive review to address comments provided and revised option analysis conducted and supported with financial values representative of current and future costs.

It is further noted that the Test of Adequacy document states that both;

“Water Servicing Strategy and Wastewater Servicing Strategy Appendices X and Y conceptually demonstrate that the NTURA is able to be serviced. Specific infrastructure design matters will be considered as part of future development applications”

What is unclear is how many Development Application stages are envisaged and the likelihood that the future development will be completed by unknown parties. Staging of the development will dictate the timing of major infrastructure works.

It is essential that the Servicing Strategies are revised to provide an integrated approach for the delivery of water and sewer services and associated infrastructure that will address the potential impact of multiple Development Applications associated with NTURA along with demands from other competing future developments.

The Servicing Strategy requires clear identification of NTURA’s lead in infrastructure requirements and a staging plan for the upgrades, construction and servicing of water & sewer infrastructure at the various development stages.

Based on the information publicly available Council’s Water Department request further engagement to assess strategic options and analyse detailed proposals at key triggers in the Development Application process.

COMMUNITY IMPACTS

The North Tuncurry URA has the potential to create over 2,100 dwellings, new business precincts, anew industrial precinct and community centre. The proposal therefore has the potential to create significant opportunities for current and future residents of Tuncurry.

While Council’s Project Team generally supports of the concept of developing certain areas of the North Tuncurry site in an environmentally sensitive manner and establishing what would be a significant release of residential and employment land on the MidCoast, a number of unresolved concerns remain regarding the proposal, including but not limited to:

- how the proposal reflects the expectations and aspirations of the MidCoast community in 2022 (hopefully the community consultation process undertaken during the exhibition period will shed light on these views);
- resolution of the biodiversity credits for the entire development footprint by the biodiversity certification application, which if approved, would streamline future subdivision and development application processes;
- how the proposed Integrated Water Management and Stormwater Management Systems ensure the ongoing management and removal of the estimated quantity of stormwater from the site.

Therefore, the collective view of the Project Team is that the existing masterplan is not supported by enough contemporary evidence and represents an over-development of the site.

To ensure the proposal can achieve an equitable social, economic, environmental and financially viable outcome, it is requested that the Department of Planning & Environment consider progressing the proposal with a reduced development footprint, illustrated previously within this report.

The Project Team believe that with the reduced development footprint, the outstanding matters of concern can be overcome through the collaborative arrangements available to Council, the Department, Stage agencies and Landcom; and these areas of the Master Plan can be rezoned and released in the short to medium term.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The assessment of the North Tuncurry URA exhibition information has included consideration of the values, goals and actions contained in the *MidCoast 2030: Shared Vision, Shared Responsibility* Community Strategic Plan.

Where appropriate and necessary, the Project Team has identified where the documents are inadequate and requested additional and/or amended information to ensure that the following values, goals and actions are reflected in the proposal.

We value... our unique, diverse and culturally rich communities

Our diverse communities offer active and social opportunities, are safe and are places where we work together with a creative focus acknowledging our rich history and culture.

- Support a diverse housing mix that provides choice and meets the needs of our community.
- Support the preservation and uniqueness of our history and cultural heritage in our towns, villages and significant places.

We value... a connected community

We are socially and physically connected with each other, by ensuring we have activities, facilities, roads, footpaths and technology that are upgraded and well maintained.

- Encourage public spaces, facilities and events that strengthen social connections.
- Plan for, provide and maintain a safe road network that meets current and future needs.
- Encourage the use of alternative transport options through the provision of a safe, accessible and connected walking and cycling network.
- Advocate for the provision of community and public transport to meet the needs of our growing and ageing communities.
- Continue to develop a sustainable network of water, sewer and storm water systems to meet community needs and health and safety standards

We value... our environment

Our natural environment is protected and enhanced, while we maintain our growing urban centres and manage our resources wisely.

- Value, protect, monitor, and manage the health and diversity of our natural assets, wildlife and ecosystems.
- Ensure climate change risks and impacts are understood and managed.
- Protect, maintain and restore water quality within our estuaries, wetlands and waterways.
- Improve the capacity of industry and the community to achieve the best possible outcomes for the natural environment.
- Ensure our natural assets are maintained to a standard appropriate to their use.
- Ensure growth and new development complements our existing natural assets, cultural assets and heritage sites.
- Optimise land use to meet our environmental, social, economic and development needs.
- Promote greater utilisation of sustainable design in new developments.
- Encourage well designed streetscapes in urban centres.

We value... our thriving and growing economy

We are a place where people want to live, work and play, business is resilient and adaptable to change by utilising knowledge and expertise that supports innovation.

- Provide an environment to grow and strengthen local businesses and attract new business.
- Increase opportunities for quality education and training.
- Advocate and identify opportunities for increased workforce participation.

We value... strong leadership and shared vision

We work in partnerships towards a shared vision, that provides value for money and is community focused.

- Partner with, and positively influence the State and Federal Governments in delivering local priorities and services.
- Provide strong corporate and financial management that is ethical, fair, transparent and accountable.
- Provide strong governance frameworks.
- Develop and deliver services and programs that provide value for money

TIMEFRAME

The North Tuncurry proposal was on public exhibition between 2 May and 17 June 2022. Council sought and was granted an extension of time to make a submission, to ensure the elected Council could review and endorse the submission prepared by the Project Team.

ATTACHMENTS – UNDER 50 PAGES

1. North Tuncurry Urban Release Area (URA) Explanation of Intended Effect (18 pages)
2. Statement of Intent between Minister for Planning and Public Spaces representing Landcom and MidCoast Council 2 November 2021 (3 pages)

Attachments 1 & 2 will immediately follow this report.

ATTACHMENTS – OVER 50 PAGES

3. North Tuncurry Urban Release Area (URA) Rezoning Study (111 pages)
4. North Tuncurry Urban Release Area (URA) Draft Development Control Plan (53 pages)
5. North Tuncurry Urban Release Area (URA) Biodiversity Certification Assessment Report & Strategy (176 pages)

6. MidCoast Council Project Team Submission to DPE exhibition of North Tuncurry Urban Release Area proposal – cover letter and detailed submission table (81 pages)

Attachments 3, 4, 5 & 6 are available on Council's website for this meeting under the 'Related Information' heading
