



# MidCoast Rural Strategy

## Land Based Conservation Background Report

Version 4 / Date: June 2020



<b>Version</b>	<b>Purpose of Document</b>	<b>Reviewed by</b>	<b>Date</b>
1	CPSD Working Draft for MCC internal review	A Wetzel	November 2018
2	CPSD Working Draft	A Wetzel	February 2019
3	MCC Consolidation	A Kelly	November 2019
4	MCC Final Draft for Exhibition	A Macvean	June 2020

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# 1 Introduction

This Background Report has been prepared by MidCoast Council with assistance from City Plan Strategy and Development, in partnership with Aurora Research and Development and MJD Environmental as part of the MidCoast Rural Strategy Project ('the Project') to assist with the formulation of the MidCoast Rural Strategy ('the Rural Strategy').

This Report presents the findings of the consultant team's review of land use and development planning considerations relating to land-based conservation occurring within the MidCoast Local Government Area ('LGA'). The considerations include biodiversity, heritage, environmentally sensitive land and high environmental value areas. This review was intended to identify locations or circumstances within the MidCoast where changes to existing planning controls would assist with Land-Based conservation.

This Report should be considered in conjunction with other Background Reports prepared as part of the Project. At the time of writing, these include Reports focusing on the following topics as relevant to rural areas:

1. Housing and Accommodation
2. Agriculture and rural-based industries
- 3. Land-based conservation (this Report)**
4. Marine activities
5. Mining & Energy
6. Tourism
7. Transport
8. Rural Waterways

The conclusions and recommended planning framework described in all Background Reports are presented for consideration and, once finalised, will form part of the Rural Strategy information presented for public exhibition.

## 2 Context

This section provides a context for long-term planning associated with land use and development assessment decision-making. Land-based conservation encompasses all environmentally sensitive land and areas of high environmental value, including but not limited to:

- European and indigenous heritage significance
- Threatened plant and animal communities
- Land-use conflict relevant to land-based conservation uses.

The review separately considers the following themes, which each rely on land-based conservation outcomes:

### **Biodiversity**

Relating to the variety of life forms, the different plants, animals and microorganisms, the genes they contain, and the ecosystems they form. This recognises that all of life depends on ecological systems, with particular emphasis on the 'high biodiversity values' that have protection under current legislation, regulation, policy, or inter-governmental agreement.

### **Scenic**

Relating to the picturesque qualities of the landscape itself, and views to and from particular landscapes. These qualities relate to characteristics cumulatively arising from landform, vegetation, and landscape features.

### **Cultural**

Relating to the relevance of the landscape to local communities, both past and present. This recognises the value of the personal connections people maintain with natural surroundings, with emphasis on natural features that are significant to Aboriginal cultural heritage.

### 3 Evidence Base

The review underpinning this Report considered publicly available information contained in a range of State, Regional and Local strategies, plans and guidelines on land-based conservation as relevant to the MidCoast. It also considered additional government and industry related data and mapping, where available.

The review predominantly focused on land-based conservation within the MidCoast. A full list of references is appended to this Report.

Views from selected stakeholders and the general community have been provided through the following initiatives undertaken as part of the Rural Strategy Project.

- Telephone interviews conducted by the consultant team between May 2018 and January 2019. In total, 60 interviews were conducted with several participants representing larger groups or peak organisations.
- A Public Workshop focusing on Tourism ('Tourism Workshop') in the MidCoast, facilitated by the consultant team on 14 June 2018 in Gloucester. This was attended by over 30 people, with a focused discussion on how the planning framework regulates tourism in rural areas, and issues currently considered most relevant to the MidCoast.
- A public survey ('Rural Strategy survey'), conducted by Council with inputs from the consultant team. This was made available online and in hard copy and was open to the public between September and November 2018. In total, 63 surveys were returned.

Where relevant, views raised by participants have been incorporated into this Report for discussion.

The review has identified the following data gaps, which limited the extent to which higher-level assessments could be completed:

#### ***Biodiversity***

- The probability of occurrence for many Threatened Ecological Communities, Threatened and Migratory species has been confirmed through previous survey work. is based on broad distribution modelling and would need to be confirmed through additional survey work.
- The draft Regional Conservation Plan priority areas for conservation, restoration and conservation off-sets to urban release areas have not been transitioned into the Hunter Regional Plan potential biodiversity corridors and the information available is provided at a state or regional scale.
- Ongoing review and evaluation of these areas is to be considered in the MCC Biodiversity Framework program to ensure the availability of local-scale mapping and appropriate allocation of federal, state, regional and local resources to facilitate identification, management and protection of these areas.
- The National Parks Association of NSW is a Lead Partner of the **Great Eastern Ranges Initiative (GER)**. Within this network, regional alliances have been established to deliver specific outcomes in 'priority areas.' These alliances tend to be volunteer based, but generally benefit from a higher level of coordination and planning for conservation than other areas. The MidCoast is not currently identified in a regional alliance consequently, outcomes to specifically support the delivery of the GER initiative within the MidCoast LGA e.g. habitat modelling, etc. are not readily available.

- The Department of Planning, Industry and Planning [State Vegetation Type Map](#) (SVTM) will represent the most complete and consistent information available about the distribution of Plant Community Types across NSW benefitting landholders, planners and local communities. The regional map incorporating the MidCoast local government area is currently being prepared but is unavailable at the time of writing.
- A complete map of Crown land within the MidCoast nor the management arrangements (e.g. Council or State manager) for this land are currently available to Council.
- 

### ***Cultural Heritage***

- A heritage assessment study, or multiples studies, are required to be undertaken and completed, in line with current NSW Heritage Manual methodology in order to provide a basis for strategic land use and development planning, particularly for items and areas incorporated into the new MidCoast LEP. This recognises:
- Council-endorsed actions to undertake further studies and investigations to identify heritage values, including Aboriginal cultural heritage values do not appear to have been actioned to date.
- 

### ***Scenic Landscapes***

- Current and endorsed scenic landscape studies are out of date and cannot provide a basis for clear and consistent mapping of these areas across the MidCoast and incorporation into strategic planning and development assessment processes.

## 4 Strategic planning considerations - Biodiversity

This section sets out the basis for local strategic planning in relation to land-based conservation of high value biodiversity within the MidCoast. It addresses the policy directions for plan-making in NSW, including the following Ministerial Directions issued under section 9.1 of the [Environmental Planning and Assessment Act 1979](#):

- **Direction 2.1 - Environment Protection Zones.** Requires environmental protection standards to be upheld when amending planning controls relating to environmentally sensitive areas. In particular, the Direction does not allow the reduction of environmental protection standards that already apply to the land (including by modifying development standards that apply to the land).
- **Direction 2.2 - Coastal Management.** This direction applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016. In particular, the Direction specifies the development potential of land in coastal wetlands and littoral rainforests areas cannot be increased or intensified.
- **Direction 5.10 - Implementation of Regional Plans.** Within the MidCoast, this direction gives legal effect to the Hunter Regional Plan, requiring any amendments to planning controls to be consistent with its vision, land use strategy, goals, directions and actions.

It is noted that while **Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs** does not directly apply to the MidCoast LGA at this time, the content and recommendations of this Direction have been considered in this paper. The objective of this direction is to ensure that *'a balanced and consistent approach is taken when applying environmental protection zones and overlays to land'* and *'any associated clause'*.

Discussion predominantly focuses on Government-endorsed policy directions described in long-term strategies and plan at national, state, regional and local-levels. Where relevant, reference is also made to other technical studies or reports.

### 4.1 National Level Considerations

The use or development of land that may impact biodiversity features that are protected under federal or state-level legislation requires a higher-level of assessment and often requires conservation measures to be provided in-situ. This may limit the extent to which types of development are suitable in a particular location.

Programs, databases, and other resources supporting the administration of these acts provide useful reference material for identifying the likely presence and extent of protected biodiversity, and the conservation measures required to ensure their future safety.

This information can assist Council in directing development away from locations that are already understood to be unsuitable, or otherwise sign-posting where protected biodiversity is likely to trigger a higher level of assessment.

#### 4.1.1 Environmental Protection and Biodiversity Conservation Act

The [Environment Protection and Biodiversity Conservation Act 1999](#) (the EPBC Act) is the Australian Government's central piece of environmental legislation. It provides a legal framework to protect and manage *'matters of national environmental significance'* (MNES) i.e. nationally and internationally important flora, fauna, ecological communities and heritage places.

Under the EPBC Act, actions that have or are likely to have, a significant impact on a MNES, require approval from the Australian Government’s Minister for the Environment<sup>1</sup>. Council staff may advise applicants of the need to address requirements of the EPBC Act, but Councils are not responsible for making a referral to the Australian Minister on behalf of applicants and Council’s own approval of a project does not need to be referred under the EPBC Act.

Table 1 summarises the MNES that could be present within the MidCoast LGA. The International Wetlands, World Heritage Properties and National Heritage Places are mapped locations that are already subject to conservation management arrangements. The likelihood of occurrence for each listed species and ecological communities is highly variable.

**Table 1. Matters of National Environmental Significance in the MidCoast (as at September 2018)<sup>2</sup>**

Matter	Count	Comment
<b>Threatened Ecological Communities</b>	8	Of the 8 listed EECs, 1 is vulnerable, 2 are endangered and 5 are critically endangered. One is an aquatic ecological community.  Seven of the EECs are ‘likely to occur within the area’, and one ‘may occur within the area’. Probability of occurrence is based on broad distribution modelling and aerial photography and would need to be confirmed through additional survey work.
<b>Threatened Species</b>	106	A variety of vulnerable, endangered, critically endangered bird, fish, frog, insect, mammal, plant species within the MidCoast LGA and greater NSW eastern coastline.  The presence of some species has been confirmed through previous survey work. However, the probability of occurrence for many species is based on broad distribution modelling and would need to be confirmed through additional survey work.
<b>Migratory Species</b>	75	A variety of vulnerable, endangered, critically endangered species migrate to or traverse the MidCoast LGA from Australia and Oceania.  The presence of some species has been confirmed through previous survey work. However, the probability of occurrence for many species is based on broad distribution modelling and would need to be confirmed through additional survey work.
<b>Wetlands of International Significance</b>	1	Myall Lakes RAMSAR Wetlands  Land within the LGA also has the potential to impact the Hunter estuary wetlands.
<b>World Heritage properties</b>	1	Gondwana Rainforests <sup>3</sup> of the Great Escarpment includes around 40 separate reserves located between Newcastle and Brisbane, noting only the areas of reserved Crown Land are listed. Within the LGA, this includes the Barrington Tops National Park.
<b>National Heritage places</b>	1	

<sup>1</sup> Australian Government Department of Environment & Energy n.d.c)

<sup>2</sup>Australian Government Department of Environment & Energy n.d.c)

<sup>3</sup> <https://www.environment.gov.au/heritage/places/world/gondwana>



Each bioregion contains a series of sub-regions, with 419 sub-regions in total. IBRA mapping is regularly reviewed and updated to reflect improvements to State-level mapping and information on vegetation communities and ecosystems.

The latest version (IBRA7) provides the following geographic framework as relevant to the MidCoast:

- The NSW North Coast (NNC) Bioregion is the predominant Bioregion occurring within the MidCoast<sup>7</sup>. Two other Bioregions also partially encroach on the LGA’s boundaries, being the New England Tablelands (NET) to the north-west and the Sydney Basin (SYB) Bioregion to the south.
- The MidCoast is predominantly made up of five IBRA sub-regions, described below:
  - Along the coast, from north to south, are the NNC7 – Macleay Hastings; and NNC17-Karuah Manning;
  - Inland, from north to south, are the NNC11 – Comboyne Plateau, NNC12 – Mummel Escarpment; and NNC13 – Barrington; and
- Three other IBRA sub-regions also partially encroach on the LGA’s boundary. These are, from north to south, NET3 – Walcha Plateau; NNC14 – Tomalla; and SYB2 – Hunter.

**Table 2. Manning-Macleay IBRA Sub-region Characteristics<sup>8</sup>**

<b>Geology</b>	Extremely complex faulted terrain where the New England Fold belt overthrusts the Sydney Basin. Main rocks present are: Silurian and Devonian slates, quartzites and acid volcanics, Carboniferous mudstones and lithic sandstones, and less deformed Permian shales and sandstones. Small areas of granite and plateaus of Tertiary basalt on Barrington and Comboyne Plateaus. Quaternary coastal sands.
<b>Characteristic Landforms</b>	Complex pattern of ridges and valleys running to the Great Escarpment, strong structural control along fault lines. Coastal beach, dune and lagoon barrier systems reach their maximum development at Myall Lakes.
<b>Typical Soils</b>	Red brown structured loams on basalt. A range of other soil types relating to geology but poorly known. Deep siliceous sands and very well developed podsoles in dunes, particularly the older high dunes. Organic sands in estuaries.
<b>Vegetation</b>	Wet sclerophyll forest with white mahogany, small-fruited grey gum, Sydney blue gum, blackbutt, tallowwood and brush box. White gum, blackbutt, forest red gum and grey box on dry open flats. Dense Antarctic beech on Barrington tops and patches of mixed cool temperate and warm temperate rainforest on Comboyne Plateau on basalt. Coastal complex of banksia, paperbark, smooth-barked apple, and blackbutt with numerous shrubs and areas of heath and swamp on dunes. Mangroves in estuaries.

***Bioregional-scale conservation***

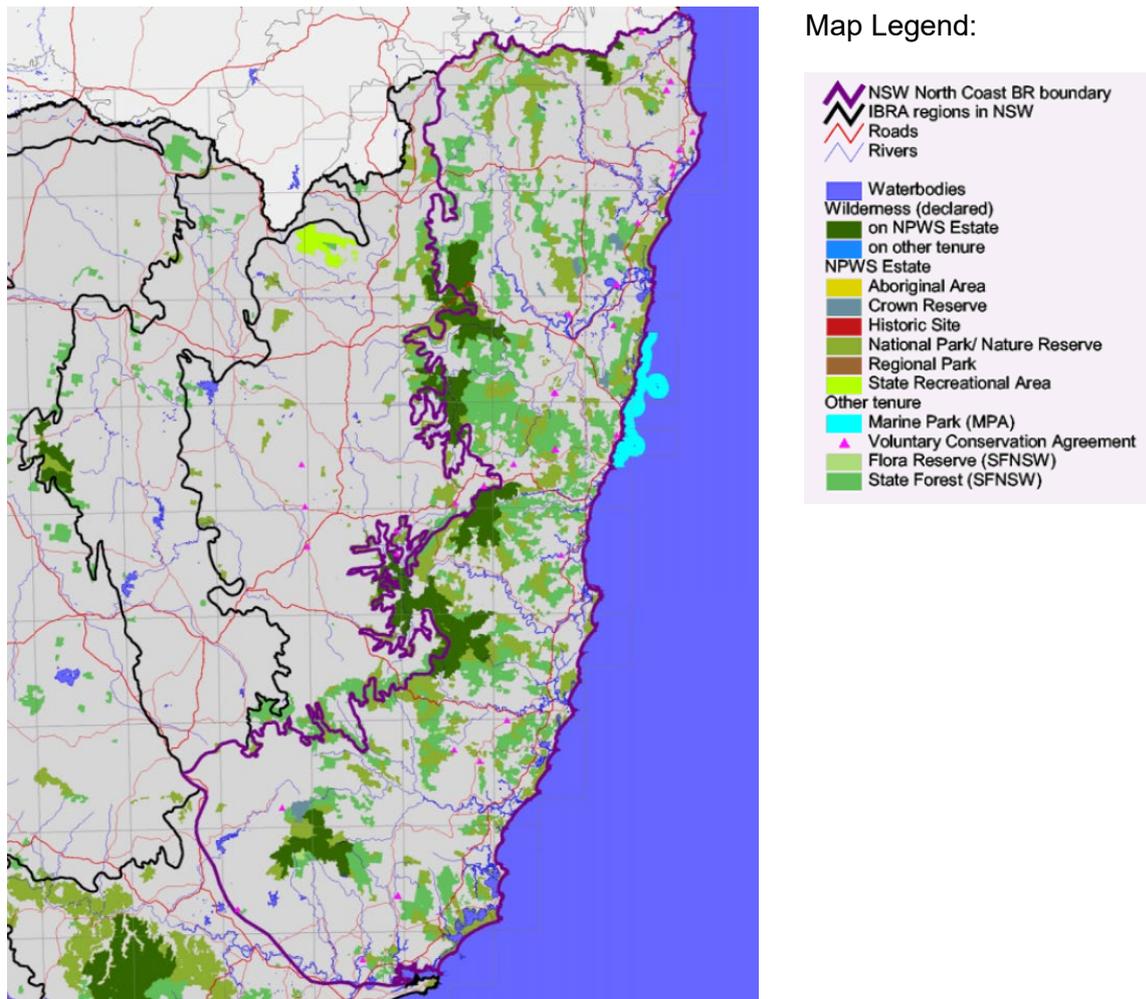
<sup>7</sup> NSW NPWS 2003b

<sup>8</sup> <https://www.environment.nsw.gov.au/resources/nature/nswNorthCoast.pdf>

The North Coast Bioregion has the second highest area of conservation oriented mechanisms of the NSW bioregions. Together, these tenures occupy about 1,061,709.63 hectares or 18.65% of the bioregion.

National parks and nature reserves (under the NPW Act 1974) make the greatest contribution to the area conserved, occupying a total area of 991,386,82 ha, or about 17.42% of the bioregion. Of this area, about 347,425.61 ha is provided additional management under the Wilderness Act 1987 and is composed of 11 declared wilderness areas, together occupying about 6.1% of the bioregion.

**Figure 2. NSW North Coast Biogeographic Region – Tenure/Reserves (April 2003)<sup>9</sup>**



Further recognition and protection is also given to national parks in the bioregion in an area extending from Newcastle to Brisbane, known as the Central Eastern Rainforest Reserves. This has been included on the globally recognised World Heritage list as one of three world heritage areas in NSW. Occupying approximately 307,284 ha or 5.40% of the bioregion, the area is protected by international convention as well as the Commonwealth EPBC Act 1999, which automatically protects all Australian properties that are on the World Heritage List.

Reserves (Crown Lands Act 1989) managed by the National Parks and Wildlife Service contributes 21,862.34 ha to the area managed for biodiversity conservation in the bioregion. Other lands managed under the NPW Act 1974 include: land managed as Aboriginal area (125.61 ha or 0.002% of the bioregion); land managed as historic site

<sup>9</sup> <https://www.environment.nsw.gov.au/resources/nature/nswNorthCoast.pdf>

(482.8 ha or 0.008% of the bioregion); and land managed as state recreation areas (222.1 ha or 0.004% of the bioregion).

Within recent years, landholders on 25 properties have entered into voluntary conservation agreements. Together the area managed permanently for conservation management occupies about 1362.53 ha or 0.02% of the bioregion. Landholders on 71 properties also hold wildlife refuges, occupying 36,720.46 ha or 0.65% of the bioregion, making a significant contribution to off-park landscape conservation. Updated mapping is likely to increase the area occupied under wildlife refuges.

Landholders on 120 properties have entered into property agreements (NVC Act 1997). The conservation zones of the agreements occupy about 2,036.93 ha or 0.04% of the bioregion. Outside of the NPW Act 1974, 36 flora reserves under the provisions of the Forestry Act 1916 contribute towards biodiversity conservation in the bioregion, occupying about 7,510.05 ha or 0.13% of the bioregion.

Also under the provisions of the Forestry Act 1916, State forests (managed primarily for forestry activities but each with various degrees of zoning from commercial forestry to conservation), occupy about 789,329.45 ha or 13.87% of the bioregion. Two State Environmental Planning Policies operate in the North Coast Bioregion. SEPP 14 (Coastal Wetlands) (78,317.08 ha or 1.38%) and SEPP 26 (Littoral Rainforests) (629.74 ha or 0.01% of the bioregion).<sup>10</sup>

## NSW Landscapes

A study completed by Dr Peter Mitchell in 2002<sup>11</sup> defined 517 unique 'landscapes' in NSW based on patterns in rainfall, temperature, topography, drainage patterns, geology, soil and vegetation<sup>12</sup>. The original (2002) mapping was substantially updated in 2008 based on finer grain imagery<sup>13</sup>. This mapping is still considered broad-scale, offering a lower-level of confidence in terms of accuracy when compared with IBRA sub-regions.

NSW Landscapes can be related back to the IBRA sub-regions in which they are contained but have been defined using a different methodology.

The unique characteristics of each NSW Landscape were described in the 2002 study. Individual descriptions (see example below) provide useful information in relation to the landform (e.g. rolling hills, foothills, dunes, etc.) vegetation formation type (e.g. moist hardwood forest, tall woodland, etc.) and typical plant species contained within each landscape.

Based on the latest version of NSW Landscapes mapping (3.1, released in 2017), the MidCoast LGA contains 21 separate landscapes, listed in Table 3. When compared with other LGAs, such as Port Macquarie (14 landscapes), Port Stephens (5 landscapes), or even the 5 LGAs that make up the Lower Hunter (15 landscapes combined), the MidCoast demonstrates an extraordinary level of landscape diversity.

## Application of Biodiversity stratification in regional land-based conservation

Under current NSW legislation, the impacts of development on biodiversity (e.g. vegetation communities, ecosystems, species, etc.) are assessed in increasing detail throughout the sequential approvals process.

<sup>10</sup><https://www.environment.nsw.gov.au/resources/nature/nswNorthCoast.pdf>

<sup>11</sup> <https://www.environment.nsw.gov.au/resources/conservation/landscapesdescriptions.pdf>

<sup>12</sup> NSW Department of Environment & Climate Change (former) 2002b

<sup>13</sup> NSW OEH 2017a

Key milestones tend to occur at the land release (re-zoning) stage and development (DA) approval stages. The biodiversity impacts of development are considered within the IBRA sub-region (e.g. whether the impact cause the extinction or significantly reduce the viability within the sub-region). Where unavoidable impacts occur, a biodiversity offset must be provided, noting current government policy requires offsets to be secured within the same or adjoining IBRA sub-region.

The biodiversity conservation value of land is, therefore, an important consideration in determining the extent to which it is suitable for development. This relies on a clear understanding of the likely level of impact to biodiversity values in-situ, as well as impacts to landscape-scale functionality (e.g. habitat connectivity). It also relies on understanding whether suitable offsets are available and can be secured in a timely and cost-effective manner.

Australia is also a party to the Convention of Biological Diversity. International targets (commonly referred to as 'Aichi Biodiversity Targets') were established in the Convention's [Strategic Plan for Biodiversity 2011-2020](#), with individual targets assigned to each party nation.

In line with Aichi Target 11, Australia has committed to protecting 17% of its representative biodiversity<sup>14</sup>. In NSW, this target has been aligned with the NSW Landscapes, and the Government is prioritising its conservation initiatives and investments to protect those landscapes that are furthest from this 17% protection level (priority landscapes)<sup>15</sup>.

### ***Aichi Target 11***

*By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes.*

This is currently being delivered through a State-led Biodiversity Investment Program targeting priority landscapes<sup>16</sup>. Conservation protection measures may include, for example, the dedication of land to the national reserve system, or establishing in-perpetuity private conservation agreements (e.g. Stewardship agreements).

Under current offset rules, where land already forms part of the national reserve system, it cannot serve as a biodiversity offset to facilitate development. This is particularly relevant in the MidCoast LGA, where a large proportion of land already forms part of the NPWS estate.

It means that less land is available to provide offsets for developments within some IBRA sub-regions. For example, the Barrington Tops National Park already comprises a large proportion of the Barrington IBRA sub-region, as illustrated in Figure 3.

This suggests it would be more challenging to secure offsets for the impacts of development within the Barrington IBRA sub-region, and that offsets would need to be sought in one of the two adjoining sub-regions (Tomalla to the west or Mummel Escarpment to the east).

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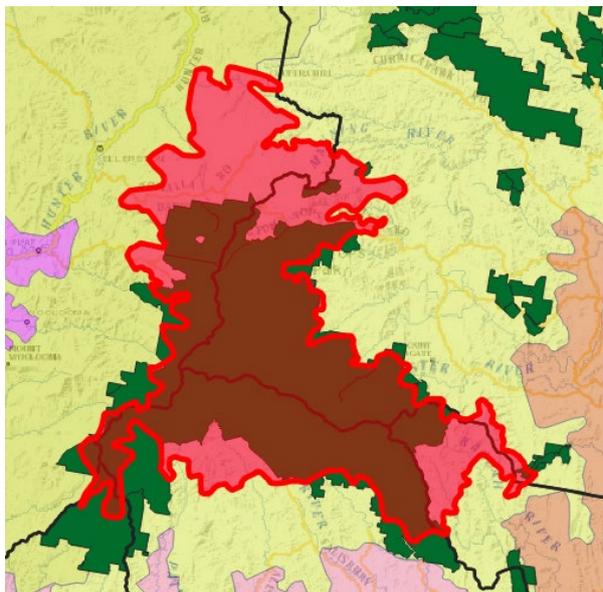
<sup>14</sup> Convention on Biological Diversity n.d

<sup>15</sup> <https://www.environment.nsw.gov.au/resources/conservation/biodiversity-conservation-investment-strategy-2018-180080.pdf>

<sup>16</sup> NSW OEH 2018b p. 14

The probability of finding like-for-like offsets in adjoining sub-regions is much lower, which may lead to substantial delays or higher costs for any developments proposed near the Barrington Tops.

**Figure 3. Illustrative example of the Barrington IBRA Subregion<sup>17</sup>**



The red area is the boundary of the Barrington IBRA sub-region. The underlying dark green area is the extent of the NPWS Estate associated with the Barrington Tops National Park, Barrington Tops State Conservation Area and Mount Royal National Park.

Developments located within the Barrington IBRA sub-region that would rely on offsets to proceed would need to secure suitable (like for like) offsets on lands outside the NPWS estate, either within the same IBRA sub-region, or one of the two adjoining IBRA sub-regions.

The MidCoast LGA does contain NSW Landscapes where additional conservation measures are required to fulfil the Government’s target of 17% protection, with the highest Conservation Investment Priority rankings (1-2) assigned to four NSW Landscapes identified in Table 3 and mapped locations in Figure 4.

**Table 3. NSW Landscapes in the MidCoast LGA - Conservation Investment Priority Ranking<sup>18</sup>**

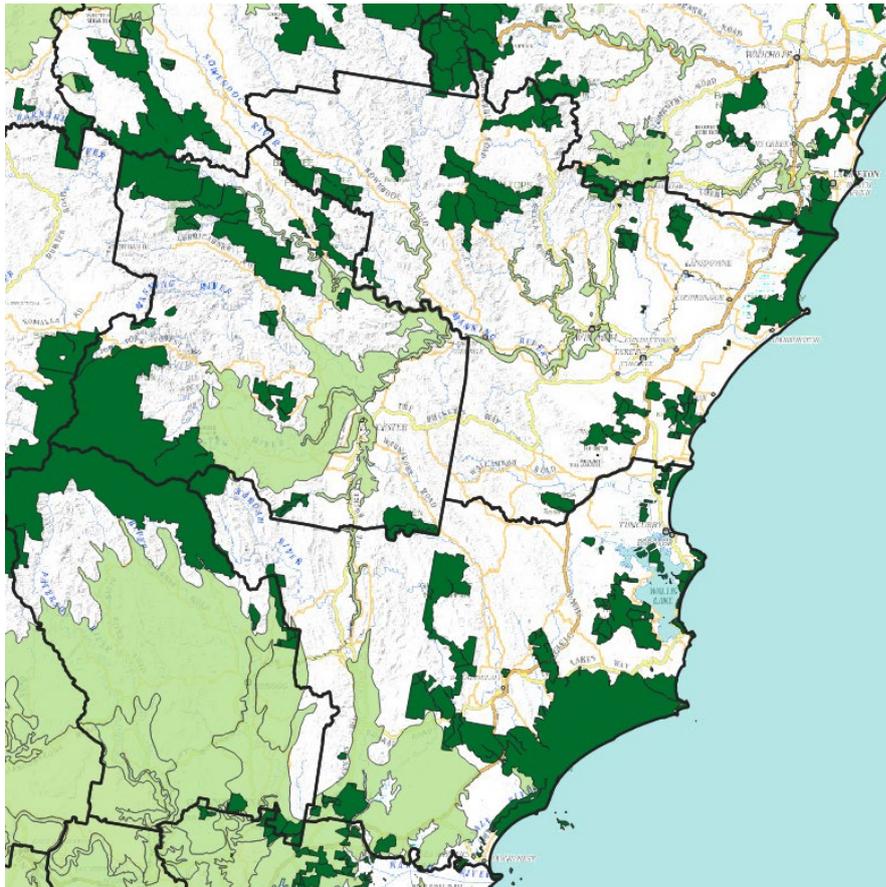
IBRA Bioregion	Mitchell Meso-region	NSW Landscape	Rank
NNC	Manning – Macleay	Blg   Bulga Plateau	3
		Brp   Brothers Peaks	5
		<b>Maf   Manning - Macleay Channels and Floodplains</b>	<b>1</b>
		Mef   Macleay Escarpment Foothills	5
		Mml   Manning - Macleay Coastal Alluvial Plains	4
		Pmr   Port Macquarie Coastal Ramp	4
		Sms   Stroud Mountains	4
		Wcf   Wauchope Coastal Foothills	4
	Barrington – Gloucester	Btb   Barrington Tops Basalt	5
		Btg   Barrington Tops Granite	3
		Btm   Barrington Tops Meta-sediments	5
		Mgs   Manning Great Escarpment Southern Aspects	5
		<b>Sgf   Scone - Gloucester Foothills</b>	<b>2</b>
	Basalt Plateau	<b>Com   Comboyne Plateau</b>	<b>2</b>

<sup>17</sup> NSW OEH 2018a

<sup>18</sup> NSW OEH 2018a

	Coastal Barriers	Mfb   Myall - Forster Barrier	4
		Mmb   Manning - Macleay Barriers and Beaches	5
		Myh   Myall River Channel and Floodplains	3
	Ultramafics	Nys   Nowendoc - Yarras Serpentinite	4
SYB	Hunter	<b>Nrm   Newcastle Coastal Ramp</b>	<b>2</b>
NET	Walcha	Ams   Apsley Meta-sediments	5
		Ybb   Yarrowitch Basalt Plateau	3

Figure 4. MidCoast areas with Conservation Investment Priority rankings<sup>19</sup>



**Map Legend:**

**Light green:** NSW Landscapes with a Conservation Investment Priority ranking of 1 or 2.

**Dark green:** NPWS estate.

These areas are expected to be the focus of State Government initiatives to establish suitable protection measures in coming years.

We understand the Government’s preferred approach in coastal areas such as the MidCoast is to establish protection measures through private conservation agreements. This recognises that coastal areas are subject to a higher-level of demand for development, and therefore offsets.

In this regard, the dedication of lands to the NPWS Estate would be counter-productive to the offsets process upon which future development relies. It provides an opportunity, and incentives, for rural landowners in these areas to participate in the offsets scheme. It also

<sup>19</sup> <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Conservation-management-notes/biodiversity-conservation-investment-strategy-2018-180080.pdf>

suggests the State Government may assess proposals to rezone land in these areas with a higher level of scrutiny, to ensure the 17% protection target can be achieved.

Land use planning and development frameworks can therefore assist with biodiversity conservation, particularly by signposting where privately-owned land is likely to contain features with a high biodiversity conservation value.

This helps to provide a common understanding (for Government and applicants) of where and how biodiversity impacts may be considered and addressed, examples of which are outlined in Table 4 below.

**Table 4. Biodiversity stratification and Conservation Options**

Conservation Options	Biodiversity stratification
Impacts to biodiversity may prove difficult to offset, and would more likely to need to be conserved in-place	<ul style="list-style-type: none"> <li>• Threatened ecological communities, threatened flora species<sup>20 21</sup>, or habitat important to threatened fauna;</li> <li>• Important wetlands, coastal lakes and estuaries<sup>22 23</sup>;</li> <li>• Over-cleared native vegetation types;</li> <li>• Native vegetation that occurs within over-cleared NSW landscapes<sup>24</sup>;</li> <li>• Old growth forests and rainforests; or</li> <li>• Sites of geological significance</li> </ul>
Conservation measures are already in place (and therefore unavailable for use as an offset)	<ul style="list-style-type: none"> <li>• National and State parks and reserves (e.g. NPWS Estate)</li> <li>• Marine parks</li> <li>• Flora reserves</li> <li>• Declared wilderness areas</li> <li>• Crown reserves dedicated for environmental protection and conservation</li> <li>• Lands subject to other private conservation agreements (e.g. stewardship agreements, or 'key management sites' supporting conservation programs)</li> </ul>
Conservation protection measures may be suitably located to serve as an offset for developments occurring within associated or adjoining IBRA sub-regions	<ul style="list-style-type: none"> <li>• NSW Landscapes that have not yet met the 17% protection target;</li> <li>• Biodiversity 'corridors', supporting a high-level of habitat connectivity;</li> <li>• Draft Mid North Coast Regional Conservation Plan 'Priority Offset Lands' (subject to review)</li> </ul>

<sup>20</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species>

<sup>21</sup> <https://www.environment.gov.au/cgi-bin/sprat/public/publicthreatenedlist.pl>

<sup>22</sup> <https://www.environment.gov.au/water/wetlands/australian-wetlands-database/australian-ramsar-wetlands>

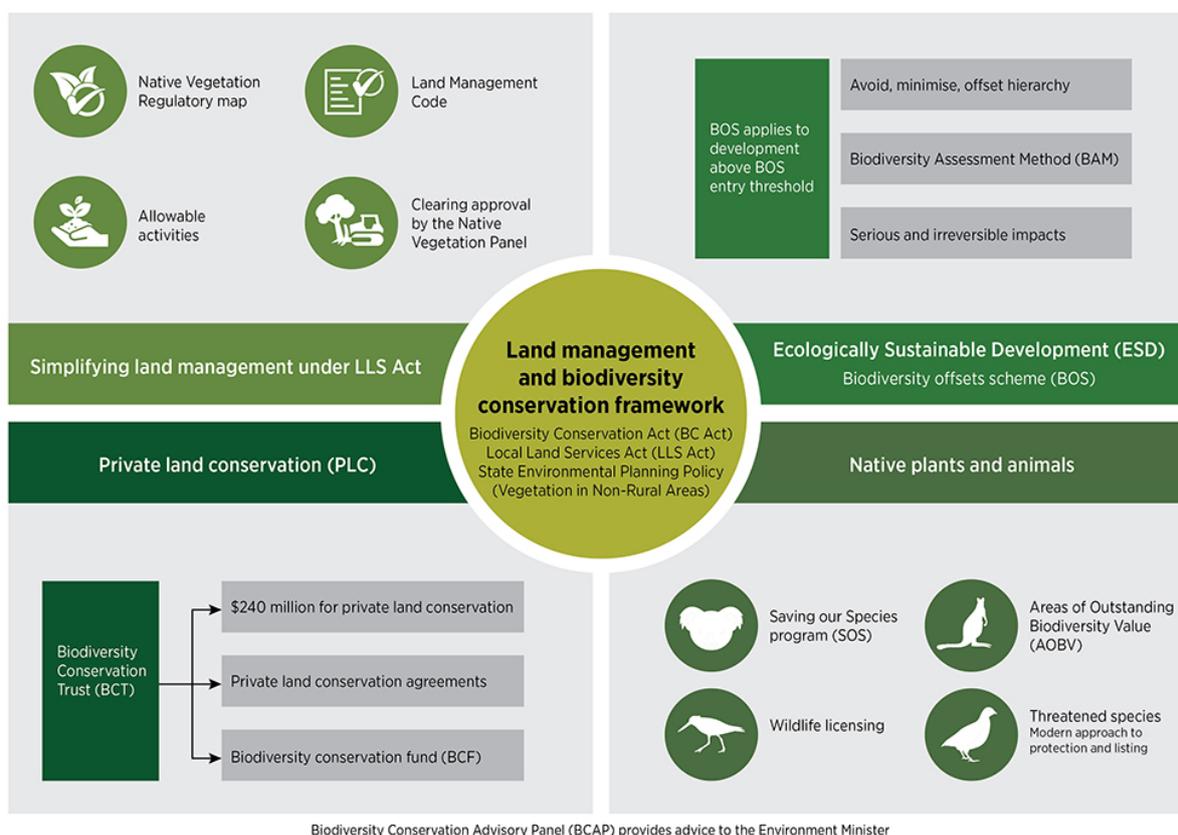
<sup>23</sup> [https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP\\_CoastalMangement](https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalMangement)

<sup>24</sup> <https://www.lgnsw.org.au/files/imce-uploads/127/cremf-ram-for-councils.docx>

## 4.2.2 The NSW Biodiversity Conservation Act 2016 (BC Act)

Biodiversity conservation reforms in 2017 enacted the [Biodiversity Conservation Act 2016](#) (BC Act) which effectively, with amendments also to the [Local Land Services Act 2013](#), replaces the [Threatened Species Conservation Act 1995](#).

Figure 5. Land management and biodiversity conservation framework<sup>25</sup>



The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development<sup>26</sup>.

Programs, databases, and other resources supporting the administration of the NSW and federal biodiversity acts provide useful reference material for identifying the likely presence and extent of protected biodiversity, and the conservation measures required to ensure their future safety.

This information can assist Council in directing development away from locations that are already understood to be unsuitable, or otherwise signposting where protected biodiversity is likely to trigger a higher level of assessment.

The following principles are central to the application of the Biodiversity Conservation Act (NSW) and associated reforms:

- The simplification of land management
- Ensuring ecologically sustainable development

<sup>25</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform>

<sup>26</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/overview-of-biodiversity-reform>

- Mechanisms for private land conservation
- Legal protection of threatened species and native animals.

Relevant to land-based conservation, the legal protection of threatened species and protected native animals under the biodiversity framework includes:

- The Saving our Species program<sup>27</sup>
- Declared areas of outstanding biodiversity value (AOBV)<sup>28</sup>
- a risk-management based approach to wildlife licensing<sup>29</sup>
- offences for harming and picking threatened species, ecological communities and protected plants and animals
- updated methods of listing and conserving threatened species and ecological communities, including eligibility criteria for determining a species' or community's risk of extinction.
- the establishment a new biodiversity conservation advisory panel to provide expert advice.

Many of these mechanisms for biodiversity conservation are discussed within this report.

### 4.2.3 Saving our Species Program (OEH)

The NSW Government's Biodiversity Conservation Program is the legal basis for implementing the Saving our Species Program, which replaced the NSW Threatened Species Priorities Action Statement approach in 2017.

The [Biodiversity Conservation Program](#) consists of strategies to achieve objectives for each threatened species, threatened ecological community, and threatening process listed in the Biodiversity Conservation Act 2016 (the BC Act). The Saving our Species Database provides a public register of strategies prepared under the Biodiversity Conservation Program<sup>30</sup>.

The Saving Our Species program provides a useful source of information relevant to the conservation protection and management requirements for threatened plants and animals in the wild. It recognises that threatened species each have different management requirements, which may vary based on location. These requirements are influenced by their specific ecology, habitat and distribution, as well as the threats to their survival.

The program allocates threatened species (listed under Schedule 1 of the BC Act) or threatened ecological communities (listed under Schedule 2 of the BC Act) to one of eight separate management streams and provides a management stream specifically for Threatening processes (listed under Schedule 4 of the BC Act).

The database also identifies 'key management sites', or locations where conservation management initiatives are in place for specific species, population of species or ecological community.

<sup>27</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/saving-our-species-program>

<sup>28</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/areas-of-outstanding-biodiversity-value>

<sup>29</sup> <https://www.environment.nsw.gov.au/licences-and-permits/wildlife-licences>

<sup>30</sup> NSW OEH 2019a

Table 5 below summarises the current management stream allocations and Figure 6 illustrates the location of key management sites for the whole of the MidCoast LGA as understood at the time of writing.

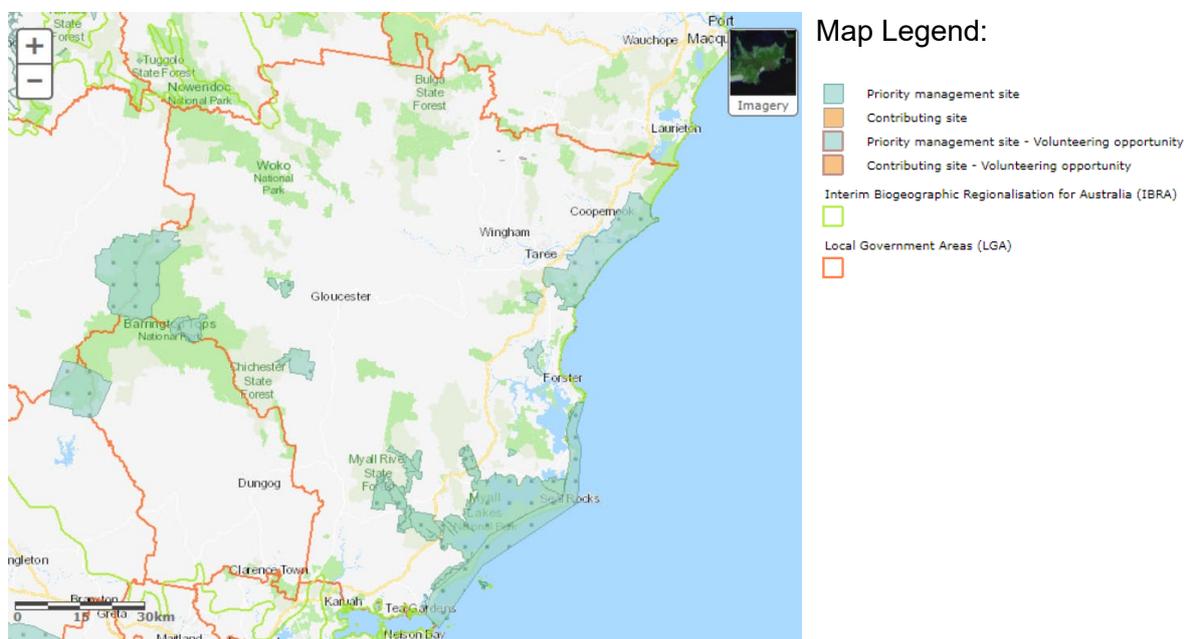
**Table 5. Saving our Species program considerations for the MidCoast LGA (March 2019)<sup>31</sup>**

Management Stream	Count	Comment
<p><b>Site-managed species</b></p> <p>Threatened species specifically refers to those listed as vulnerable, endangered, or critically endangered under Schedule 1 of the Biodiversity Conservation Act 2016.</p>	29	<p>Almost half of all threatened species in NSW are best managed through conservation projects at specific sites. Around 440 species have been allocated to this management stream in total.</p> <p>Of these, 29 are currently identified within the MidCoast LGA, with one or more Key Management Sites relevant to each of these species located within the LGA.</p>
<p><b>Iconic species</b></p> <p>Threatened species specifically refers to those listed as vulnerable, endangered, or critically endangered under Schedule 1 of the Biodiversity Conservation Act 2016.</p>	1*	<p>Six threatened species have been allocated as Iconic species. These are considered socially, culturally and economically important, with a high-level of expectation from the community that they will be effectively protected.</p> <p>The online count currently only identifies the Brush-tailed rock wallaby to be relevant to the MidCoast LGA. * This count should be reviewed, noting Koalas are also known to occur within the LGA.</p>
<p><b>Landscape-managed species</b></p> <p>Threatened species specifically refers to those listed as vulnerable, endangered, or critically endangered under Schedule 1 of the Biodiversity Conservation Act 2016.</p>	-	<p>Around 100 threatened species are identified as Landscape-managed species. These tend to be widely distributed, highly mobile or dispersed. They are best assisted by addressing landscape-scale threats such as habitat loss or degradation.</p> <p>This count should not suggest that Landscape-managed species do not occur within the MidCoast. They have not been mapped for the purpose of this program.</p>
<p><b>Partnership species</b></p>	-	<p>More than 150 threatened species are allocated as Partnership species. These have less than 10% of their population in New South Wales. Their future safety relies more heavily on conservation initiatives elsewhere, and undertaken by other federal, state or territory governments.</p> <p>This count should not suggest that Partnership Species do not occur within the MidCoast. They may have not been mapped for the purpose of this program.</p>
<p><b>Keep watch species</b></p>	-	<p>No immediate action is required to protect over 100 Threatened species allocated as Keep Watch species, either because they are naturally rare and have few threats or because they are more common than previously thought.</p> <p>This count should not suggest that Keep Watch Species do not occur within the MidCoast. They have not been mapped for the purpose of this program.</p>
<p><b>Data-deficient species</b></p>	-	<p>Around 150 threatened species are currently allocated as Data-deficient species, which means there is not yet</p>

<sup>31</sup> NSW OEH 2019a

Management Stream	Count	Comment
		<p>enough information available to establish conservation protection and management measures.</p> <p>As a result, no species allocated to this management stream are identified within the MidCoast, or any LGA in NSW. They are currently under investigation and will eventually be allocated to other management streams once sufficient information is available.</p>
<b>Threatened populations of a species</b>	-	<p>Around 50 populations of species have been listed, meaning they are at risk of becoming extinct in NSW. Populations are defined and listed as part of a species under Schedule 1 of the BC Act. A population of a species is only eligible to be listed if the species is not already individually listed.</p> <p>This count should not suggest that Threatened population species do not occur within the MidCoast. They may have not yet been mapped for the purpose of this program.</p>
<b>Threatened ecological communities</b> <sup>32</sup>	2	<p>There are currently over 100 threatened ecological communities listed in NSW.</p> <p>The online count currently identifies two communities within the MidCoast LGA: Littoral Rainforest; and Themeda grassland on seacliffs and coastal headlands<sup>33 34</sup>.</p>

Figure 6. Saving Our Species Key Management Sites in the MidCoast LGA (March 2019)<sup>35</sup>



<sup>32</sup> <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Threatened-species/threatened-ecological-communities-strategy-170446.pdf>

<sup>33</sup> <https://www.environment.nsw.gov.au/threatenedspeciesapp/profile.aspx?id=10867>

<sup>34</sup> <https://www.environment.nsw.gov.au/threatenedspeciesapp/profile.aspx?id=20042>

<sup>35</sup> [http://141.243.8.146/savingourspeciesapp/managementstream.aspx?managementstream=sitemanaged&ct100\\_ContentPlaceholder1\\_gridSitesChangePage=141&ct100\\_ContentPlaceholder1\\_gridProjectsChangePage=4](http://141.243.8.146/savingourspeciesapp/managementstream.aspx?managementstream=sitemanaged&ct100_ContentPlaceholder1_gridSitesChangePage=141&ct100_ContentPlaceholder1_gridProjectsChangePage=4)

## Ecologically Sustainable Development

The framework for assessing and offsetting biodiversity impacts from proposed development includes both a biodiversity offsets scheme and biodiversity assessment method.

A *biodiversity offsets scheme* implements an avoid, minimise and offset framework, and recognises there are some types of impacts that are not acceptable.

A *biodiversity assessment method* delivers a single, clear and scientifically robust approach to assess biodiversity impacts from development, and applies to development that is likely to significantly affect threatened species/ecological communities.

### Private land conservation

The biodiversity framework includes provisions for private land conservation including:

- The *Biodiversity Conservation Trust* (BCT) which support and encourages landholders to protect and conserve biodiversity on private land. The Trust is guided by the biodiversity conservation investment strategy.
- Three types of *private land conservation agreements*: biodiversity stewardship agreements, conservation agreements and wildlife refuge agreements.
- Development proponents may choose to pay into the *Biodiversity Conservation Fund* as an alternative to retiring biodiversity credits.

## 4.2.4 Local Land Services Act 2013

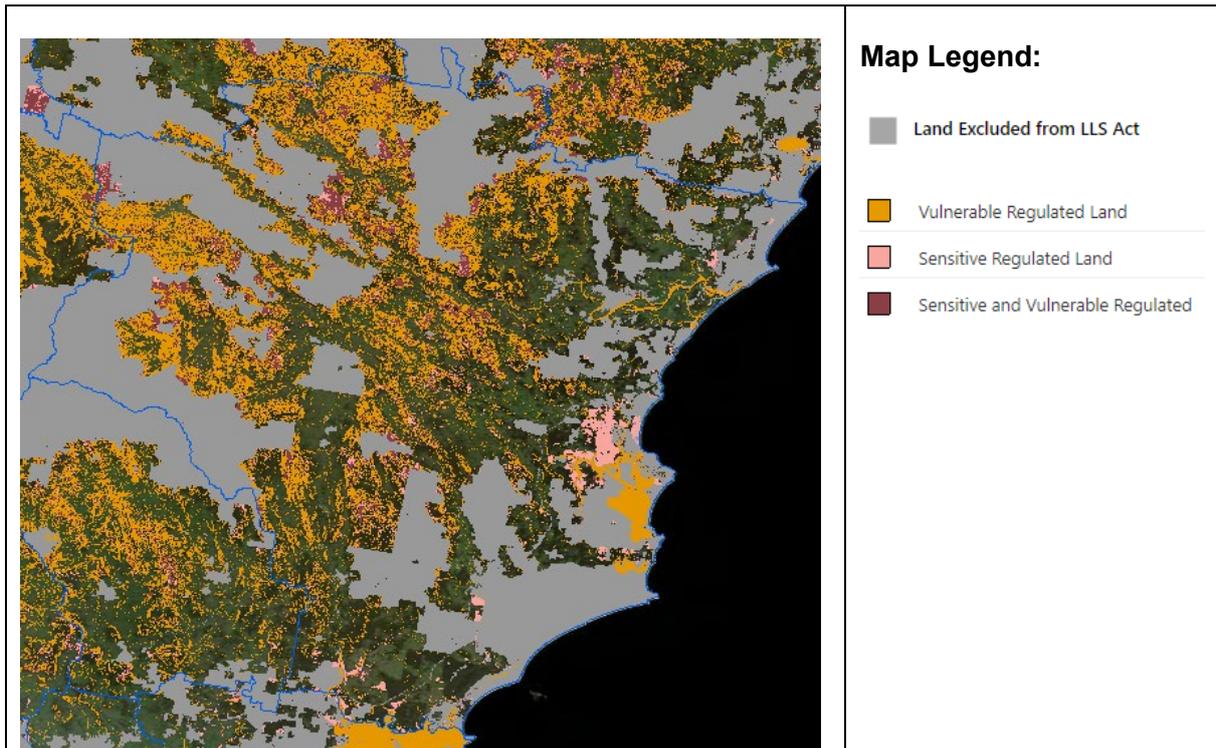
For the purposes of strategic planning across the rural landscape of the MidCoast LGA, the [Local Land Services Act 2013](#) (LLS Act) authorises the clearing of native vegetation and the categorisation of such land.

### Land Management

Under the biodiversity reforms, the LLS Act [Native Vegetation Regulatory](#) (NVR) Map designates rural land into 2 categories as follows:

- *Category 1 – exempt land*, where clearing is not regulated; and
- *Category 2 – regulated land*, where approval to clear may be required
- *Category 2 – vulnerable regulated land*, where, because of the sensitivity of the native vegetation, clearing is subject to additional restrictions and extended to the clearing of dead and non-native plants.

Figure 7. Native Vegetation Regulatory Map of MidCoast LGA<sup>36</sup>



The land excluded from the provisions of the LLS Act include:

- (a) urban areas of the State to which [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#) applies,
- (b) national park estate and other conservation areas, namely—
  - (i) a wilderness area declared under the [Wilderness Act 1987](#), or
  - (ii) land reserved under the [National Parks and Wildlife Act 1974](#) or acquired by the Minister administering that Act under Part 11 of that Act, or
  - (iii) land dedicated or set apart as a flora reserve under the [Forestry Act 2012](#) (or any Act repealed by that Act), or
  - (iv) land to which an interim heritage order or listing on the State Heritage Register under the [Heritage Act 1977](#) applies, or
  - (v) a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#), or
  - (vi) an area declared to be critical habitat under Division 3 of Part 7A of the [Fisheries Management Act 1994](#), or
  - (vii) a declared World Heritage property within the meaning of the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth, or
  - (viii) land dedicated or reserved under the [Crown Lands Act 1989](#) for similar public purposes for which land is reserved, declared or listed under the other Acts referred to in this paragraph, or
  - (ix) land to which an interim protection order under Part 11 (Regulatory compliance mechanisms) of the [Biodiversity Conservation Act 2016](#) applies, or
  - (x) Lord Howe Island,

<sup>36</sup> <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=NVRMap>

(c) *State forestry land, namely—*

- (i) *land that is a State forest or timber reserve under the [Forestry Act 2012](#), or*
- (ii) *land acquired under Division 4 of Part 3 of the [Forestry Act 2012](#) for the purposes of a State forest (not being any such land acquired for the purposes of a timber plantation).<sup>37</sup>*

The NVR is supported by a [Land Management \(Native Vegetation\) Code 2018](#) to support landholders to manage their land to ensure more productive farming methods and systems, while responding to environmental risks. Some clearing under the Land Management Code will require land to be set aside, which will be listed in a new public register. Clearing of some native vegetation may be carried out without approval for the purposes of allowable activities<sup>38</sup>.

[Schedule 5A](#) of the Act also provides additional information on the allowable activities for the clearing of native vegetation. Within this schedule three broad zones are identified, and subject to variations in the activities and controls associated with clearing activities, being the coastal, central and western zones.

The MidCoast identifies as the coastal zone except for the former area of the Gloucester Shire Council, which is included in the central zone. The variations between zones include such items as additional clearing to accommodate rural infrastructure: a maximum width of authorised clearing for such infrastructure is 15 metres in the coastal zone; and 30 metres in the central zone.

Higher impact clearing requires approval from a Native Vegetation Panel, and landholders are required to assess and offset the biodiversity impacts of approved clearing.

The LLS Act also authorises the assessment and issuing of [Private Native Forestry](#) (PNF) Plans and provides for allowable activities permitting the clearing of native vegetation for this purpose, however:

(1) *This Part applies to any area of the State, other than the following—*

- (a) *a State forest or other Crown-timber land within the meaning of the [Forestry Act 2012](#),*
- (b) *a plantation within the meaning of the [Plantations and Reafforestation Act 1999](#),*
- (c) *national park estate and other conservation areas referred to in section 60A (b),*
- (d) *land that is declared as a marine park or an aquatic reserve under the [Marine Estate Management Act 2014](#),*
- (e) *land that is subject to a private land conservation agreement under the [Biodiversity Conservation Act 2016](#),*
- (f) *land that is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code under Part 5A,*
- (g) *land that is or was subject to a requirement to take remedial action to restore or protect the biodiversity values of the land under Part 5A or under the [Biodiversity Conservation Act 2016](#), the [Native Vegetation Act 2003](#) or the [National Parks and Wildlife Act 1974](#),*
- (h) *land that is subject to an approved conservation measure that was the basis for other land being biodiversity certified under Part 8 of the [Biodiversity Conservation Act 2016](#) or under any Act repealed by that Act,*

<sup>37</sup> <https://www.legislation.nsw.gov.au/#/view/act/2013/51/part5a>

<sup>38</sup> <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/land-management>

(i) land that is an offset under a property vegetation plan made under the [Native Vegetation Act 2003](#) that remains in force or is a set aside area under a Ministerial order under Division 3 of Part 6 of the [Native Vegetation Regulation 2013](#) that remains in force,

(j) any area in which forestry operations cannot be carried out because of the requirements of any other Act or statutory instrument or any agreement or court order.

(2) The regulations may amend this section for the purposes of adding or removing areas of the State to which this Part applies (or of revising references to areas of the State).

## 4.3 Regional Level Considerations

### 4.3.1 Hunter Regional Plan 2036

One of the key Goals of the [Hunter Regional Plan](#) (the Plan) is the importance of our natural environment to both tourism and our sustainable lifestyle:

***Vision: The leading regional economy in Australia with a vibrant new metropolitan city at its heart.***

*Visitors are arriving in greater numbers on cruise ships, via Newcastle Airport and by a variety of rail and highway links to sample international quality wines and fresh food, walk along convict-built trails, trek through World Heritage-listed national parks and swim at lovely beaches.*

*The region's protected natural environment enriches the experience of living in the region, sustains the region's water supply and protects biodiversity.*

Demonstrating compliance with Ministerial Direction 5.10 Implementation of Regional Plans will therefore require consideration of the specific Goals, Directions and Actions that are relevant to high-level planning for land-based conservation across the MidCoast:

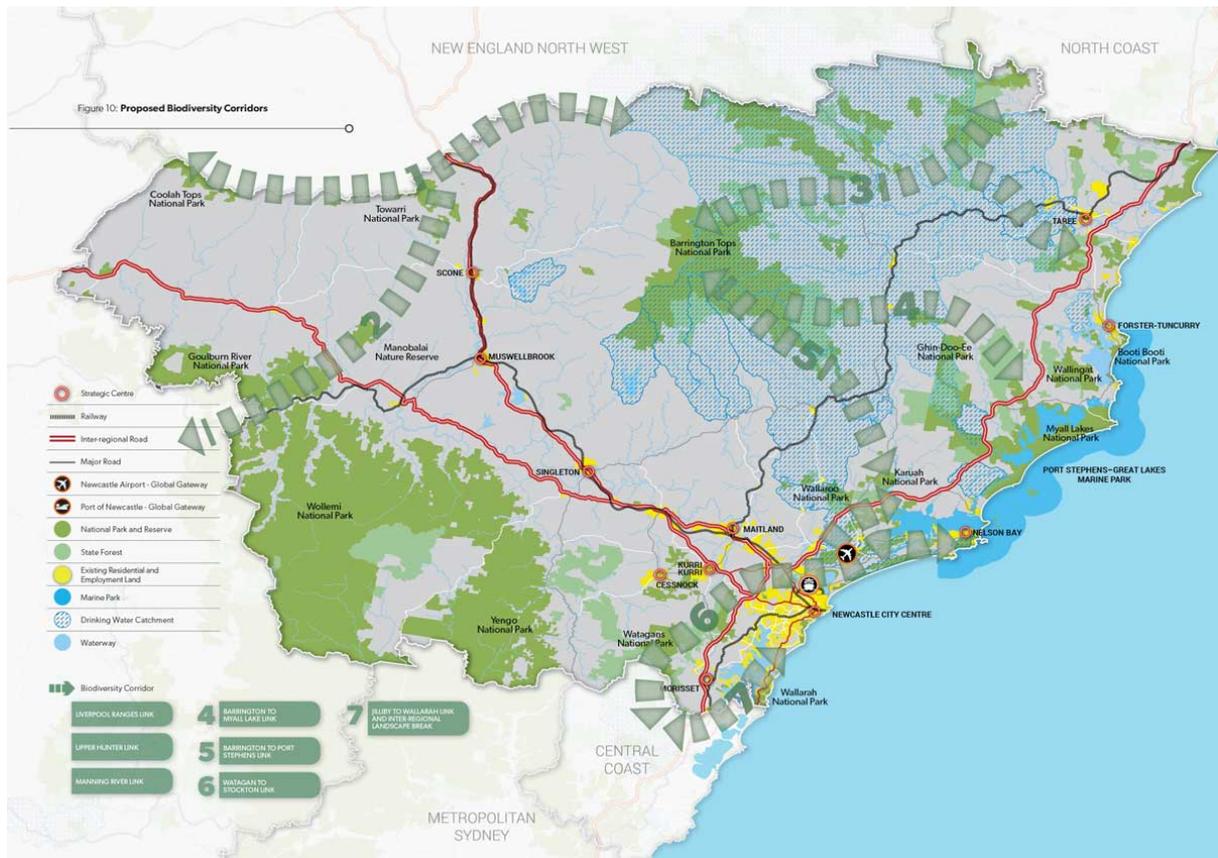
#### **Goal 2 A Biodiversity-rich natural environment of the Hunter Regional Plan,**

##### ***Direction 14: Protect and connect natural areas***

*Investing in conservation (including biodiversity offsets) that protects, and where possible, enhances habitat connections will deliver multiple benefits to the environment and the community. Modelling that identifies habitat connectivity is the first step to identifying and protecting existing habitat links and then establishing new links to support the movement of animals across the landscape.*

*Many of the region's natural features are already subject to a high level of regulation to protect their environmental values. Strategic land use planning should identify and take account of the location and extent of these areas of high environmental value. Biodiversity corridors are areas that link vegetation to form wildlife habitat.*

**Figure 8. Hunter Regional Plan 'Proposed Biodiversity Corridors'<sup>39</sup>**



The Plan identifies three potential biodiversity corridors in Figure 9 that cross the MidCoast LGA, and provides additional information on two of these corridors:

### **(3) Manning River Link**

*This link encompasses fauna corridors and large vegetation patches between Barrington Tops and Woko national parks across the Manning River floodplain to coastal reserves such as Talawahl Nature Reserve. The aim of conservation planning will be to protect and enhance landscape-scale connectivity. This will be achieved through private land incentive programs and other mechanisms such as land use planning and biodiversity offsetting.*

### **(4) Barrington Tops to Myall Lake Link**

*This link encompasses fauna corridors first identified in the Mid North Coast Regional Strategy (2006). It is located between Barrington Tops National Park and large patches of existing vegetation in the Myall Lakes and Port Stephens areas. It extends across an area that the NSW Government is currently investigating for future gas resources to diversify the State's energy supply and is an emerging (economic) growth area. The aim of conservation planning will be to protect landscape-scale connections. It will be achieved through private land incentive programs and other measures such as land use planning and biodiversity offsetting.*

The Plan also specifies the actions considered necessary to achieving this Direction:

*14.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region.*

<sup>39</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/A-biodiversity-rich-natural-environment>

14.2 Identify and strengthen biodiversity corridors as places for priority biodiversity offsets.

14.3 Improve the quality of, and access to, information relating to high environmental values.

14.4 Protect biodiversity by maintaining and, where possible, enhancing the existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas; developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts.

14.5 Secure the long term protection of regionally significant biodiversity corridors.

**Direction 15: Sustain water quality and security**

Water catchments in the region include the Hunter and Manning river systems and the Karuah and Lake Macquarie water catchments, which encompass important coastal lakes and lagoons, coastal wetlands, sensitive estuaries and the protected waters of Port Stephens and the Great Lakes.

Monitoring and managing the impacts of existing land uses, and in the future those associated with growth, will be essential to protect the quality and security of the region's water supplies. This is particularly important in areas containing drinking water catchments.

Improvements to the networks will be necessary to ensure an ongoing supply of water and changes in water demand from different uses may result in the potential reallocation of water over time.

Figure 9 also identifies the extent of drinking water catchments and waterways across the MidCoast. The identification, management and protection of these water resources, particularly with a changing climate, will require an innovative approach to land use planning.

The Actions from the Plan that are to be reflected in across the rural landscape of the MidCoast include:

15.1 Protect water catchments to sustain high quality and dependable water supplies across the region.

15.2 Effectively manage surface and groundwater use in agricultural areas to support ecosystem function and food production, and to cater for the increasing demand of urban communities and industry.

15.3 Plan for the security of the region's town water supply.

15.4 Implement catchment-based plans for the ongoing sustainable management and health of estuaries.

15.5 Apply the neutral or beneficial water quality objectives to land use planning in surface and groundwater drinking water catchment areas to minimise the effects of development on waterways, including watercourses, wetlands, groundwater dependent ecosystems, riparian lands, estuaries, lakes, beaches and marine waters.

15.6 Reduce the risk of introduction or spread of aquatic pests and diseases from new development that may affect fisheries and aquaculture industry practices.

15.7 Incorporate water-sensitive design into development that is likely to have an adverse impact on coastal water catchments, water quality and flows.

**Direction 16: Increase resilience to hazards and climate change**

Most people in the Hunter live near the coast, bushland or rivers. The appeal of these places is obvious; however, they may also come with challenges such as flooding, coastal

*inundation, erosion and bushfires. These issues are a significant factor when planning for future growth.*

*Climate change is likely to result in varying rainfall, higher temperatures and prolonged dry periods or drought. These conditions may cause more frequent and intense hazards. Coastal communities are likely to be more vulnerable to the threat of coastal recession and over the longer term, sea level rise.*

*Tools have to be developed to manage the risk to communities, infrastructure and agricultural productivity from the impacts of climate change. Land use planning that supports changes to the physical environment and infrastructure can help to avoid or manage risks and build community resilience to hazards.*

While consideration and application of this Direction of the Plan is not exclusive to the theme of Land-Based Conservation, it is recognised that effective identification, management and protection of our *bio-diversity-rich natural environment*, will assist in our ability to adapt to the impacts of environmental hazards and climate change. This is reflected in the broad Actions of the Hunter Regional Plan nominated with this Direction:

*16.1 Manage the risks of climate change and improve the region's resilience to flooding, sea level rise, bushfire, mine subsidence, and land contamination.*

*16.2 Review and consistently update floodplain risk and coastal zone management plans, particularly where urban growth is being investigated.*

*16.3 Incorporate new knowledge on regional climate projections and related cumulative impacts in local plans for new urban development.*

The vision, land use strategy, goals, directions and actions described in the Plan are considered to reflect current Government policy directions at National and State levels. On that basis, the Hunter Regional Plan was used as a platform for identifying top-down considerations for local strategic planning, particularly with regards to:

- managing competing land use and development interests to sustain long-term conservation outcomes, including habitat connectivity.
- The three 'proposed biodiversity corridors', which are expected to be prioritised (by the Department and Council) for further investigation and modelling to initially identify and protect existing viable habitat links, and subsequently to identify requirements or opportunities to enhance these links.
- The definition, identification and protection of 'High environmental values' through sequential planning processes. General support is given to the ongoing improvement of, and public access to, information relevant to 'high environmental values' (e.g. vegetation mapping, survey data, habitat modelling, etc.) to assist decision-making.
- Guidance is to be provided to assist with planning for expanding rural villages and rural-residential developments and the sustainability of these developments in environmentally sensitive areas. In particular, aims to avoid or minimise impacts to biodiversity values (including biodiversity corridor linkages), drinking water catchments, and appropriately manage the risk associated with natural hazards.

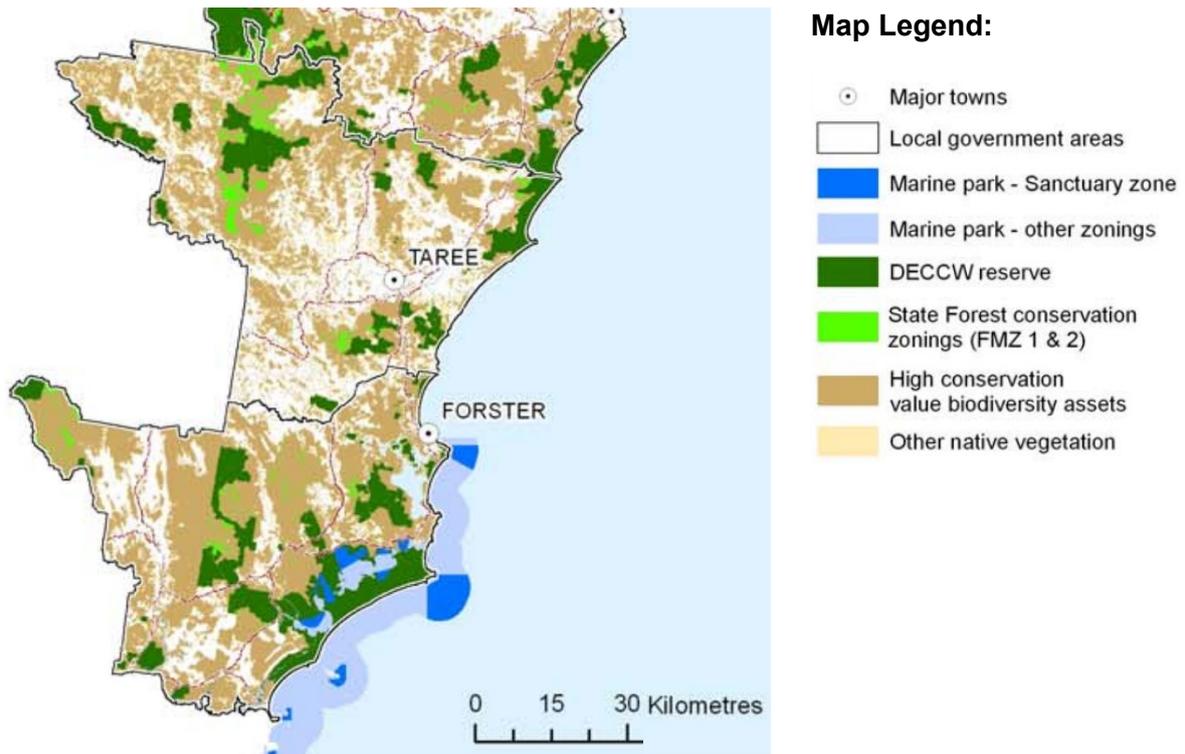
#### **4.3.2 Mid North Coast Regional Strategy and draft Regional Conservation Plan**

Prior to the release of the Hunter Regional Plan, the former Great Lakes and Greater Taree LGAs formed part of the Mid North Coast for the purposes of regional planning. Regional-level directions for the planning in these areas were previously set out in the Mid North Coast

Regional Strategy (released 2009)<sup>40</sup>. The NSW Government also released a draft Regional Conservation Plan in 2010 as a supporting document to the Regional Strategy, but this Conservation Plan was never finalised<sup>41</sup>.

The draft Regional Conservation Plan identified the distribution of lands supporting high conservation value biodiversity assets at a regional level, as shown in Figure 10 ; and a habitat network comprised of a series of federal, state, regional and sub-regional corridors across the MidCoast LGA in Figure 10.

**Figure 9. High conservation value biodiversity assets - former Great Lakes & Greater Taree LGAs<sup>42</sup>**

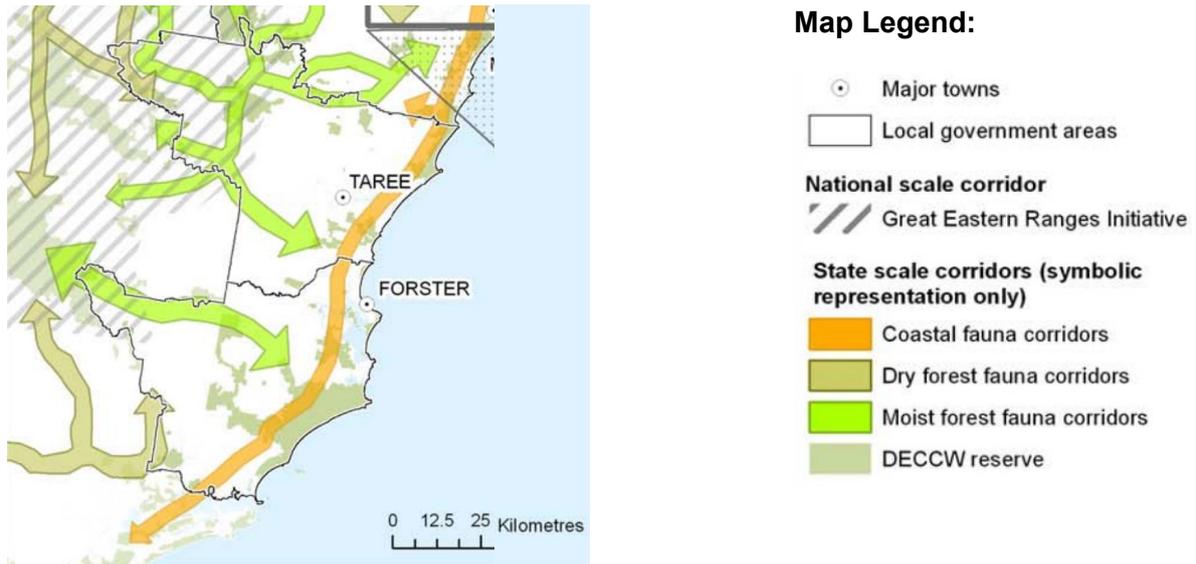


<sup>40</sup> NSW Department of Planning (former) 2009

<sup>41</sup> NSW Department of Environment, Climate Change and Water (former) 2010

<sup>42</sup> <https://www.environment.nsw.gov.au/resources/biodiversity/10999dmncrcp.pdf>

**Figure 10. Habitat Networks at a National, State and Regional scale across the MidCoast LGA<sup>43</sup>**



A comparison of the alignment of the corridors from the Draft Conservation Plan with the 'proposed biodiversity corridors' identified in the Hunter Regional Plan, provided in Figure 12 shows that:

- the 'moist fauna corridors' broadly, but do not completely align with the Hunter Regional Plan links 3 and 4;
- the 'dry forest fauna corridors' may correspond with Hunter Regional Plan link 5; and
- the national scale corridor (Great Eastern Ranges initiative), and 'coastal fauna corridors' are not reflected in the Hunter Regional Plan.

**Figure 11. Comparison of 'proposed biodiversity corridors' and habitat network corridors<sup>44</sup>**



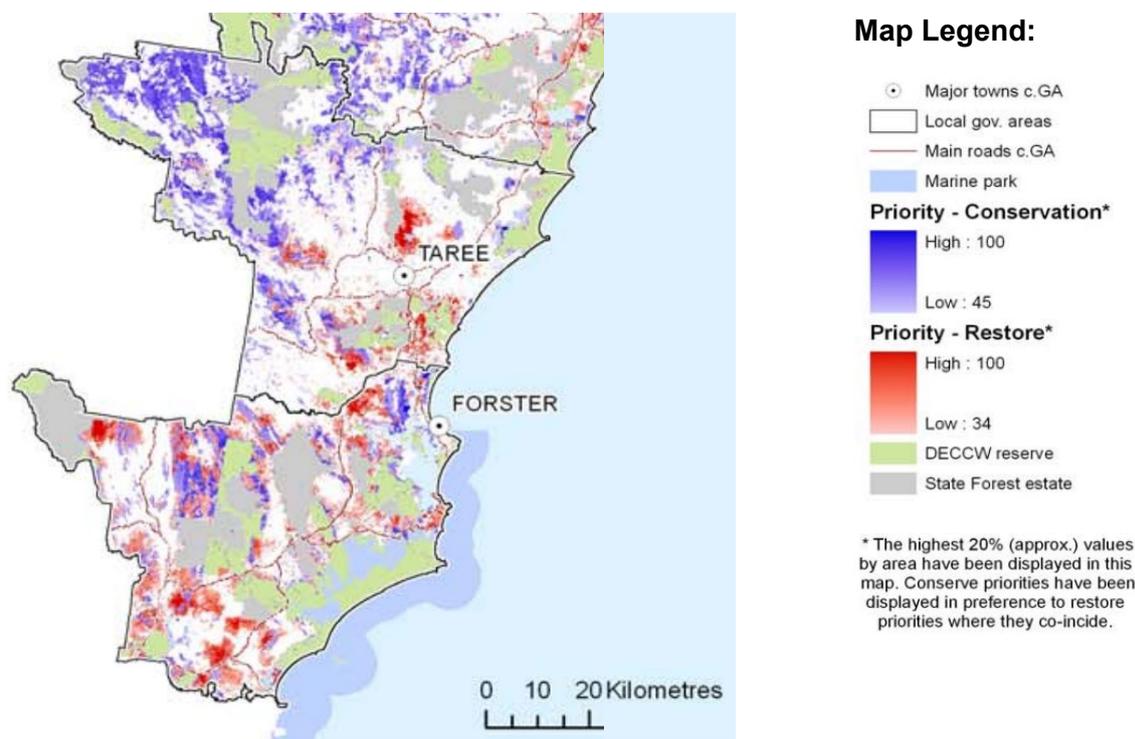
The draft Conservation Plan also identified priority conservation and restoration areas using a Biodiversity Forecasting Tool (BFT):

<sup>43</sup> NSW Department of Environment, Climate Change and Water (former) 2010

<sup>44</sup> NSW DPE 2016 & NSW Department of Environment, Climate Change and Water (former) 2010

- BFT 'conserve' areas identify those priority areas that, if lost, would have the greatest impact on the region's biodiversity. These priority areas generally contain high conservation value vegetation in good condition.
- BFT 'restore' areas identify those priority areas that, if restored, would contribute the greatest biodiversity gains to the region. These priority areas generally contain over-cleared or poorly conserved vegetation communities.<sup>45</sup>

**Figure 12. Priority conservation and restoration areas - former Great Lakes & Greater Taree LGAs**

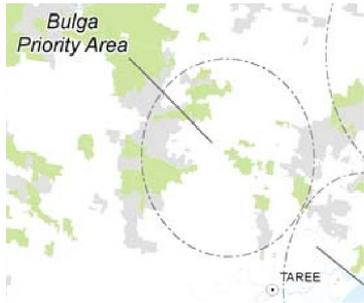


Utilising this information the draft Conservation Plan went on to identify four areas within the former Great Lakes and Greater Taree LGAs as 'Priority (locations) for Offset Lands'.

These locations, contained the same or similar biodiversity values as those most likely occurring within the urban release and employment lands areas identified in the Mid North Coast Regional Strategy. These should be reviewed to determine whether they remain relevant to the consideration of land-based conservation, particularly with regards to the identification and acceptance of biodiversity certification and stewardship sites as environmental off-sets to the rezoning of land for urban purposes, under the Biodiversity Conservation Act and EPBC Act provisions.

<sup>45</sup> <https://www.environment.nsw.gov.au/resources/biodiversity/10999dmncrcp.pdf>

**Table 6. Priority conservation offset areas to Mid North Coast Regional Strategy potential urban release areas<sup>46</sup>**

	<p><b>Bulga Priority Area</b></p> <p>The Bulga priority area has an important role in connectivity and habitat consolidation as it provides a rangeland linkage from Coorabakh NP in the east to Tapin Tops NP in the south-west and Biriwal-Bulga NP in the north-west.</p> <p>The area also hosts a variety of hinterland vegetation communities dominated by wet eucalypt forests, rainforest and some dry sclerophyll forests. The wildlife corridor function of this tract of land is critical. It provides the largest and most intact coast to escarpment connection between Kempsey (Kumbatine NP) in the north to Forster–Tuncurry (Myall Lakes NP – Barrington Tops NP) in the south. This priority area contains ten key vegetation communities and one EEC.</p>
	<p><b>Taree Priority Area</b></p> <p>The Taree priority area is composed of a series of linking habitat areas to the north and east of the city of Taree. Within this area, major wildlife corridor linkages exist between the Yarratt and Lansdowne state forests and then east to Crowdy Bay NP. The area also includes lands south along the coast to Khappinghat NR.</p> <p>The area includes a variety of vegetation systems including low swamp forests, foothill dry sclerophyll forests, scrublands and rainforest. The area is generally of high importance for repair. This priority area contains 11 key vegetation communities.</p>
	<p><b>Forster Priority Area</b></p> <p>The Forster priority area ranges from Khappinghat NR in the north to Wallingat NP in the south and largely bounded by the Pacific Highway in the west.</p> <p>The Forster priority area contains mostly lands of high repair value with some notable examples of high conserve habitat as evaluated by the BFT. This area contains 16 key vegetation communities and one EEC.</p>
	<p><b>Hawks Nest Priority Area</b></p> <p>The Hawks Nest priority area forms a major habitat network along the north shore of Port Stephens as well as contributing to linkages north along the Karuah River to Myall Lakes NP.</p> <p>The area is diverse in habitat value, including lowland swamps and swamp forest as well as extensive areas of upland dry forest communities of grey gum, tallowwood, spotted gum and</p>

<sup>46</sup> NSW Department of Environment, Climate Change and Water (former) 2010

	smooth-barked apple. It is generally of high importance for repair although isolated areas of high priority for conservation occur generally on the coast south of Myall Lakes NP and adjacent to Port Stephens.
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### 4.3.3 MidCoast Regional Economic Development Strategy 2018-2022

The development of Regional Economic Development Strategies across New South Wales was the initiative of the [NSW Department of Premier and Cabinet](#), through the Centre for Economic and Regional Development (CERD). These Strategies were developed with strong linkages to the findings and recommendations of the 20 Year Economic Vision for Regional NSW strategy document.

CERD worked closely with local councils to the Strategies, which apply standardised regional economic development methodology to identify: existing economic strengths; new opportunities to enhance the region's development performance and competitiveness; and to set the region on a path to sustainable economic development.

The [MidCoast Regional Economic Development Strategy](#) (REDS) was released in July 2018. The process included a series of well-attended workshops held across the region, aimed at collaborating to build sustainable economic development. The strategy includes an action plan for the next three years, leveraging regional strengths such as our land and water assets, our infrastructure, and our location, lifestyle and amenity.

The MidCoast REDS is linked with Council's **Community Strategic Plan** and **Destination Management Plan**, and provides a strategic platform for community, business and Council to work with the State Government in driving economic growth. It is an important plan that will help attract State resources to underpin economic projects and create employment in the region.

REDS identified key strengths of the MidCoast regional economy that can be capitalised upon, including our *natural assets*:

*The Region is a key holiday destination. During the summer months the population swells with tourists from Sydney, Newcastle and other destinations coming to enjoy the Region's pristine coastline and beaches, coastal lakes, lagoons and other environmental attractions. Popular year-round attractions include the Barrington Tops National Park and other National Parks and reserves, the Manning River and Ellenborough Falls.*

*The MidCoast Region has significant endowments from a lifestyle and an amenity perspective that underpin a range of people-based industries.*

*The Region has 192 kilometres of coastline, with key features including the Manning and Myall Rivers, Wallis, Smiths and Myall Lakes. The coastal waters, lakes and rivers have multiple uses including marine park tourism, whale watching, recreational fishing and recreational boating.*

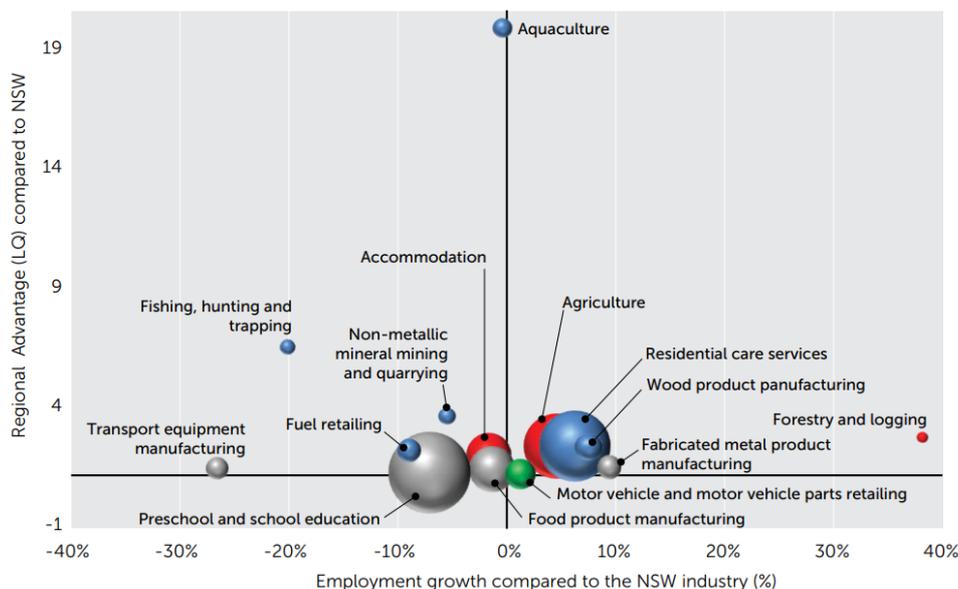
*Inland notable natural features include Barrington Tops World Heritage National Park which is a popular destination during summer and winter. There are many other natural assets including National Parks, State Forests and Nature Reserves. The Region's natural assets are highly accessible with good road and tourist infrastructure.<sup>47</sup>*

<sup>47</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Regional-Economic-Development-Strategy>

REDS also examined the region’s competitive advantage (Location Quotient) by industry and comparing these findings to the same sector across NSW. The top five industries in the MidCoast were identified as:

- Aquaculture (LQ of 19.5);
- Fishing, Trapping and Hunting (LQ of 6.6);
- Non-Metallic Mineral Mining and Quarrying (LQ of 3.7);
- Forestry and Logging (LQ of 2.9); and,
- Agriculture (LQ of 2.5).

**Figure 13. Location Quotients and Employment Growth for MidCoast Industries**



Source: Census 2011, 2016. See the Supporting Analysis for notes regarding the analysis.

However, as illustrated by the size of the ‘bubbles’ in the chart above, these industries do not generally employ a large number of people when compared to other industries; and may not be experiencing growth when compared to the same industry across NSW.

*The Region also has specialisations in a number of people-based industries, reflecting its strength as an attractive location for people to reside and visit the Region. As shown in the figure, the MidCoast Region has a relatively high concentration of people employed in Accommodation and Food Services (a proxy for tourism) and Aged Care (a proxy for the retiree sector).*

*People coming to the Region can contribute to economic growth by spending accumulated wealth, bringing established businesses and capabilities that generate income, and other income sources.*

*Accommodation and Food Services contributed \$153 million in Gross Value Added to the Region in 2015–16. Visitors to the MidCoast spent an estimated \$505 million in 2016 making ‘tourism’ the largest export industry in the MidCoast region.<sup>48</sup>*

### **Strengthening the Region as a location of choice:**

One of the key initiatives identified in the Strategy recommends that Council and other public agencies:

<sup>48</sup> <https://intranet.midcoast.nsw.gov.au/sites/teams/1555559560209/Documents/Rural%20Strategy/1.%20draft%20strategy%20AM/MidCoast-REDS-Final-Report.pdf>

- *directly invest in key tourism assets to increase visitation, particularly in the off-season; and,*
- *encourage other lifestyle and tourist developments that will increase the Region's attractiveness to sea/tree change professionals and other skilled workers.*

Specific opportunities to **Market the MidCoast** to specific groups are also identified:

- *potential visitors to ensure that they are aware of the region's attractions;*
- *local residents to encourage them to 'play in their own backyard' and recommend the area to friends and relatives; and,*
- *the MidCoast Region labour force and community to encourage them to deliver on the vision<sup>49</sup>.*

The key inter-relationship between marketing and visitation is increasing the diversity of experiences within our natural areas that are compatible with the identification and protection of biodiversity corridors and other environmentally sensitive lands across the MidCoast.

Critically, this should involve analysis of tourism activities and experiences that are compatible with the environmental values of the land e.g. bushwalks, mountain biking, horse-riding tours, camping, cultural tours and native food harvesting.

#### 4.3.4 Landscape-scale mapping and modelling initiatives

Landscape-scale mapping and modelling initiatives are applicable to the development of overall conservation strategies particularly as they relate to landscape connectivity and the identification of priority conservation and restoration areas within the MidCoast. Three critical projects that have been commenced and are relevant to landscape-scale mapping and modelling within the LGA are:

- Great Eastern Ranges Initiative (Australian and NSW Government, ongoing)
- Regional Vegetation Mapping (OEH, ongoing)
- HCCREMS Biodiversity Investment Prospectus Project 2015

##### **Great Eastern Ranges Initiative**

The Australian and NSW Governments are jointly progressing the Great Eastern Ranges (GER) initiative, which aims to 'protect, link and restore healthy habitats over 3,600km, from western Victoria through NSW and the ACT to far north Queensland<sup>50</sup>. Centred on the Great Dividing Range and the Great Escarpment, and extending 3,600km from the Grampians in Western Victoria to Far North Queensland, this corridor has been described as the terrestrial equivalent of the Great Barrier Reef.<sup>51</sup>

Land that is broadly relevant to the GER initiative has already been identified and mapped within the western part of the MidCoast LGA and is illustrated in Figure 9 as a 'national level corridor' as part of the habitat network described in the draft Mid North Coast Regional Conservation Plan (2010)<sup>52</sup>.

<sup>49</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Regional-Economic-Development-Strategy>

<sup>50</sup> <https://www.ger.org.au/where-we-work/about-regional-alliances>

<sup>51</sup> Bob Debus, Former NSW Environment Minister Chair, GER Board

<sup>52</sup> NSW Department of Environment, Climate Change & Water (former) 2010

While it was not identified in the Hunter Regional Plan, the Hunter Plan’s proposed ‘Manning River Link’ biodiversity corridor lies almost entirely within the GER boundary.

**Figure 14. Proposed Great Eastern Ranges Corridor<sup>53</sup>**



<sup>53</sup> <https://www.environment.nsw.gov.au/resources/nature/ccandger.pdf>

Figure 15. Great Eastern Range corridor and other protected lands in the MidCoast<sup>54</sup>

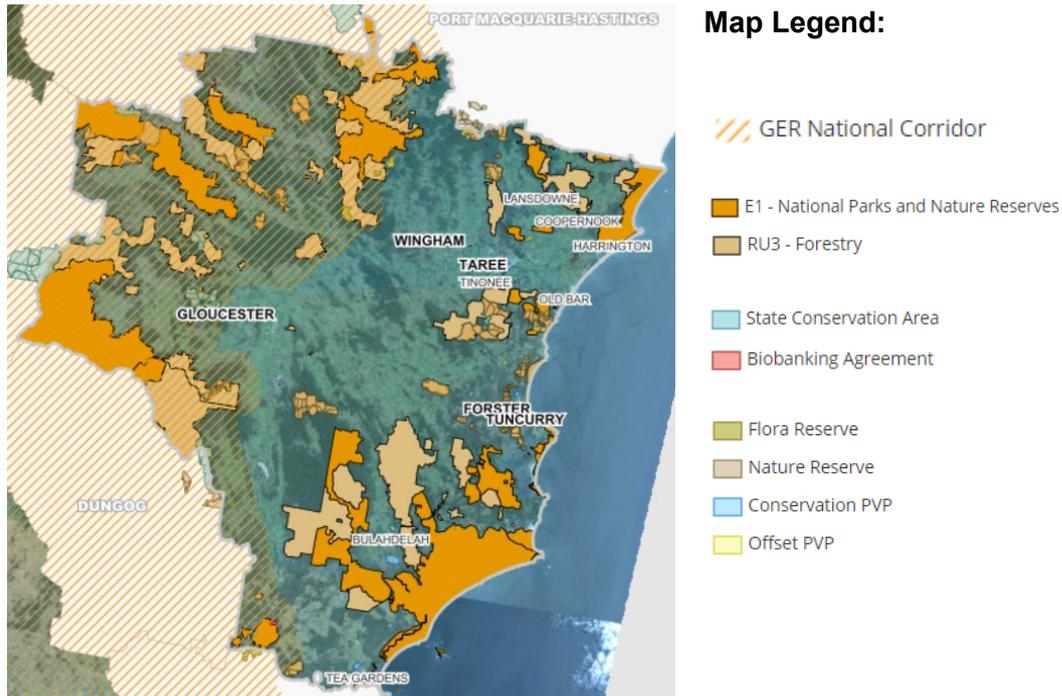
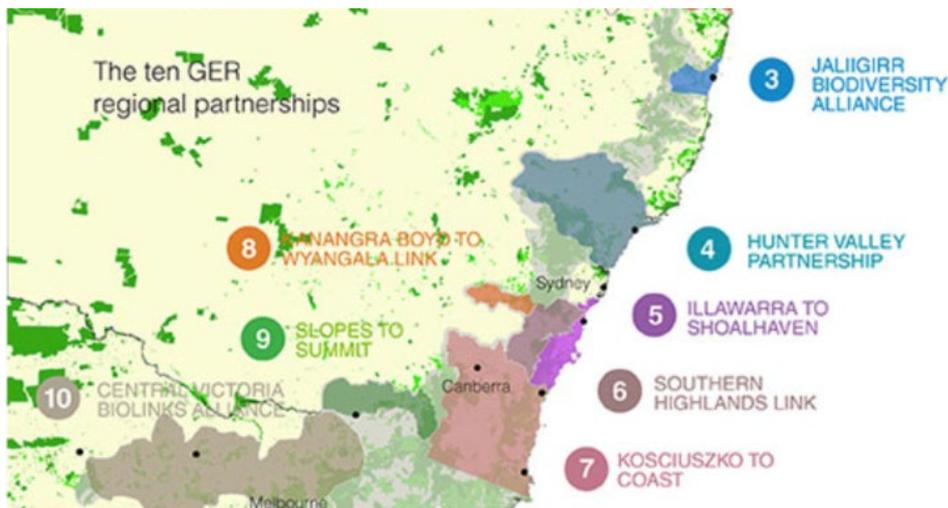


Figure 16. Great Eastern Ranges Corridor and associated priority area partnerships<sup>55</sup>



The National Parks Association of NSW is a Lead Partner of the Great Eastern Ranges Initiative (GER), one of the world's largest connectivity conservation projects. GER is working with local landholders, communities and organisations to link and restore habitat over an area spanning 3,600km, from Victoria to Far North Queensland<sup>56</sup>.

Within this network, regional alliances have been established to deliver specific outcomes in 'priority areas.' These alliances tend to be volunteer based, but generally benefit from a higher level of coordination and planning for conservation than other areas.

The MidCoast is not currently identified in a regional alliance but does adjoin the Hunter Valley Partnership alliance, as shown in Figure 12. Consequently, outcomes to specifically

<sup>54</sup> MJD Environmental

<sup>55</sup> The Great Eastern Ranges Organisation, 2018

<sup>56</sup> <https://landcare.nsw.gov.au/groups/NPANSW/Projects/great-eastern-ranges-initiative/>

support the delivery of the GER initiative within the MidCoast LGA (e.g. habitat modelling, etc.) are not readily available.

### **Regional Vegetation Mapping (OEH, ongoing)**

The [State Vegetation Type Map](#) (SVTM) will represent the most complete and consistent information available about the distribution of Plant Community Types across NSW benefitting landholders, planners and local communities.

The former NSW Office of Environment and Heritage (OEH), now a division of the Department of Planning, Industry and Environment, is producing a new map of the state's native vegetation. It has been progressively produced across NSW over the last five years, region by region, and now covers almost 80% of NSW.

The MidCoast LGA lies within the North Coast region and is currently being completed.

### **HCCREMS Biodiversity Investment Prospectus Project 2015**

The HCCREMS Biodiversity Investment Prospectus Project 2015 was an Australian Government initiative aimed to stimulate both private and public investment in multi-scale conservation and connectivity throughout central to southern NSW including the Greater Hunter.

The project sought, among other aims:

- Collation and rationalisation of the best available research, data and mapping for biodiversity;
- Production of new connectivity and conservation priority mapping;
- Updating of climate modelling projections; and
- Evaluation of current legislative and other instruments available for biodiversity conservation

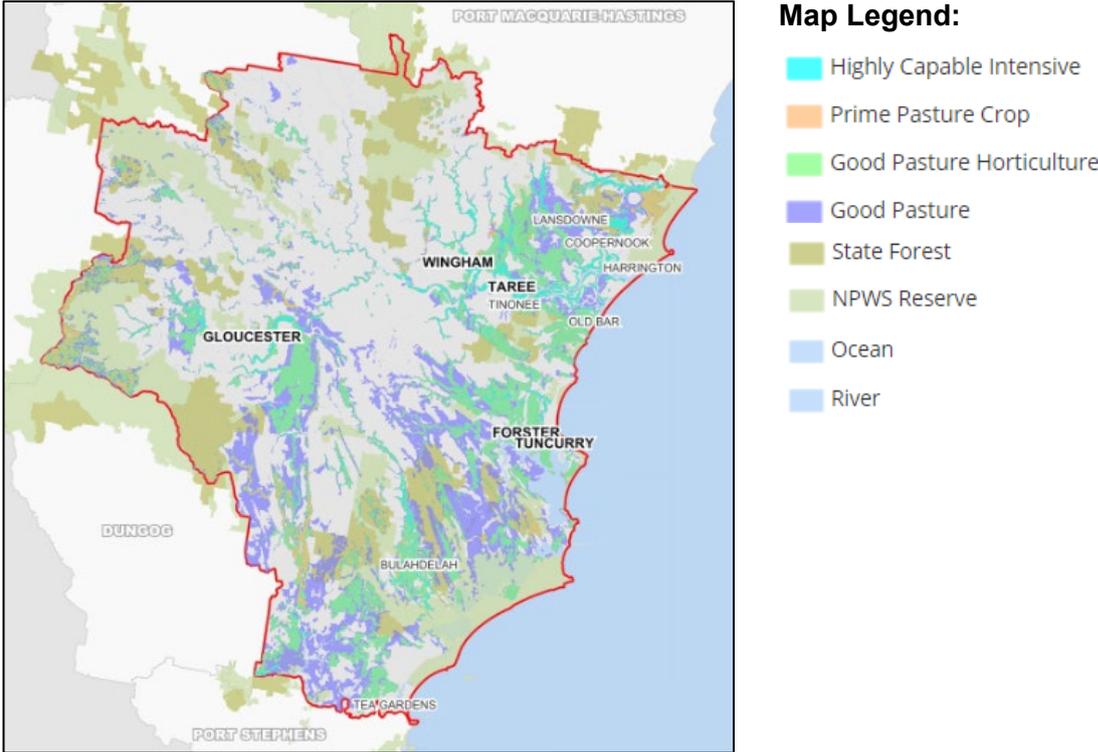
A selection of data and documents produced by the Strategy is outlined below.

### **Biophysical Agricultural Lands**

A spatial data collation process which undertook an audit of all GIS data available from the Hunter Council's environment division, the Commonwealth Government, NSW DPI and NSW BOM audit, Datasets collected included:

- Land and soil capability
- Mean annual rainfall
- Inherent fertility of soils
- Alluvial soils; and
- Slope.

**Figure 17. Regional Biophysical Strategic Agricultural Lands of the MidCoast (2014)**



*Highly capable, intensive agricultural lands:* Most productive of all the agricultural lands in the region; well drained lands with little to no slope, and high soil fertility. E.g. cultivating turf, outdoor vegetable production, and cut flowers

*Prime pastures and cropping lands:* Soils are moderate to highly fertile. Limited to moderate sloping lands. E.g. broad acre cropping, and dairy farming.

*Good pasture and horticultural lands on moderate slopes:* Slope and fertility have a greater range with these lands. E.g. viticulture, fruit & nut orchards, and plantation fruits.

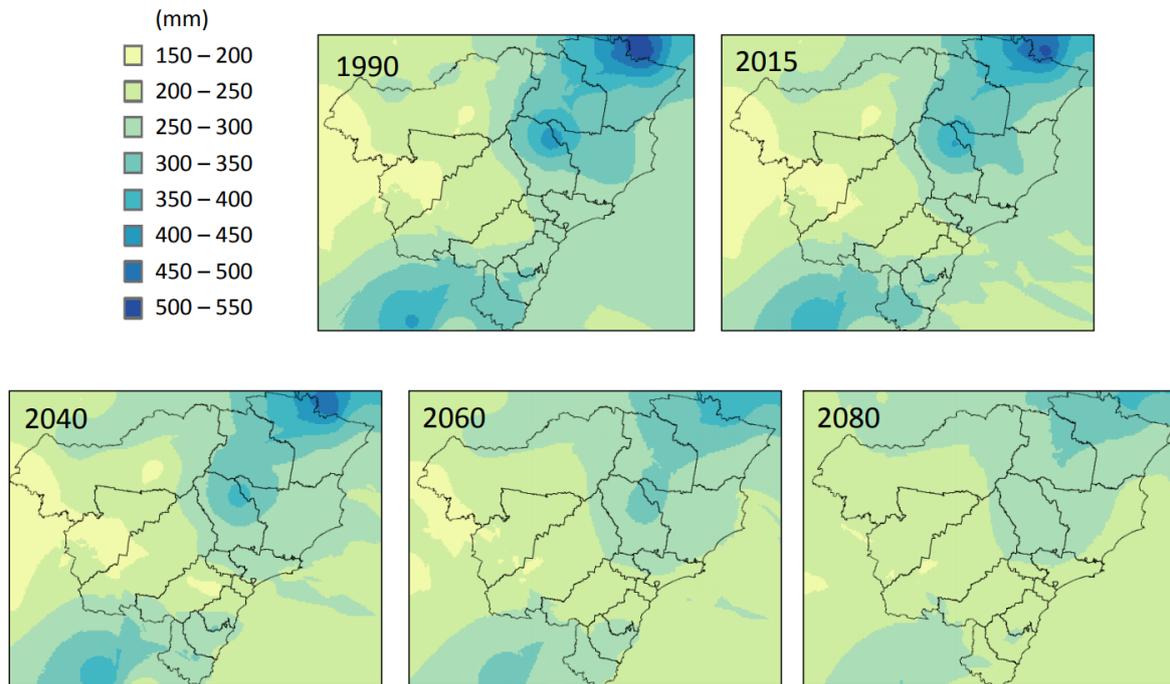
*Pasture lands:* Highly constrained lands, occur on soils with lower fertility and a wide variety of slope conditions. E.g. beef cattle and other livestock.

**Regional Climate Projections**

In 2009 HCCREMS released research that identified historic and projected climate variability of the Greater Hunter. In 2015 HCCREMS commissioned the University of Newcastle to review the 2009 findings with more accurate climate modelling data. A sample of the modelling of precipitation trends 1990-2080<sup>57</sup> is provided below:

<sup>57</sup> <https://www.hccrems.com.au/wp-content/uploads/2016/09/bip-workshop-20160421.pdf>

# Average Summer Precipitation



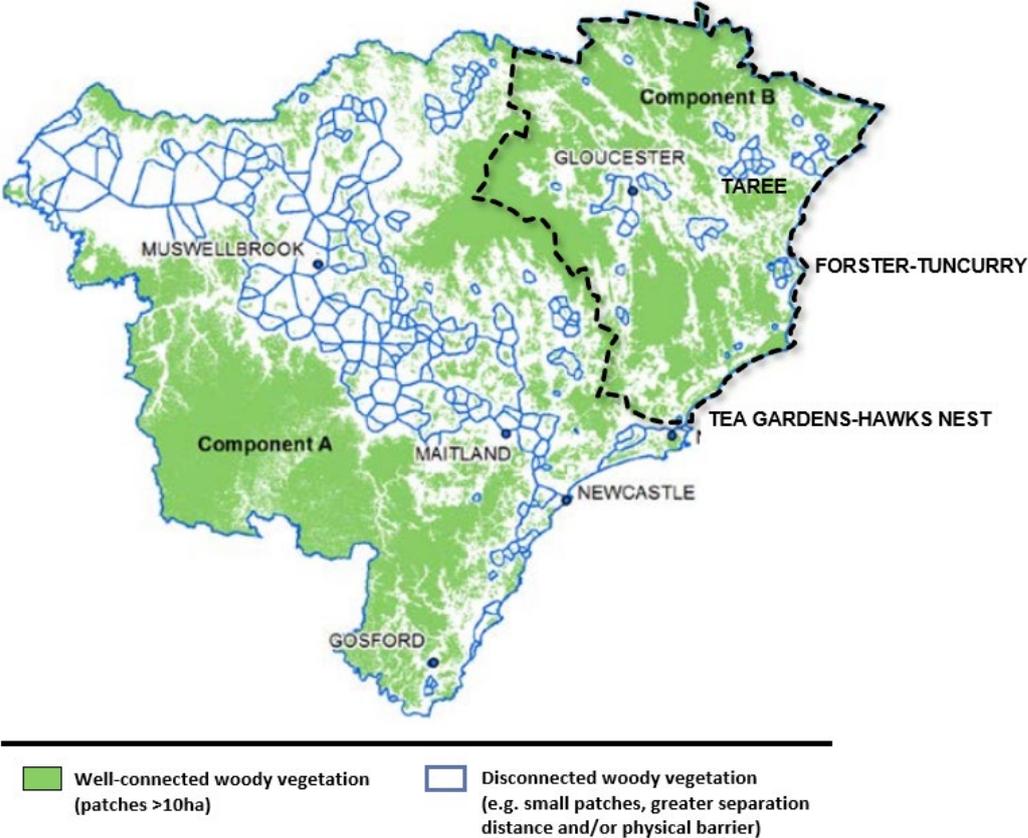
## Landscape connectivity modelling

HCCREMS undertook the *Landscape Connectivity Assessment: Hunter, Central and Lower North Coast* report in 2015 which presents using the principles of the National Wildlife Corridors Plan to Regional Sustainability Planning developed a framework for regional for best practice regional-scale planning of wildlife connectivity networks.

The report presents mapping of the Greater Hunter using a conceptual model for connectivity for woody vegetation. The study concluded that connectivity of woody vegetation in the Greater Hunter is divided into two large components by a fragmented central area. Future restoration should focus on connecting these two regions and aim to reduce impacts within these areas.

The assessment modelling completed in 2015, illustrated on Figure 17, suggests a high-level of landscape-scale connectivity is currently available across the MidCoast, through extensive coverage of large, intact, patches of woody vegetation. This highlights the need to continue supporting a compact urban settlement pattern and carefully managing ecological and biodiversity impacts in rural areas as a matter of principle.

Figure 18. Regional Habitat Connectivity Assessment Modelling (2015)<sup>58</sup>



Those areas modelled as 'disconnected' on Figure 17 largely coincide with the MidCoast's towns and villages. This may impact some species more acutely where populations become isolated. Measures to address this will rely on actions specified in other Council strategies to identify and preserve green corridors through urban environments.

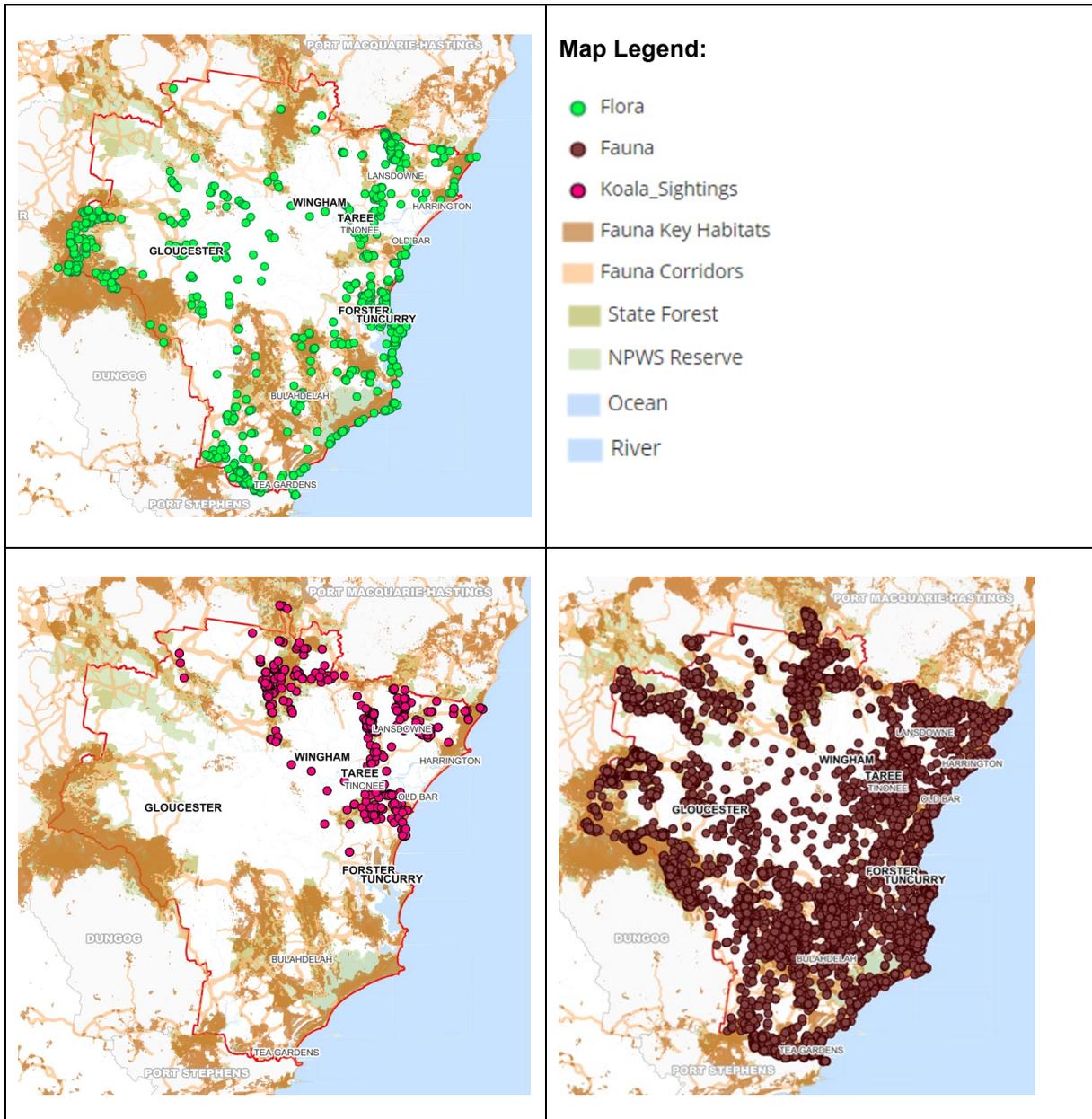
**Threatened Species and Communities modelling**

The Report, Modelling Species and Threatened Ecological Plant Communities in the Hunter, Central & Lower North Coast Region of New South Wales was a study of existing spatial datasets undertaken in partnership with HCCREMS involving the analysis of spatial GIS layers representing biodiversity, including:

- EEC (Ecologically Endangered Communities) Distribution models for 21 EECs occurring in the Hunter, Central Coast and Mid-Coast Region.
- Species Distribution Models for 151 Threatened species occurring in the Hunter, Central Coast and Mid-Coast Region. This is a subset of the Species Distribution Models. A sample of the Threatened species and fauna corridors is provided in Figure 18
- Species Distribution models for over 600 species occurring in the Hunter, Central Coast and Mid-Coast Region.

<sup>58</sup> adapted by authors from HCCREMS 2015

**Figure 19. Threatened Flora and Fauna Species, Fauna Habitat and Corridors in the MidCoast**



## 4.4 Local Level Considerations

At the local, LGA-level additional policy considerations are set out in a range of documents endorsed by the State Government and/or Council. Again, these offer goals, directions and actions that complement, or provide more detail, than those provided in the Hunter Regional Plan.

In comparison to National, State and Regional policies, the local level considerations do not specifically identify actions for localised areas (such as local/regional significant biodiversity corridors) however, they prioritise strategic initiatives to address LGA-wide actions for the protection and enhancement of local environmental land within Council ownership and management. The actions seek environmental conservation through land management strategies, environmental levies, development controls or rezoning.

The following Council documents have been identified as particularly relevant to land-based conservation in the MidCoast:

- Greater Taree City Council Draft Conservation and Development Strategy 2005<sup>59</sup>
- Gloucester Shire Council Local Environmental Strategy 2006<sup>60</sup>; and
- Great Lakes Rural Living Strategy Strategic Environmental Assessment and Strategy 2004<sup>61</sup>,
- Great Lakes Greening Strategy 2009<sup>62</sup>,
- A suite of Management Plans, considering biodiversity, scenic and cultural qualities. Please refer to the References at the end of this document for a list of relevant management plans in the MidCoast

Of note, MidCoast Council is also currently developing the following:

- **Draft MidCoast Biodiversity Framework** - that sets the strategic context for a range of activities that work in concert to protect and restore biodiversity. It provides a blueprint for a cohesive suite of plans, policies, actions, data-sets and management tools in a format that allows sections to be added to and that may evolve over time. This allows Council the ability respond to contemporary pressures and opportunities, statutory change, new research, emerging management practices, funding opportunities and community priorities.
- **Greening Strategy** – the aim of the Greening Strategy, in early drafting, is to increase the quality and quantity of vegetation across the region, particularly in urban areas. This strategy followed a Council resolution to remove the tree controls in the Great Lakes Development Control Plan and hold a workshop to discuss the introduction of a significant tree register.

#### 4.4.1 MidCoast 2030: Shared Vision, Shared Responsibility

Within this Plan our community identified key values of the MidCoast: our unique, diverse and culturally rich communities; a connected community; our environment; our thriving and growing economy; strong leadership and shared vision.

Critically, we also recognised the importance of preserving and maintaining our rich natural environment within our vision of the MidCoast:

*Vision: We strive to be recognised as a place of unique environmental cultural significance.*

**Table 7. Biodiversity and Conservation Goals and Actions from MidCoast 2030**

WE VALUE... our environment		
Where do we want to be?	How will we get there?	Who can help?
We protect maintain and restore our natural environment	Value, protect, monitor, and manage the health and diversity of our natural assets, wildlife and ecosystems.  Protect, maintain and restore water quality within our estuaries, wetlands and waterways.	MidCoast Council NSW and Federal Government Environmental groups Volunteers

<sup>59</sup> Greater Taree Council (former) 2005

<sup>60</sup> Gloucester Shire Council (former) 2006

<sup>61</sup> Great Lakes Council (former) 2003

<sup>62</sup> Individually listed in references

	<p>Improve the capacity of industry and the community to achieve the best possible outcomes for the natural environment.</p> <p>Ensure our natural assets are maintained to a standard appropriate to their use.</p>	<p>Not for profit organisations</p> <p>Service clubs</p> <p>Local Aboriginal groups and organisations</p>
<p>We balance the needs of our natural and built environments</p>	<p>Ensure growth and new development complements our existing natural assets, cultural assets and heritage sites.</p> <p>Optimise land use to meet our environmental, social, economic and development needs.</p>	<p>Education and training providers</p> <p>Chambers of Commerce and business community</p> <p>Sporting associations</p>
<p>How will we know we are on track?</p> <p>1 There are improved or maintained scores in the annual waterways report card</p> <p>2 There is a reduction in council's annual carbon emissions</p> <p>4 The community is satisfied with land use planning decisions.</p>		

#### 4.4.2 MidCoast Destination Management Plan

The MidCoast Regional Economic Development Strategy endorses the MidCoast Destination Management Plan (DMP) which has a clear vision that by 2030:

*MidCoast is renowned as a place where outstanding natural beauty meets vibrant country living, inspiring healthy and active lifestyles.*

Within the DMP it is acknowledged that MidCoast region has outstanding natural assets which may be leveraged to deliver on the growing market for nature and adventure-based tourism, including: The Gondwana Rainforests of Australia World Heritage Area, pristine lakes, rivers, RAMSAR wetlands and many national parks and State forests.

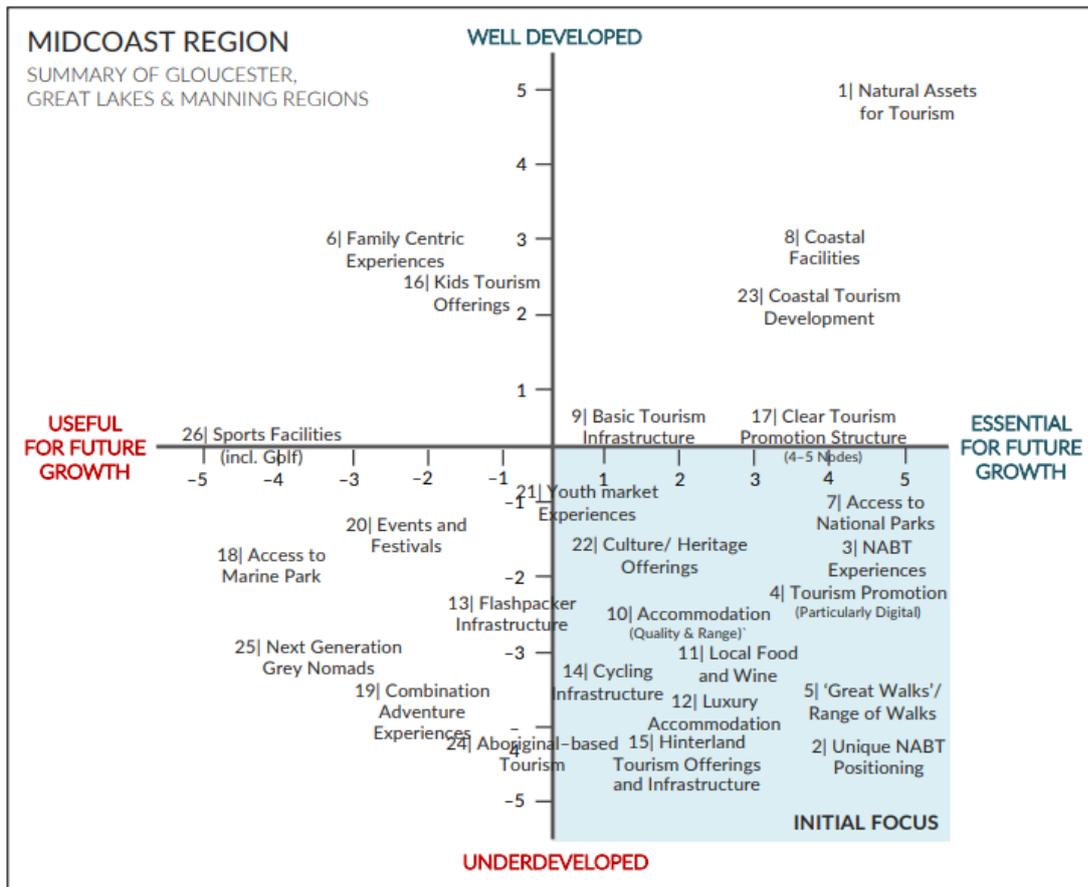
The DMP aims to enable a vibrant community and grow the visitor economy through addressing both supply and demand within the region, and where the environmental value of the land is recognised this may be achieved through:

*Growth in nature and adventure-based tourism is leveraged through sporting and recreational activities as diverse as walking, kayaking, horse-riding, cycling, diving and fishing, which will also deliver benefits to our communities<sup>63</sup>.*

This is demonstrated by the findings of the gap analysis undertaken as part of the DMP development program which illustrates under-developed tourism opportunities are significant in natural and associated rural, areas of the MidCoast.

<sup>63</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Tourism-Destination-Management-Plan>

**Figure 20. MidCoast Tourism Gap Analysis from the Destination Management Plan**



The DMP went on to document a SWOT analysis and highlighted the importance of environmental assets as tourism attractions to residents and visitors:

**Table 8. MidCoast Destination Management Plan SWOT Analysis – Environmental Opportunity<sup>64</sup>**

STRENGTHS	OPPORTUNITIES
<p>Natural environment including world heritage listed national parks, wetlands of international significance, waterways, lakes and river systems</p> <p>Range of existing outdoor recreation and nature-based facilities and places</p> <p>Established tourism industries e.g. dolphin &amp; whale watching, kayaking and some existing high-quality accommodation</p> <p>Cycling and walking trials</p> <p>Wide range of popular events and festivals</p>	<p>Urban renewal in Taree and Forster to take advantage of and improve access to the Manning River and Wallis Lake respectively</p> <p>Strengthen relationships with potential partners to deliver new products and experience, such as NPWS and the Local Aboriginal Land Councils and private sector</p>
WEAKNESSES	CHALLENGES

<sup>64</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Tourism-Destination-Management-Plan>

<p>Limited range of accommodation types</p> <p>Maintenance required to some visitor infrastructure and facilities e.g. walking trails</p> <p>Limited resources for implementation of signature experiences</p>	<p>Hyper-seasonality over summer along the coast</p> <p>Managing visitor economy infrastructure projects across multiple land tenure</p> <p>Growing demand during non-peak (low and shoulder) seasons and increasing regional dispersal</p> <p>Access to waterways e.g. rivers in the hinterland and easements across private land</p>
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## 4.5 Environmental Planning Instruments and other regulatory considerations

The manner in which land-based conservation is defined and achieved through various State and Local environmental planning instruments, is relevant to long-term planning and plan making considerations.

These environmental planning instruments are: State Environmental Planning Policies (SEPP) and Local Environmental Plans (LEP). The content and format of an LEP is required to be consistent with the Standard Instrument Principal Local Environmental Plan (2006) and not inconsistent with, or repetitious of, the provisions of any relevant SEPP.

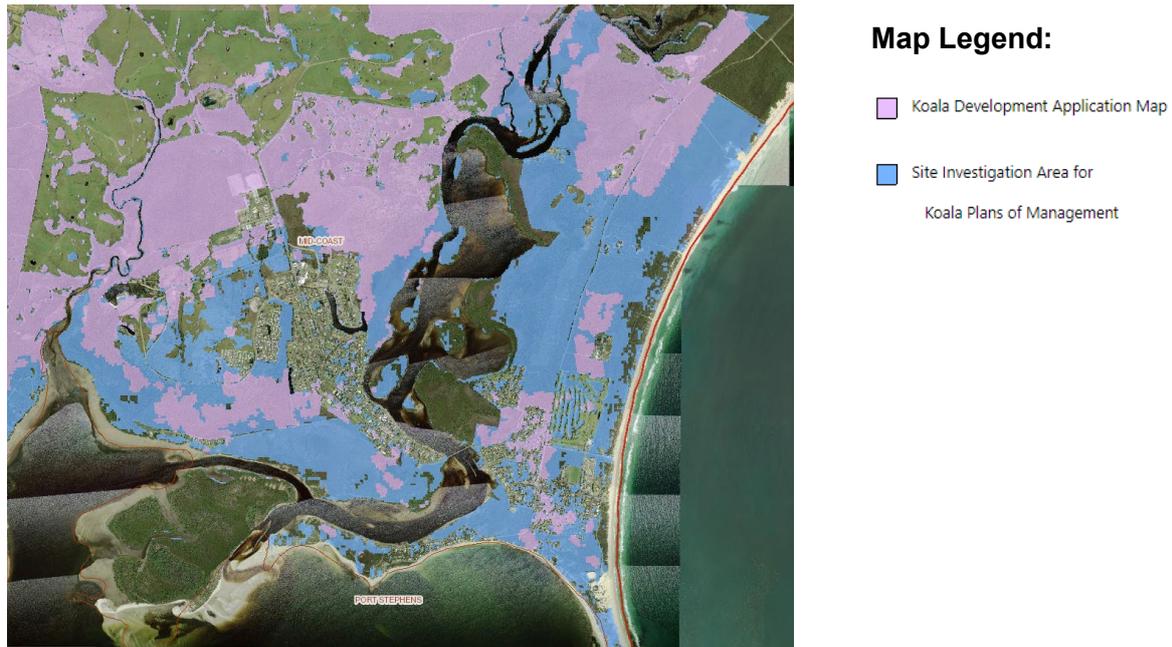
This section briefly describes how conservation lands, activities and compatible development types are defined, permitted (with or without consent), and considered within the MidCoast.

### 4.5.1 State Environmental Planning Policy (Koala Habitat Protection) 2019

The [Koala Habitat Protection](#) Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.

The Policy repealed SEPP No.44 Koala Habitat Protection, introduced new State mapping data, assessment processes for land within the mapped areas and updated guidelines for the preparation of koala plans of management.

Figure 21. SEPP Koala Habitat Protection - Tea Gardens and Hawks Nest, MidCoast LGA<sup>65</sup>



*The **Koala Development Application Map** is informed by the NSW Government's Koala Habitat Information Base which was used to identify areas that have highly suitable koala habitat and that are likely to be occupied by koalas.*

*On land where there is no approved Koala Plan of Management, the map will be used to identify land where the council will need to consider the development application requirements in the Guideline.*

*The **Site Investigation Area for Koala Plans of Management Map** is informed by the NSW Government's Koala Habitat Information Base and identifies the land councils are to focus their survey efforts on, particularly when identifying core koala habitat.*

The SEPP also provides an updated schedule of Feed tree species, for a number of identified koala management areas, the MidCoast being identified within the [North Coast area](#).

#### 4.5.2 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The [Vegetation SEPP](#) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW and is designed to regulate clearing of native vegetation in urban and all other land in NSW that is zoned for environmental conservation or management that does not require development consent<sup>66</sup>.

The Vegetation SEPP applies to: Sydney and Newcastle metropolitan areas and all other land in NSW that is zoned for urban purposes or for environmental conservation/management.

Therefore, for the purpose of the Rural Strategy, the SEPP regulates the clearing of:

1. native vegetation above the Biodiversity Offset Scheme (BOS) threshold (approval from the Native Vegetation Panel under the Local Land Services Amendment Act 2016); and

<sup>65</sup> <https://webmap.environment.nsw.gov.au/Html5Viewer291/index.html?viewer=KoalaSEPP.htm5>

<sup>66</sup> <https://www.planning.nsw.gov.au/-/media/Files/DPE/Factsheets-and-faqs/faqs-review-of-vegetation-sepp-2017-09.pdf>

2. vegetation below the BOS threshold where a permit from Council is required because the vegetation is identified in the council's development control plan (DCP).
3. vegetation within the following zones RU5 Village, R5 Large Lot Residential, SP2 Infrastructure, E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living or W3 Working Waterways.

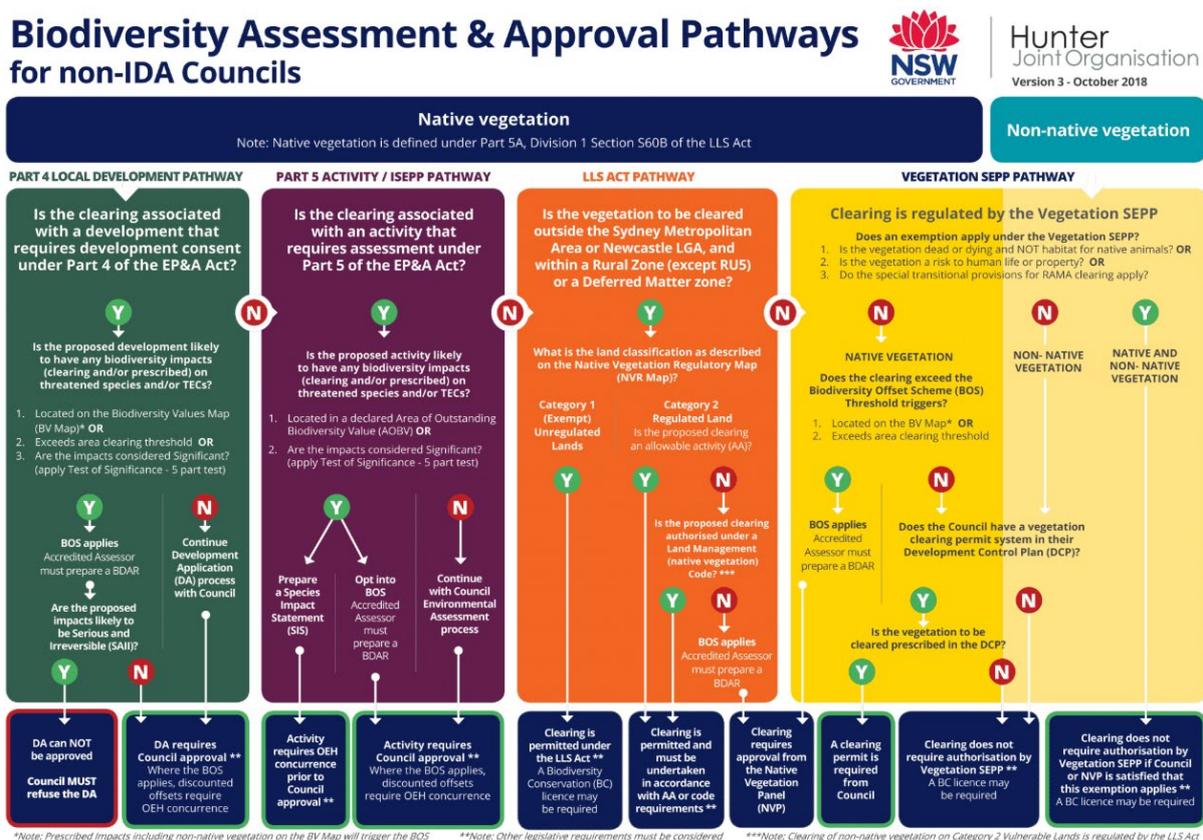
The Vegetation SEPP also contains a transitional provision that allows clearing for Routine Agricultural Management Activity (RAMA) and 'non-protected regrowth' clearing exemptions in R5, E2, E3 and E4 zones where the predominant use of the land is for agriculture until 25 August 2019.

Under the Coastal Management SEPP, vegetation clearing within Coastal Wetlands or Littoral Rainforests is designated development and requires assessment using the process set out in the Environment Planning and Assessment Act 1979 (NSW) (EP&A Act). The consent authority (usually a local council) must apply the process and matters for consideration set out in the EP&A Act, together with any applicable development controls in an environmental planning instrument (such as the Coastal Management SEPP).

### 4.5.3 Clearing Native Vegetation Approval Pathways

Figure 16 provides the biodiversity assessment and approval pathways for the clearing of native vegetation.

Figure 22. Biodiversity Assessment & Approval Pathway<sup>67</sup>



This demonstrates how the various legislative provisions are to work together.

<sup>67</sup> <https://www.hccrems.com.au/implementation-biodiversity-conservation-reforms-hunter-central-coast/biodiversity-assessment-approval-pathways-2/>

## 4.5.4 Council as Permit Authority

In most circumstances when vegetation clearing is proposed in the former Great Lakes area Council is the authority to issue permits. This is because the Great Lakes DCP is the only DCP that includes tree and vegetation controls.

Otherwise the consent authority will be Local Land Services.

## 4.5.5 Standard Instrument LEP

The Standard Instrument – Principal LEP contains the following relevant definitions relating to biodiversity and land-based conservation activities:

**Biodiversity or biological diversity** means the variety of living animal and plant life from all sources, and includes diversity within and between species and diversity of ecosystems.

**coastal lake** means a body of water identified in Schedule 1 to [State Environmental Planning Policy \(Coastal Management\) 2018](#).

**coastal waters of the State**—see section 58 of the [Interpretation Act 1987](#).

**coastal zone** has the same meaning as in the [Coastal Management Act 2016](#).

**Estuary** has the same meaning as in the [Water Management Act 2000](#).

**Note.** The term is defined as follows—

**Estuary** means—

(a) any part of a river whose level is periodically or intermittently affected by coastal tides, or

(b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or

(c) anything declared by the regulations (under the [Water Management Act 2000](#)) to be an estuary,

but does not include anything declared by the regulations (under the [Water Management Act 2000](#)) not to be an estuary.

**Headland** includes a promontory extending from the general line of the coastline into a large body of water, such as a sea, coastal lake or bay.

**native fauna** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

**native flora** means any plant-life that is indigenous to New South Wales, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, and marine vegetation within the meaning of Part 7A of the [Fisheries Management Act 1994](#).

**native vegetation** has the same meaning as in Part 5A of the [Local Land Services Act 2013](#).

**navigable waterway** means any waterway that is from time to time capable of navigation and is open to or used by the public for navigation, but does not include flood waters that have temporarily flowed over the established bank of a watercourse.

**Waterbody** means a waterbody (artificial) or waterbody (natural).

**waterbody (natural) or natural waterbody** means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

**Watercourse** means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

**Waterway** means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

**Wetland** means—

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgeland, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgeland or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

Other related transport-related definitions in the Standard Instrument LEP include (at the time of this report), but is not necessarily limited to:

**clearing native vegetation** has the same meaning as in Part 5A of the [Local Land Services Act 2013](#).

**clearing vegetation** has the same meaning as in [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#).

**coastal protection works** has the same meaning as in the [Coastal Management Act 2016](#).

**eco-tourist facility** means a building or place that—

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

**Note.** See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**ecologically sustainable development** has the same meaning as in the Act.

**environmental facility** means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

**environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and

*includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.*

**property vegetation plan** mean a property vegetation plan approved under Part 4 of the [Native Vegetation Act 2003](#) before the repeal of that Act (as continued in force by the regulations under the [Biodiversity Conservation Act 2016](#)).

**waterbody (artificial) or artificial waterbody** means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

#### 4.5.6 Land use permissibility within a Local Environmental Plan

The Standard Instrument-Principal Local Environmental Plan ('Standard Instrument LEP'), mandates that **environmental protection works** must be included as either "Permitted without consent" or "Permitted with consent" in the following zones:

- RU1 Primary Production and RU2 Rural Landscape
- E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living
- W1 Natural Waterways, W2 Recreational Waterways and W3 Working Waterways.

Waterways zones must also include **environmental facilities** as either "Permitted without consent" or "Permitted with consent"

In this regard, Council has discretion as to whether or not these activities as defined, are also permitted with consent within other land use zones.

The Standard Instrument LEP also has two clauses that affect the permissibility and assessment of development in environmentally sensitive areas, which by definition, includes areas of biodiversity (item 2.j):

##### **3.3 Environmentally sensitive areas excluded [compulsory]**

(1) *Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.*

(2) *For the purposes of this clause—*

*environmentally sensitive area for exempt or complying development means any of the following—*

(a) *the coastal waters of the State,*

(b) *a coastal lake,*

(c) *land within the coastal wetlands and littoral rainforests area (within the meaning of the [Coastal Management Act 2016](#)),*

(d) *land reserved as an aquatic reserve under the [Fisheries Management Act 1994](#) or as a marine park under the [Marine Parks Act 1997](#),*

(e) *land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,*

(f) *land within 100 metres of land to which paragraph (c), (d) or (e) applies,*

(g) *land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,*

- (h) land reserved under the [National Parks and Wildlife Act 1974](#) or land acquired under Part 11 of that Act,
- (i) land reserved or dedicated under the [Crown Land Management Act 2016](#) for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land that is a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#) or declared critical habitat under Part 7A of the [Fisheries Management Act 1994](#).

Direction. Additional areas may be added to this list.

### **5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]**

- (1) The objectives of this clause are as follows—
  - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
  - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—
  - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
  - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
  - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
  - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and
  - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
  - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
  - (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and
  - (h) any infrastructure services to the site will be provided without significant modification to the environment, and
  - (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
  - (j) the development will not adversely affect the agricultural productivity of adjoining land, and

*(k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—*

*(i) measures to remove any threat of serious or irreversible environmental damage,*

*(ii) the maintenance (or regeneration where necessary) of habitats,*

*(iii) efficient and minimal energy and water use and waste output,*

*(iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,*

*(v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.*

#### **4.5.7 Council as Consent Authority**

In most circumstances where development is proposed in an ‘environmentally sensitive area’, an area identified as having biodiversity value, or zoned for environmental purposes, Council will be the consent authority. Applications would be assessed against:

- any relevant considerations in the LEP, including any zone objectives
- any Development Control Plan
- any relevant Council Policy.

The exception is development within the E1 National Parks and Nature Reserves zone, which is regulated by the provisions of the [National Parks and Wildlife Act 1974](#).

#### **4.5.8 Development controls**

The existing Gloucester, Great Lakes and Greater Taree DCPs include environmental matters for consideration in the assessment of development applications, however these controls vary considerably.

Only the Great Lakes DCP includes provisions regarding tree and vegetation removal; and a landscaping schedule that includes recommended native species of low flammability and/or koala feed trees.

## 5 Strategic Planning Considerations – Cultural Heritage

This section sets out the basis for local strategic planning in relation to cultural landscapes within the MidCoast. It addresses the policy directions for plan-making in NSW, including the following Ministerial Directions issued under section 9.1 of the [Environmental Planning and Assessment Act 1979](#):

- **Direction 2.3 - Heritage Conservation.** The purpose of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. In particular, the direction requires that planning proposals must contain provisions that facilitate the conservation of:
  - items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
  - Aboriginal objects or Aboriginal places that are protected under the [National Parks and Wildlife Act 1974](#), and
  - Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.
- **Direction 5.10 - Implementation of Regional Plans.** Within the MidCoast, this direction gives legal effect to the Hunter Regional Plan, requiring any amendments to planning controls to be consistent with its vision, land use strategy, goals, directions and actions.

While not directly applying to the MidCoast LGA at the time of writing, the following direction should also be considered:

- **Direction 5.11.** This direction requires planning authorities to take into account any applicable development delivery plan made under the *SEPP (Aboriginal Land) 2019* whenever it prepares a Planning Proposal.  
Under the *SEPP (Aboriginal Land) 2019*, Local Aboriginal Land Councils may choose to prepare a development delivery plan for land within their ownership. Development delivery plans may set out measures to support Aboriginal cultural heritage that could be affected by development proposed for the subject land.

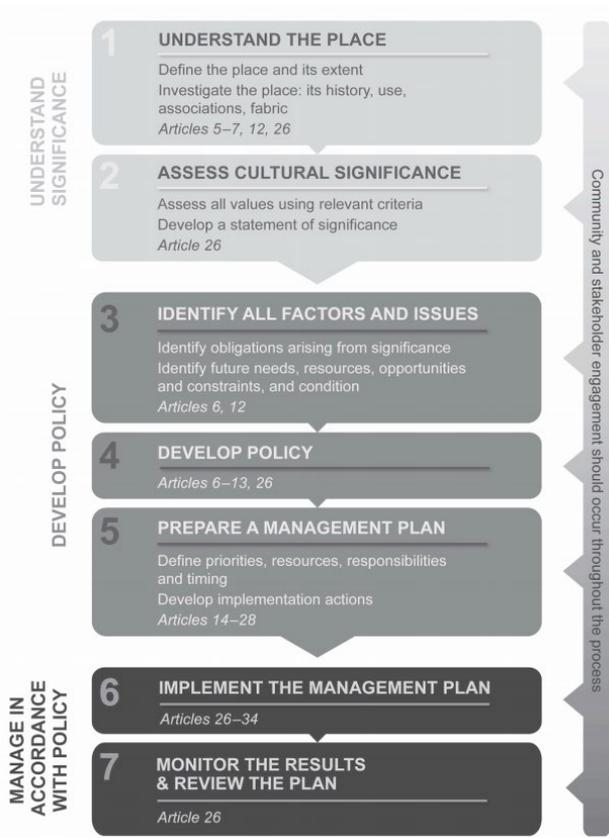
### 5.1 National Level Considerations

The [Burra Charter](#) and associated practice notes establish the best practice principles and procedures for managing cultural heritage places, as developed by Australia International Council for Monuments and Sites (ICOMOS).<sup>68</sup> Critically, the Burra Charter established a process for the identification, assessing planning and management of a place of cultural significance, shown in Figure 16 below.

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<sup>68</sup> <https://australia.icomos.org/publications/charters/>

**Figure 23. Burra Charter Process for planning and management of a place of cultural significance**



Regarding the rural areas of the MidCoast, the broad scale of cultural landscapes and challenges in identifying, managing and protecting them is also documented within the ICOMOS Understanding Cultural Landscapes flier<sup>69</sup>. In this regard, ICOMOS acknowledges that cultural landscapes are ‘*all around us and are the result of the interaction of humans with their environment over many years*’.

Cultural landscapes include one or more of the following:

- **Designed landscapes**, those that are created intentionally such as gardens, parks, garden suburbs, city landscapes, ornamental lakes, water storages or campuses.
- **Evolved landscapes**, those that display a system of evolved land use in their form and features. They may be ‘relict’ such as former mining or rural landscapes. They may be ‘continuing’ such as modern active farms, vineyards, plantations or mines.
- **Associative landscapes**, that are landscapes or landscape features that represent religious, artistic, sacred or other cultural associations to individuals or communities.

## 5.2 State level considerations

A Guide to the Heritage System (NSW Heritage Office 2005 revised edition) defines ‘cultural heritage’ as the *places, objects, customs and traditions that communities have inherited from*

<sup>69</sup> <https://australia.icomos.org/wp-content/uploads/Understanding-Cultural-Landscapes-Flyer-5.1-For-Print.pdf>

*the past and wish to preserve for current and future generations*<sup>70</sup>. Although not a statutory definition, it may prove useful in assisting people to understand this value.

Cultural landscapes are those areas of the landscape that have been modified by human activity, or have influenced human development. They include rural lands such as farms, villages and mining sites, as well as country towns and landscapes of significance to Aboriginal people. With over 40,000 years of Aboriginal occupation, the precautionary principle suggests that all Australian landscapes are cultural landscapes<sup>71</sup>.

The MidCoast Region is believed to contain a number of significant cultural landscapes ranging from rugged grazing lands, alluvial dairying flats to areas of karst formations. The NSW Council of NSW has requested that the NSW Heritage Branch to address the issue of the depletion of cultural landscapes.

A number of background papers, guidelines and manuals provide for the recognition, assessment and preservation of cultural landscapes as they relate to strategic planning.

The NSW Heritage Manual, comprised of a series of documents published between 1996-2002, sets out general guidelines for assessing heritage significance in NSW. The methodology described, relies on qualified professionals to identify localised heritage significance criteria (e.g. what is 'heritage' as specific to this area, as relevant to historic, aesthetic, scientific or social aspects) and heritage assessment criteria to determine the level of significance (e.g. Local, Regional, State or National).

- Assessing Heritage Significance<sup>72</sup>
- Local Government Heritage Guidelines<sup>73</sup>

The Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW provides guidance on the process for investigation and assessment, and the State Government's specific requirements for Aboriginal cultural heritage assessment reports<sup>74</sup>.

This Guide recommends establishing a baseline for assessment drawing on existing material evidence through three steps to: review and analyse previous architectural work (if any) within the area; develop a predictive model of Aboriginal site distribution; and undertake a field inspection and survey to confirm and describe relevant features.

OEH have developed an Aboriginal sites decision support tool (ASDST), which is a landscape-scale predictive model that identifies the likelihood of features significant to Aboriginal cultural heritage occurring in an area based on the natural characteristics of the site. It is available online, but at the time of writing, is not functioning<sup>75</sup>.

The draft Mid North Coast Regional Conservation Plan recognises that Aboriginal cultural heritage is irreplaceable and provides general advice on protection mechanisms across the region<sup>76</sup>. It also recognises that conservation measures implemented to protect scenic values are also likely to benefit biodiversity and Aboriginal cultural heritage conservation outcomes. This document only applies to the former Great Lakes and Greater Taree LGAs and was never finalised.

Registers identifying heritage features protected under State legislation include:

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<sup>70</sup> NSW Heritage Office (former) 2005

<sup>71</sup> <https://www.environment.nsw.gov.au/Heritage/aboutheritage/culturalalland.htm>

<sup>72</sup> NSW Heritage Office 2001

<sup>73</sup> NSW Heritage Office 2002

<sup>74</sup> NSW OEH 2011

<sup>75</sup> NSW OEH 2014

<sup>76</sup> NSW Department of Environment, Climate Change & Water (former) 2010

- State Heritage Register<sup>77</sup>
- Aboriginal Heritage Information Management System<sup>78</sup>

These registers may be useful at a landscape-scale to identify locations where assessments/surveys have been completed, and/or there is already known to be a pattern or occurrence of features with heritage significance. These registers also provide public access to the statements of significance used as a basis for assessing development impacts for each listed item.

The Saving our Species program identifies iconic species that are socially and culturally valued, which was discussed previously in this Report. Any conservation measures to protect habitat relevant for these species would also assist with preserving these cultural values.

Informative papers have also been prepared to supplement the Burra Charter, including but not limited to the NSW Heritage Office: Cultural Landscapes Charrette background paper (2003)<sup>79</sup>. This paper explored the role of the Heritage Council of NSW and the Heritage Office in relation to the protection and management of cultural landscapes.

The definition of cultural landscapes is also discussed, with a focus on the current tools for identification and management. Current issues for cultural landscape protection and management are also shown to be influenced by the current approaches for cultural landscape management in NSW.

Heritage Council of Victoria also developed the Landscapes of Cultural Heritage Significance<sup>80</sup> a guideline with the purpose of improving the understanding, identification and assessment of the cultural values of landscapes.

### 5.2.1 Land rights and native title considerations

A native title claim is made on behalf of a 'native title claim group', which may be a Local Aboriginal Land Council (LALC) or any other group of Aboriginal people that claim to hold rights in accordance with traditional laws and customs.

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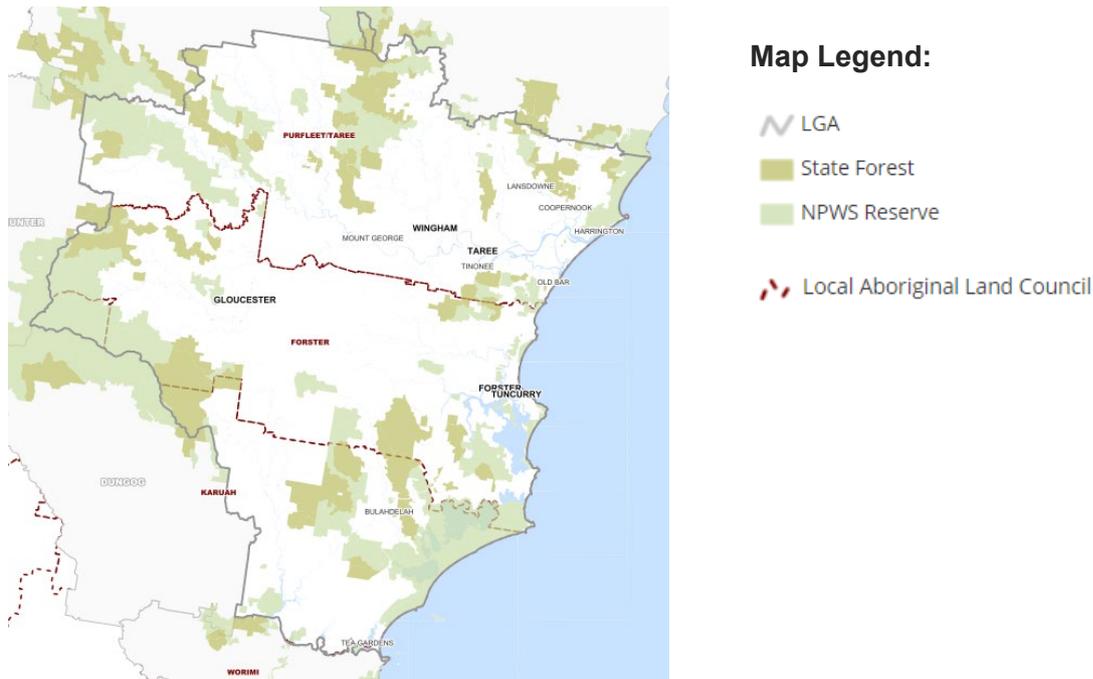
<sup>77</sup> NSW OEH 2013a

<sup>78</sup> NSW OEH 2013b

<sup>79</sup> <https://www.environment.nsw.gov.au/resources/heritagebranch/heritage/CLBackground903.pdf>

<sup>80</sup> <https://heritagecouncil.vic.gov.au/research-projects/landscapes-of-cultural-heritage-significance-assessment-guidelines/>

**Figure 24. Local Aboriginal Land Council Boundary and Name<sup>81</sup>**



A claim group must be identified before a claim can be authorised, however the processes in place to identify a claim group and determine its membership are highly complex. This can lead to significant delays or other complications in determining native title claim applications.

In NSW, native title rights claims can also be resolved through the negotiation of an Indigenous Land Use Agreement (ILUA).

*An ILUA is a voluntary process between a native title group and other parties, which may include landowners, land managers or other groups who wish to use a particular piece of land; and may resolve native title issues and may also deal with other issues such as:*

- *recognition of native title rights*
- *dealing with how native title rights will be exercised*
- *enabling development to take place on the land*
- *managing development on the land*
- *addressing compensation payments to the native title group, for example, non-monetary compensation such as employment opportunities or transfer of freehold lands*
- *access to and management of national parks and reserves<sup>82</sup>.*

The National Native Title Tribunal provides a publicly accessible Register of Native Title Claims (RNTC) for the whole of Australia. At the time of writing, the RNTC indicates that, within the MidCoast LGA<sup>83</sup>:

- There are no current Native Title Claims;
- There are no current Indigenous Land Use Agreement applying;

<sup>81</sup> <http://alc.org.au/media/119304/state%20alc%202013.jpg>

<sup>82</sup> <https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-management/aboriginal-joint-management/how-aboriginal-joint-management-works/indigenous-land-use-agreements>

<sup>83</sup> <http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Native-Title-Claims.aspx>

- 2 claim applications have been determined. Both claims were made by the Forster LALC and in both cases, it was determined that native title does not exist.
- 19 claim applications were previously made but were never determined and are no longer active (e.g. they were dismissed, discontinued or withdrawn). These were made by a wide range of claim groups for lands ranging in location and size.
- There are no current Future Act Notices.

## 5.2.2 Crown Land Management Act 2016

A considerable amount of land within the MidCoast is Crown land, subject to the [Crown Land Management Act 2016](#) (Crown Land) and its [Regulation 2018](#). Crown land may be managed by the NSW Government Department of Industry – Crown Lands, or may be dedicated or reserved and managed by Council.

Although some mapping is available, a complete map of Crown land within the MidCoast nor the management arrangements (e.g. Council or State manager) for this land are currently available. Establishing the mapped extent of these lands is an ongoing project of Council.

The legal framework for managing Crown land has recently been reformed. Changes introduced in 2018 significantly elevated Council's responsibility in the management of Crown land. Specifically, where Council manages dedicated or reserved Crown land, this must now be managed as if it were public land under the [Local Government Act 1993](#) ('LG Act') and its [General Regulation 2005](#). Meaning, most of this land will be classified as "community land" under the LG Act.

The new framework enables Council to grant a lease, license or other estate over Council-managed Crown land where a compliant plan of management is in place. Council is required to have plans of management in place for all Crown land for which it has management responsibilities within 3 years from commencement of the Crown Land Act (e.g. by 2021).

A single plan of management may cover one or multiple land dedications or reserves but must address the applicable provisions of the Crown Land and LG Act for each Crown land dedication or reserve. In this regard, the principles of Crown land management are:

- environmental protection principles be observed in relation to the management and administration of Crown land, and
- the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible, and
- public use and enjoyment of appropriate Crown land be encouraged, and
- where appropriate, multiple use of Crown land be encouraged, and
- where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles<sup>84</sup>.

Under the LG Act, Council must categorise all 'community land' as one or more of the of the categories listed in column A; and if land is categorised as a 'natural area', it must be further categorised using one or more of the terms listed in column B; of Table 9.

<sup>84</sup> <https://www.legislation.nsw.gov.au/#/view/act/2016/58/part1/div1.1/sec1.4>

**Table 9. LG Act Community Land categories and 'natural area' sub-categories**

Column A - Community land categories	Column B - 'Natural area' sub-categories
natural area	bushland
sportsground	wetland
park	escarpment
area of cultural significance	watercourse
general community use	foreshore
	category prescribed by the regulations

Section 36 of the LG Act then identifies the core management objectives for all community land categories. For the purposes of this Conservation paper, the core management objectives for 'areas of cultural significance' and 'natural area' subcategories are outlined in Table 10. Noting that a single location may be expected to meet several objectives, where more than one category applies.

**Table 10. LG Act Core Management objectives for cultural and natural area categories**

Community Land Category	Core Management Objective
<b>Area of cultural significance' (S36H)</b>	<p>Core objective is to retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.</p> <p>Conservation methods may include any or all of the following:</p> <ul style="list-style-type: none"> <li>• the continuous protective care and maintenance of the physical material of the land or of the context and setting of the area of cultural significance,</li> <li>• the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material,</li> <li>• the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state,</li> <li>• the adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact),</li> <li>• the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.</li> </ul>
<b>'Natural area' (S36E)</b>	<p>(a) biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and</p> <p>(b) to maintain the land, or that feature or habitat, in its natural state and setting, and</p>

	<ul style="list-style-type: none"> <li>(c) to provide for the restoration and regeneration of the land, and</li> <li>(d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and</li> <li>(e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994.</li> </ul>
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**Table 11. LG Act Core Management objectives for 'natural area' sub-categories**

Community Land Category	Core Management Objective
<b>'Bushland' (S36J)</b>	<ul style="list-style-type: none"> <li>(a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and</li> <li>(b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and</li> <li>(c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and</li> <li>(d) to restore degraded bushland, and</li> <li>(e) to protect existing landforms such as natural drainage lines, watercourses and foreshores, and</li> <li>(f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and</li> <li>(g) to protect bushland as a natural stabiliser of the soil surface.</li> </ul>
<b>'Wetland' (S36K)</b>	<ul style="list-style-type: none"> <li>(a) to protect the biodiversity and ecological values of wetlands, with particular reference to their hydrological environment (including water quality and water flow), and to the flora, fauna and habitat values of the wetlands, and</li> <li>(b) to restore and regenerate degraded wetlands, and</li> <li>(c) to facilitate community education in relation to wetlands, and the community use of wetlands, without compromising the ecological values of wetlands.</li> </ul>
<b>'Escarpment' (S36L)</b>	<ul style="list-style-type: none"> <li>(a) to protect any important geological, geomorphological or scenic features of the escarpment, and</li> <li>(b) to facilitate safe community use and enjoyment of the escarpment.</li> </ul>
<b>'Watercourse' (S36M)</b>	<ul style="list-style-type: none"> <li>(a) to manage watercourses so as to protect the biodiversity and ecological values of the instream environment, particularly in relation to water quality and water flows, and</li> <li>(b) to manage watercourses so as to protect the riparian environment, particularly in relation to riparian vegetation and habitats and bank stability, and</li> </ul>

	<p>(c) to restore degraded watercourses, and</p> <p>(d) to promote community education, and community access to and use of the watercourse, without compromising the other core objectives of the category.</p>
<b>'Foreshore' (S36N)</b>	<p>(a) to maintain the foreshore as a transition area between the aquatic and the terrestrial environment, and to protect and enhance all functions associated with the foreshore's role as a transition area, and</p> <p>(b) to facilitate the ecologically sustainable use of the foreshore, and to mitigate impact on the foreshore by community use.</p>

Crown land may be used for a wide range of purposes through separate application processes.

- **Leases:** which give exclusive use of a piece of land for a specified term and purpose. Leases tend to facilitate longer-term uses with larger capital investments. Lease categories include commercial (e.g. marinas, caravan parks and tourist facilities, registered clubs, childcare facilities, aged care facilities, etc.), community (e.g. volunteer groups or sporting facilities), and residential purposes.
- **Licenses:** which allows for the use and occupation of land for a specified term and purpose, but is not exclusive like leases; so may require the land to remain available for public use. Licenses tend to be issued for (but not limited to) uses such as waterfront structures, grazing, cultivation, water supply and access, events, or extractive activities.
- **Easements:** which may be used by a range of parties for a variety of reasons. Most commonly, easements are used to secure access for utilities such as electricity lines, water supply pipes, sewer pipes, or other infrastructure including bridges, drainage, and walking paths.
- **Enclosure permits:** which allow adjoining landowners to fence Crown land and use it for grazing.

Any Crown land application process must consider the likely impacts of proposed uses on any specified conservation outcome e.g. biodiversity, scenic or cultural identified in, for example, any applying Plan of Management or Indigenous Land Use Agreement (described later in this Report).

Native Title claims under the Commonwealth Government's [Native Title Act 1983](#), will at minimum, influence procedural aspects of preparing Plans of Management or considering individual applications for using Crown land by requiring land managers to notify and engage with any relevant Native Title claimant groups.

This process may ultimately influence the use and management of Crown land in order to maintain Native Title property rights, which may include (but are not limited to) Aboriginal people's ability to: access and camp on country; visit and protect important places; hunt, fish, gather food and bush medicine; and, in some cases, to possess, occupy, use and enjoy the area. These matters are discussed later in this Report.

Although rare, Crown land may become available for purchase if it is proven to no longer provide benefit to users as a public purpose. This can arise through an applicant-initiated process or a Government-initiated process. Ownership of Crown land may also be transferred to Local Aboriginal Land Councils pursuant to Land Rights claims under the NSW Government's [Aboriginal Land Rights Act 1983](#), which is discussed later in this Report. Once transferred to freehold ownership, former Crown land is subject to the same planning framework as any other privately held property.

## 5.3 Regional Level Considerations

### 5.3.1 Hunter Regional Plan 2036

Ministerial Direction 5.10 requires future changes to planning controls to be consistent with the [Hunter Regional Plan 2036](#).

Therefore, the vision, land use strategy, goals, directions and actions described in the Hunter Regional Plan are considered generally reflective of current Government policy directions at National and State levels. On that basis, the Hunter Regional Plan was used as a platform for identifying top-down considerations for local strategic planning.

The Hunter Regional Plan recognises the importance of cultural landscapes and the following Goals, Directions and Actions are particularly relevant to high-level planning within the MidCoast:

#### **Goal 3 - Thriving communities**

*The Hunter contains natural features that are important cultural heritage for Aboriginal communities. Conserving these assets and respecting the Aboriginal communities' right to determine how they are identified and managed will preserve some of the world's longest-standing spiritual, historical, social and educational values.*

*Protecting built heritage values through revitalisation will create thriving communities that are great places to live.*

**Direction 19:** *Identify and protect the regions heritage.*

*Cultural heritage is important to communities by providing tangible connections to the past. Heritage items can also attract tourism, which can contribute to local economies.*

*The Hunter contains natural features that are important to the cultural heritage of Aboriginal communities. Conserving these assets, and respecting the Aboriginal community's right to determine how they are identified and managed, will preserve their significant values.*

*19.1 Consult with the local Aboriginal communities to identify and protect heritage values to minimise the impact of urban growth and development, and to recognise their contribution to the character and landscape of the region.*

*19.2 Assist the preparation of appropriate heritage studies to inform the development of strategic plans, including regional Aboriginal cultural heritage studies.<sup>85</sup>*

#### **Goal 4 - Greater housing choice and jobs**

**Direction 27:** *Strengthen the economic self-determination of Aboriginal communities*

*Opportunity, Choice, Healing, Responsibility and Empowerment (OCHRE) is the NSW Government's plan for Aboriginal affairs. It focuses on:*

- *revitalising and promoting Aboriginal languages and culture;*
- *creating opportunities;*
- *increasing the Aboriginal community's capacity;*
- *providing choice and empowering Aboriginal people to exercise that choice; and*
- *giving Aboriginal people the tools to take responsibility for their own future.*

<sup>85</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/Thriving-communities>

*The planning system can support the OCHRE process by helping Local Aboriginal Land Councils identify how their landholdings can best be planned, managed and developed.*

*This gives the Aboriginal community greater opportunities for economic independence and is consistent with the overall aim of the [Aboriginal Land Rights Act 1983](#) (NSW), which lays the foundations for a more secure economic and self-reliant future for all Aboriginal people in NSW.*

*27.1 Work with the Purfleet–Taree, Forster, Karuah, Worimi, Mindaribba, Awabakal, Bahtabah, Biraban and Wanaruah Local Aboriginal Land Councils to identify priority sites that can create a pipeline of potential projects.*

*27.2 Identify landholdings and map the level of constraint at a strategic scale for each site to develop options for the potential commercial use of the land.*

Collectively, these offer the following insights for cultural landscapes across the MidCoast, which will assist with formulating the Rural Strategy:

- Councils and the Department of Planning, Industry and Environment are responsible for preparing appropriate heritage studies, including regional Aboriginal cultural heritage studies to inform the development of strategic plans.
- Councils and the Department of Planning, Industry and Environment are expected to work with local Aboriginal communities to identify and protect heritage values with the aim to minimise the impact of development, and recognise their contribution to the character and landscape of the region.

## 5.4 Local Level Considerations

At the local, LGA-level additional policy considerations are set out in a range of documents endorsed by the State Government and/or Council. Again, these offer goals, directions and actions that complement, or provide more detail, than those provided in the Hunter Regional Plan.

There are, in addition to the National, State and regional policies relating to cultural heritage, its identification and protection, a range of Council initiated strategies and studies aimed at enhancing our recognition of heritage values across the MidCoast.

In this regard, Council is generally responsible for preparing appropriate heritage studies, including regional Aboriginal cultural heritage studies to inform the development of strategic plans and identification of heritage items and areas within environmental planning instruments and their consideration within the development assessment process.

### 5.4.1 MidCoast 2030: Shared Vision, Shared Responsibility

Within this Plan our community identified key values of the MidCoast: our unique, diverse and culturally rich communities; a connected community; our environment; our thriving and growing economy; strong leadership and shared vision.

Critically, we also recognised the importance of preserving and maintaining our rich natural environment within our vision of the MidCoast:

*Vision: We strive to be recognised as a place of unique environmental cultural significance.*

**Table 12. Cultural Conservation Goals and Actions from MidCoast 2030**

**WE VALUE... our unique, diverse and culturally rich communities**

Where do we want to be?	How will we get there?	Who can help?
We are a diverse community that works together to care for all our members	Acknowledge, celebrate and empower our local Aboriginal communities.	MidCoast Council NSW and Federal Government Community groups Volunteers
We will embrace the uniqueness and creativity of our communities	Support the preservation and uniqueness of our history and cultural heritage in our towns, villages and significant places.	Not for profit organisations Local Aboriginal groups and organisations Creative arts sector and representative groups Tourism providers and Destination NSW Chambers of Commerce and business community
<b>How will we know we are on track?</b> 2 The community is satisfied with the overall services council provides 3 The community is satisfied with land use planning decisions		

<b>WE VALUE... our environment</b>		
Where do we want to be?	How will we get there?	Who can help?
We balance the needs of our natural and built environments	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.	MidCoast Council NSW and Federal Government Environmental groups Volunteers Not for profit organisations Local Aboriginal groups and organisations Education and training providers Chambers of Commerce and business community
<b>How will we know we are on track?</b> 4 The community is satisfied with land use planning decisions.		

<b>WE VALUE... our thriving and growing economy</b>		
Where do we want to be?	How will we get there?	Who can help?
Our region is a popular place to visit, live, work and invest	Develop and promote our region as an attractive visitor destination offering products and experiences	MidCoast Council NSW and Federal Government Environmental groups

	that meet the needs of our visitors and residents.	Volunteers Not for profit organisations Local Aboriginal groups and organisations Education and training providers Chambers of Commerce and business community
<p>How will we know we are on track?</p> <ol style="list-style-type: none"> <li>1 There is a reduction in the MidCoast unemployment rate</li> <li>2 The net number of new businesses has increased</li> <li>3 Annual visitor numbers have increased</li> </ol>		

### 5.4.2 MidCoast Destination Management Plan<sup>86</sup>

The MidCoast Regional Economic Development Strategy endorses the MidCoast Destination Management Plan (DMP) which has a clear vision that by 2030:

*MidCoast is renowned as a place where outstanding natural beauty meets vibrant country living, inspiring healthy and active lifestyles.*

Specifically acknowledging the cultural heritage of the MidCoast, the DMP also acknowledges and recognises the important connection that the Biripi and Worimi Aboriginal people have to their traditional lands, and aims to provide a pathway to showcase and share the local Aboriginal culture with visitors to our region.

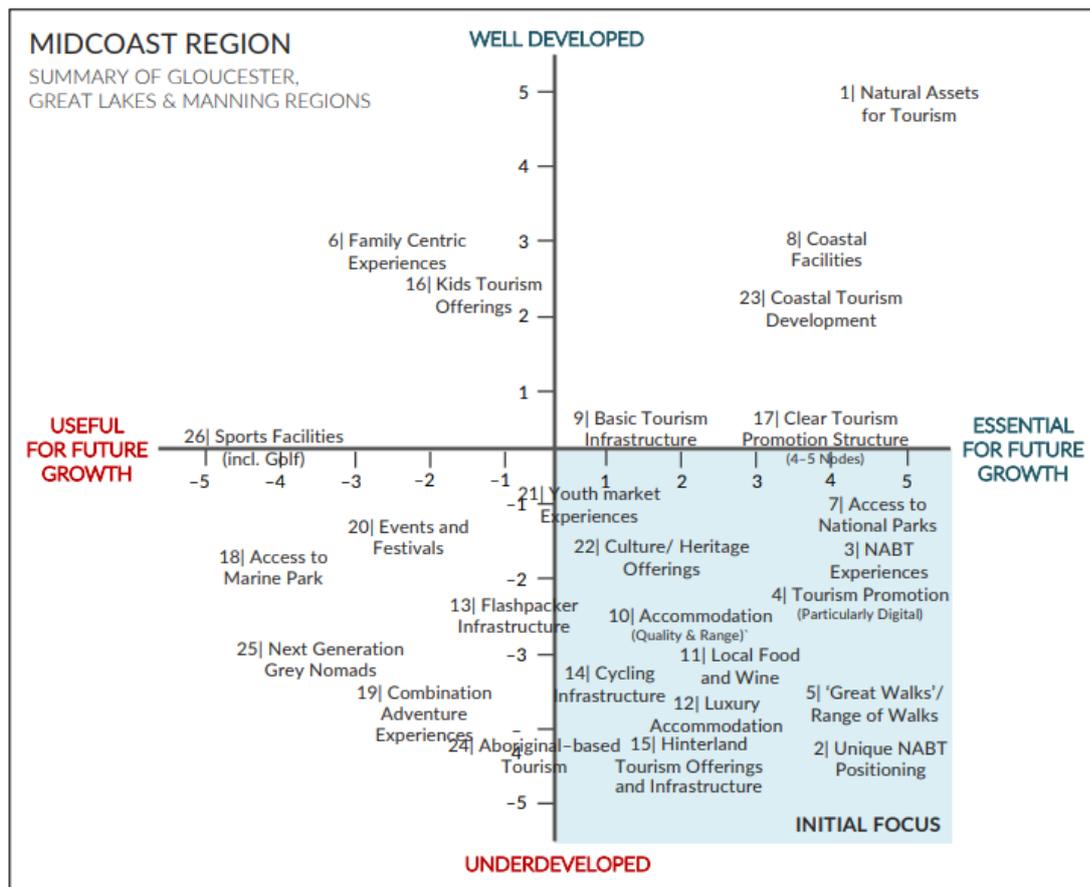
The DMP aims to enable a vibrant community and grow the visitor economy through addressing both supply and demand within the region, and where the environmental value of the land is recognised this may be achieved through:

*Partnerships with organisations such as the new North Coast Destination Network, NSW National Parks and Wildlife Service (NPWS), Local Aboriginal Land Councils as well as surrounding regions and the private sector will enable the stories and offer of the region to be further developed and proudly promoted.*

This is demonstrated by the findings of the gap analysis undertaken as part of the DMP development program which illustrates under-developed tourism opportunities are significant in natural and associated rural, areas of the MidCoast.

<sup>86</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Tourism-Destination-Management-Plan>

**Figure 25. MidCoast Tourism Gap Analysis from the Destination Management Plan**



The DMP went on to document a SWOT analysis and highlighted the importance of environmental assets as tourism attractions to residents and visitors:

**Table 13. MidCoast Destination Management Plan SWOT Analysis – Environmental Opportunity**

STRENGTHS	OPPORTUNITIES
<p>Wide range of popular events and festivals</p> <p>Manning Regional Art Gallery attracts high quality exhibits, has an active events and educational program and strong community support</p>	<p>Strengthen relationships with potential partners to deliver new products and experience, such as NPWS and the Local Aboriginal Land Councils and private sector</p>
WEAKNESSES	CHALLENGES
<p>Allocation of existing resources not maximising opportunities to build awareness or promote the region to key target markets</p> <p>Limited resources for implementation of signature experiences</p> <p>Inconsistent levels of capacity within the industry and visitor services</p> <p>Inconsistent levels of industry engagement</p>	<p>Inconsistent promotion and use of local produce in local restaurants and cafes</p> <p>Managing visitor economy infrastructure projects across multiple land tenure</p>

Utilising these findings, the DMP also explores options for establishing a framework of experiences tourists and visitors can experience within the MidCoast. Critically, this creates opportunities for the weaknesses and challenges outlined in Table 13 to be addressed:

- 1. Nature’s Bounty:** Produce, food and drink; High quality, accessible and more personalised experiences
- 2. Natural Adventure:** Healthy outdoor living; Quality recreational opportunities
- 3. Contemporary Coast:** Revitalising our places; Exciting coastal experiences; Artisans and craft-people
- 4. Vibrant Country Life:** Revitalising our places; Genuine country experiences; Artisans and craft-people
- 5. Celebrating Culture on Country:** Immersive Aboriginal cultural experiences; Artisans and craft-people

Each of these categories overlap and relate to the others, but most significantly for cultural heritage, the DMP also puts forward a range of signature and supporting experiences:

**Table 14. Destination Management Plan Signature Experiences??**

Framework	Signature Experience	Value-Adds
<b>Nature’s Bounty</b>	Soil to Sea Produce Event and Markets Sharing our Produce program	Manning Valley Soil to Sea Produce Precinct Local events Capacity building initiative and network facilitation within the hospitality and local produce sectors
<b>Natural Adventure</b>	Great Lakes Great Walk & Aquatic Trails Junior Aquatic Trails Discovery From Secret Waterholes to Snow Flurries – natural events program Nature & Adventure Itineraries Forster Tuncurry ‘Lake to Ocean’ (L2O) Trail	Contemporary Coast Extend out to Barrington Tops and along the coast in stages Nature-based and wildlife events Highlight existing nature-based and recreational experiences, including tracks and trails, fishing, cycling, kayaking, horse-riding, etc
<b>Contemporary Coast</b>	Eco Village & markets Health & Well-being Event Sustainability Showcase: Centre of Excellence for the Environment & Wetlands	Great Walk and Aquatic Trails Weekend Warriors Aboriginal Health & Well-being Retreat
<b>Vibrant Country Life</b>	Soil to Sea Produce Precincts Nabiac Agricultural Hub	Farm Gate Trail Soil to Sea Produce Event and Markets Experience real country living – saleyards, rodeos, Agricultural Shows, Sustainable Futures Convention

<b>Celebrating Culture on Country</b>	Waters and Wetlands Tours Dark Point Ecolodge or glamping experience Manning Regional Art Gallery collection	Profiling cultural tourism sites Leverage the Manning Regional Art Gallery and Cultures of the Manning Festival Weekend Warriors Our Country Tours, Bush Tucker Dining and Natural Healing/ Remedies 'Day Spa'
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### 5.4.3 Council Heritage Studies

The only broad scale studies have been completed, exhibited and adopted within the MidCoast by qualified heritage professionals in line with the NSW Heritage Manual described above is the Great Lakes Council Heritage Study 2007.

Draft studies have been completed in the former Greater Taree and Gloucester Shire LGAs but have not been exhibited or adopted at the time of writing. The content of all of these studies is predominantly focused on European built heritage, with few Aboriginal cultural or archaeological, items or sites.

All items that have been previously assessed as having heritage significance through any methodology appear to have been identified in LEPs in each of the former LGAs, providing a basis for assessing the likely impacts that may occur as a result of development.

Several listed items identified as locally significant in the former Greater Taree and Gloucester Shire LGAs are not supported by an identifiable local study undertaken in line with current assessment guidelines, but this is likely to have been addressed within the draft studies. Until these studies are adopted by Council there is a limited basis for applicants and assessing officers to gauge potential development impacts on these items.

There are no broad scale studies that have been completed within the MidCoast LGA in line with the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, but do recognise that studies will likely have been completed as part of the rezoning and/or development assessment process for specific sites.

Several other studies or strategies endorsed by Council that are relevant to planning in rural areas have described cultural values or otherwise recognised features already recognised for their cultural and/or heritage significance. These documents include, but are not limited to:

- Great Lakes Rural Living Strategy 2004<sup>87</sup>
- Greater Taree City Council Conservation and Development Strategy 2005<sup>88</sup>; and
- Gloucester Shire Council Local Environmental Study 2006<sup>89</sup>

Most Council-endorsed documents, including long-term strategies, clearly recognise the importance of cultural and historical values to rural landscapes and local communities. Collectively, these recommend further studies and investigations to identify heritage values, including Aboriginal cultural heritage values. However, these recommendations do not appear to have been actioned to date.

<sup>87</sup> Greater Taree Council (former) 2005

<sup>88</sup> Gloucester Shire Council (former) 2006

<sup>89</sup> Great Lakes Council (former) 2003

Relevant values may also be identified in Management Plans for specific sites, including lands already managed for conservation. A non-exhaustive list of management plans for sites within the MidCoast is provided within the References of this Report.

In our opinion, a heritage assessment study, or multiples studies, are required to be undertaken and completed, in line with current guidelines for the whole of the MidCoast LGA in order to provide a basis for strategic land use and development planning, particularly for items and areas incorporated into the new MidCoast LEP. This recognises:

- The extent of heritage assessments that has been completed in the MidCoast LGA in line with the current NSW Heritage Manual methodology appears to be limited to the former Great Lakes LGA only. The recommendations of this study have already been implemented.
- Council-endorsed actions to undertake further studies and investigations to identify heritage values, including Aboriginal cultural heritage values do not appear to have been actioned to date.

## 5.5 Environmental Planning Instruments and other regulatory considerations

### 5.5.1 State Environmental Planning Policy (Aboriginal Land) 2019

The [Aboriginal Land Policy](#) aims to:

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

The Policy was introduced in 2019 and currently only affects nominated lands within the Central Coast LGA. The Policy applies with similar development triggers, but is supplementary to the [State & Regional Development Policy](#), in particular, the Policy declares development on LALC land to be regionally significant development if it has a capital investment value of more than \$5 million.

### 5.5.2 Standard Instrument Principal Local Environmental Plan

Upon the gazettal of [Standard Instrument LEP](#) local governments were required to consider cultural heritage in a consistent manner, with standard definitions and clauses for consideration in development assessment.

In particular, the Standard LEP includes the following clauses relating to the assessment and consideration of heritage matters:

#### **3.3 Environmentally sensitive areas excluded [compulsory]**

*(1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.*

*(2) For the purposes of this clause—*

*environmentally sensitive area for exempt or complying development means any of the following—*

- (a) the coastal waters of the State,*
- (b) a coastal lake,*

- (c) land within the coastal wetlands and littoral rainforests area (within the meaning of the [Coastal Management Act 2016](#)),
- (d) land reserved as an aquatic reserve under the [Fisheries Management Act 1994](#) or as a marine park under the [Marine Parks Act 1997](#),
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved under the [National Parks and Wildlife Act 1974](#) or land acquired under Part 11 of that Act,
- (i) land reserved or dedicated under the [Crown Land Management Act 2016](#) for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land that is a declared area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#) or declared critical habitat under Part 7A of the [Fisheries Management Act 1994](#).

*Direction.* Additional areas may be added to this list.

### **5.10 Heritage conservation [compulsory]**

*Note.* Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

*Direction.* Heritage items as identified in Schedule 5 must be shown on the Heritage Map.

The location and nature of Aboriginal objects and Aboriginal places of heritage significance may be described in Schedule 5 and shown on the Heritage Map (see the direction to Schedule 5).

(1) Objectives The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of [Name of local government area or other relevant name],
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
  - (i) a heritage item,
  - (ii) an Aboriginal object,
  - (iii) a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,

(c) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*

(d) *disturbing or excavating an Aboriginal place of heritage significance,*

(e) *erecting a building on land—*

*(i) on which a heritage item is located or that is within a heritage conservation area, or*

*(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*

(f) *subdividing land—*

*(i) on which a heritage item is located or that is within a heritage conservation area, or*

*(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

(3) *When consent not required However, development consent under this clause is not required if—*

(a) *the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—*

*(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*

*(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*

(b) *the development is in a cemetery or burial ground and the proposed development—*

*(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and*

*(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or*

(c) *the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or*

(d) *the development is exempt development.*

(4) *Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

(5) *Heritage assessment The consent authority may, before granting consent to any development—*

(a) *on land on which a heritage item is located, or*

(b) *on land that is within a heritage conservation area, or*

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) *Heritage conservation management plans* The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) *Archaeological sites* The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) *Aboriginal places of heritage significance* The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) *Demolition of nominated State heritage items* The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

(a) notify the Heritage Council about the application, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) *Conservation incentives* The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### **5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]**

(1) *The objectives of this clause are as follows—*

*(a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,*

*(b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.*

(2) *This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.*

(3) *The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—*

*(a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and*

*(b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and*

*(c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and*

*(d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and*

*(e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and*

*(f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and*

*(g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and*

*(h) any infrastructure services to the site will be provided without significant modification to the environment, and*

*(i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and*

*(j) the development will not adversely affect the agricultural productivity of adjoining land, and*

*(k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—*

*(i) measures to remove any threat of serious or irreversible environmental damage,*

*(ii) the maintenance (or regeneration where necessary) of habitats,*

*(iii) efficient and minimal energy and water use and waste output,*

*(iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,*

*(v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.*

The Standard LEP also provides directions on how and where heritage/cultural areas and items are to be identified:

**Schedule 5 Environmental heritage** (see also Clause 5.10)

*Direction.* This Schedule should generally be divided into 3 parts (one for heritage items, one for heritage conservation areas and one for archaeological sites). If agreement is reached with the Aboriginal community to list Aboriginal objects or Aboriginal places of heritage significance, the Schedule should also include separate parts listing any such object or place. In all cases, the relevant matter should be listed in alphabetical order in each respective Part according to suburb or locality name (and by street name within each such suburb or locality).

The description of a heritage item should be included in a column headed “Item” and should include a brief description of those things that are part of the heritage significance of the item—for example, “House, front garden and front fence”, or “Lindsey (including homestead, outbuildings, stables, Bunya Pine tree and driveway)” or “Dunmore Park (including bandstand, fountain and avenue of fig trees)”. If any interior features are part of the heritage significance of a heritage item, these should also be described—for example “Lindsey (including original bathroom, dining room fireplace with mantelpiece and original detailing throughout)” or “Lindsey (including all interior features)”. Anything that is part of the heritage significance of a heritage item should also be included in the inventory of heritage items.

Heritage items cannot be identified in the Schedule as having “State significance” unless they are listed on the State Heritage Register. However, a heritage item may be listed in the Schedule as a “nominated item of State significance” (or as “State nominated”) if the item has been identified as an item of potential State significance in a publicly exhibited heritage study and the Council has nominated the item in writing to the Heritage Council.

Finally, the Standard LEP also provides a range of definitions for reference within the clauses and assessment process:

**Aboriginal object** means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

**Aboriginal place of heritage significance** means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition and that may be shown on the Heritage Map, that is—

(a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

(b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**Note.** The term may include (but is not limited to) places that are declared under section 84 of the [National Parks and Wildlife Act 1974](#) to be Aboriginal places for the purposes of that Act.

**archaeological site** means a place that contains one or more relics.

**eco-tourist facility** means a building or place that—

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

**Note.** See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

**heritage conservation area** means an area of land of heritage significance—

- (a) shown on the Heritage Map as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 5, and includes any heritage items situated on or within that area.

**heritage conservation management plan** means a document prepared in accordance with guidelines prepared by the Public Service agency responsible to the Minister administering the [Heritage Act 1977](#) that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**heritage impact statement** means a document consisting of—

- (a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

**Note.** An inventory of heritage items is also available at the office of the Council.

**Direction.** Heritage items must be shown on the Heritage Map.

**heritage management document** means—

- (a) a heritage conservation management plan, or
- (b) a heritage impact statement, or
- (c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Heritage Map** means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Heritage Map.

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**maintenance**, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

***nominated State heritage item*** means a heritage item that—

(a) *has been identified as an item of State significance in a publicly exhibited heritage study adopted by the Council, and*

(b) *the Council has, by notice in writing to the Heritage Council, nominated as an item of potential State significance.*

## 6 Strategic Planning Considerations – Scenic Landscapes

This section sets out the basis for local strategic planning in relation to scenic landscapes within the MidCoast. It addresses the policy directions for plan-making in NSW, including the following Ministerial Directions issued under section 9.1 of the [Environmental Planning and Assessment Act 1979](#).

It is significant that there is no clear Ministerial Direction relating to the identification or protection of scenic landscapes, unless the scenic values are identified in association with heritage and cultural values.

However, with the clear recognition of scenic landscapes and their value in terms of tourism within the Hunter Regional Plan 2036, discussed later in this report, Direction 5.10 does require Council to consider these areas within the drafting of planning instruments:

- **Direction 5.10 - Implementation of Regional Plans.** Within the MidCoast, this direction gives legal effect to the Hunter Regional Plan, requiring any amendments to planning controls to be consistent with its vision, land use strategy, goals, directions and actions.

Discussion predominantly focuses on Government-endorsed policy directions described in long-term strategies and plan at national, state, regional and local-levels. Where relevant, reference is also made to other technical studies or reports.

### 6.1 National Level Considerations

While scenic landscapes are recognised and promoted throughout tourism promotional material little is available on the identification and protection of ‘scenic landscapes’ from a National perspective, without being integrated with cultural heritage or environmental values of the same landscape.

Significantly, many iconic scenic landscapes within the MidCoast are already protected through the National Parks and Nature Reserves estate, including but not limited to the Barrington Tops, Booti Booti, Crowdy Bay and Myall Lake National Park.

### 6.2 State Level Considerations

There are, currently no standard methodologies applying in NSW for the identification of scenic values or assessment of visual impacts. However, several examples of how Councils and other organisations have assessed and considered scenic protection in the preparation of planning instruments are available. Including but not limited to:

#### **The Greater Sydney Commission, Western City District Plan**

Planning Priority W16 - Protecting and enhancing scenic and cultural landscapes

**Objective 28:** *Scenic and cultural landscapes are protected*

*Scenic and cultural landscapes encourage an appreciation of the natural environment, protect heritage and culture, and create economic opportunities, particularly for recreation and tourism.*

*Scenic and cultural landscapes can complement green infrastructure, particularly where scenic landscapes include waterways and urban bushland. Scenic and cultural*

landscapes can often be prone to natural hazards, for example escarpments can be prone to land slip and erosion.

Ridgelines are highly valued elements of scenic landscapes, and development should not diminish their scenic quality.

Continued protection of the Western City District's scenic and cultural landscapes is important for the sustainability, liveability and productivity of the District. It can complement the protection of biodiversity and habitat, help manage natural hazards and support tourism. Protecting scenic and cultural landscapes can also help preserve links to Aboriginal cultural heritage<sup>90</sup>.

## Blue Mountains Local Strategic Planning Statement

Planning Priority 5: Conserving and enhancing heritage, character and liveability:

*The scenic qualities and grandeur of the natural landscapes of the Blue Mountains have drawn both visitation and permanent settlement. A string of twenty-nine villages and towns are set along the main ridgeline across the Mountains, nestled within a vast World Heritage landscape. There are dramatic contrasts between the historic settlements and the wider natural environment. The Blue Mountains is at once a single community and also a series of communities located within each village or locality. Our residents feel that the character of each village and locality is different and that the atmosphere of the Blue Mountains is unique.*<sup>91</sup>

## Draft Shoalhaven Local Strategic Planning Statement

Celebrating Culture and Heritage – Planning Priority 15 Scenic and cultural landscapes:

*Shoalhaven is abundant with areas of high scenic value and is widely celebrated for its diversity of natural landscapes intrinsically connected to both people and place. Our dense wilderness areas form a significant part of our natural environment and are connected to vast and unspoilt coastlines by undulating rural vistas and fertile farmland.*

*The rural landscape is a valuable asset for Shoalhaven. Our communities have expressed the importance of these vistas, not only for their scenic amenity and contribution to the relaxed country atmosphere of Shoalhaven, but also for the diversity of land uses they support.*<sup>92</sup>

Therefore, while limited information is available at a State level on what constitutes a “scenic landscape”, communities and Councils recognise their intrinsic value to lifestyle and location, and their economic value, particularly to the tourism industry.

## 6.3 Regional Level Considerations

As stated previously, within the region there is a high level of recognition of scenic landscapes within the MidCoast and how they contribute to lifestyle, attracting new residents and most significantly, the economics of nature-based tourism. Often however, the value of scenic landscapes is combined with the protection of biodiversity, environment, or cultural heritage; and not recognised as significant in terms of the more subjective but inherent value of views and vistas, and how these provide a sense of connection to place.

<sup>90</sup> <https://www.greater.sydney/western-city-district-plan/sustainability/city-its-landscape/protecting-and-enhancing-scenic-and>

<sup>91</sup> <https://www.bmcc.nsw.gov.au/documents/local-strategic-planning-statement>

<sup>92</sup> <https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D20/273676>

### 6.3.1 Hunter Regional Plan 2036

Ministerial Direction 5.10 requires future changes to planning controls to be consistent with the Hunter Regional Plan 2036.

Therefore, the vision, land use strategy, goals, directions and actions described in the Hunter Regional Plan are considered generally reflective of current Government policy directions at National and State levels. On that basis, the Hunter Regional Plan was used as a platform for identifying top-down considerations for local strategic planning.

The Hunter Regional Plan recognises the importance of scenic landscapes, but as indicated previously, is limited on the Directions and Actions to support their identification and protection, separate to environmental or cultural significance:

***The leading regional economy in Australia with a vibrant new metropolitan city at its heart***

*Visitors are arriving in greater numbers on cruise ships, via Newcastle Airport and by a variety of rail and highway links to sample international quality wines and fresh food, walk along convict-built trails, trek through World Heritage-listed national parks and swim at lovely beaches.<sup>93</sup>*

**Goal 1 - The leading regional economy in Australia**

**Direction 9: Grow tourism within the region;**

*There is huge potential for the Hunter to increase the number of nights visitors spend in the region from an annual 8.8 million.<sup>19</sup>*

*Protecting the Hunter's pristine natural areas will keep them attractive to visitors. The coastal areas are some of the most visited and scenic parts of the region and are entry points to the vast Barrington Tops National Park, a World Heritage area.*

**Actions**

*9.1 Enable investment in infrastructure to expand the tourism industry, including connections to tourism gateways and attractions.*

*9.2 Encourage tourism development in natural areas that support conservation outcomes.<sup>94</sup>*

**Goal 2 - A biodiversity-rich natural environment**

*Residents and visitors are fortunate to have ready access to many of the region's natural areas – and an array of unique experiences. These areas contribute to the region's identity and the health of its communities and are important for recreational and tourism activities and as a focus for investment. They are also a key factor in the decisions people make about where to live.<sup>95</sup>*

**Goal 3 - Thriving communities**

*The Hunter is home to some of the most diverse communities in NSW and their distinctive character is a significant competitive advantage for the region.*

<sup>93</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/Vision>

<sup>94</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/The-leading-regional-economy-in-Australia>

<sup>95</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/A-biodiversity-rich-natural-environment>

Many communities are set within and around the Hunter's natural features and open space, which are among the region's best assets. The quality of these areas and the ability to access them gives residents an array of unique experiences and the opportunity for a healthy lifestyle.

### **Actions**

20.3 Enhance the amenity and attractiveness of existing places<sup>96</sup>.

## **Goal 4 - Greater housing choice and jobs**

### **Direction 21 – Create a compact settlement**

#### **Actions**

21.1 Promote development that respects the landscape attributes and the character of the metropolitan areas, towns and villages<sup>97</sup>.

Similarly, the information provided within the MidCoast Narrative in the Plan, is limited to general information from the Goals above:

*The MidCoast Local Government Area, in the northern part of the Hunter, features pristine waterways, an extensive network of national parks and World Heritage wilderness areas. It is a popular destination for residents and visitors.*

#### **Regional priorities**

*Support the visitor economy by leveraging the natural beauty of the area and enhancing nature-based tourism infrastructure.*

#### **Centres and employment**

*Priorities for strategic centres:*

##### **Taree**

- Enhance retail, health, education, cultural, civic and recreational activities.
- Encourage greater utilisation of the Manning River for tourism, recreational and commercial purposes.

##### **Forster–Tuncurry**

- Protect environmental and natural attributes.<sup>98</sup>

Collectively, these offer the following insight for scenic and visual amenity, which will assist with formulating the MidCoast Rural Strategy:

- Protecting natural assets and providing people with an opportunity to enjoy these assets, is seen as an important outcome for increasing visitation to and within the MidCoast LGA. The conservation of coastal assets and broad scenic qualities is considered important in this regard.
- Opportunities to increase public access to natural areas are also supported where these do not interfere with conservation management requirements.

<sup>96</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/Thriving-communities>

<sup>97</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/Greater-housing-choice-and-jobs>

<sup>98</sup> <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Hunter/Hunter-regional-plan/Local-government-narratives>

## 6.4 Local Level Considerations

At the local level additional policy considerations are set out in a range of documents endorsed by the State Government and/or Council. Again, these offer goals, directions and actions that complement, or provide more detail, than those provided in the Hunter Regional Plan.

Several studies or strategies endorsed by Council that are relevant to planning in rural areas have described or otherwise recognised features for their scenic significance. These documents include, but are not limited to:

- Great Lakes Rural Living Strategy 2004<sup>99</sup>
- Greater Taree City Council Conservation and Development Strategy 2005<sup>100</sup>; and
- Gloucester Shire Council Local Environmental Study 2006<sup>101</sup>

All former Councils also had scenic protection zones applying through environmental planning instruments prior to the conversion to the Standard Instrument LEP. Studies completed to inform the application of these zonings would likely now be considered out of date and have not been identified to the consultant team.

A study identifying the scenic qualities and visual assessment criteria is recommended, to provide a basis for clear and consistent mapping of these areas across the MidCoast and incorporation into strategic planning and development assessment processes.

### 6.4.1 MidCoast 2030: Shared Vision, Shared Responsibility<sup>102</sup>

Within this Plan our community identified key values of the MidCoast: our unique, diverse and culturally rich communities; a connected community; our environment; our thriving and growing economy; strong leadership and shared vision.

Critically, we also recognised the importance of preserving and maintaining our rich natural environment within our vision of the MidCoast:

*Vision: We strive to be recognised as a place of unique environmental cultural significance.*

**Table 15. Scenic Landscape Goals and Actions from MidCoast 2030**

WE VALUE... our environment		
Where do we want to be?	How will we get there?	Who can help?
We protect maintain and restore our natural environment	Support the preservation and uniqueness of our history and cultural heritage in our towns, villages and significant places.  Ensure our natural assets are maintained to a standard appropriate to their use.	MidCoast Council NSW and Federal Government Volunteers Not for profit organisations Local Aboriginal groups and organisations

<sup>99</sup> Greater Taree Council (former) 2005

<sup>100</sup> Gloucester Shire Council (former) 2006

<sup>101</sup> Great Lakes Council (former) 2003

<sup>102</sup> <https://www.midcoast.nsw.gov.au/Council/Plans-and-reports>

		Education and training providers Chambers of Commerce and business community
How will we know we are on track?		
4 The community is satisfied with land use planning decisions		

### 6.4.2 MidCoast Destination Management Plan<sup>103</sup>

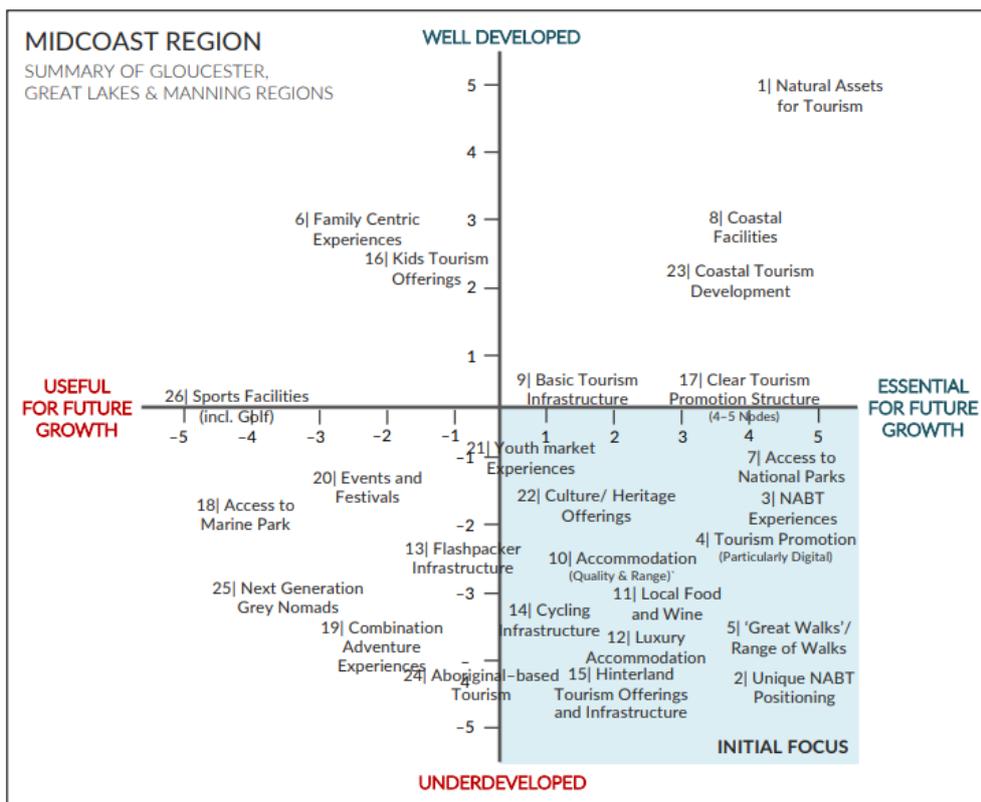
The MidCoast Regional Economic Development Strategy endorses the MidCoast Destination Management Plan (DMP) which has a clear vision that by 2030:

*MidCoast is renowned as a place where outstanding natural beauty meets vibrant country living, inspiring healthy and active lifestyles.*

Within the DMP it is acknowledged that MidCoast region has outstanding natural assets which may be leveraged to deliver on the growing market for nature and adventure-based tourism, including: The Gondwana Rainforests of Australia World Heritage Area, pristine lakes, rivers, RAMSAR wetlands and many national parks and State forests.

The DMP aims to enable a vibrant community and grow the visitor economy through addressing both supply and demand within the region, and where the environmental value of the land is recognised.

**Figure 26. MidCoast Tourism Gap Analysis from the Destination Management Plan**



<sup>103</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Tourism-Destination-Management-Plan>

This is demonstrated by the findings of the gap analysis undertaken as part of the DMP development program which illustrates under-developed tourism opportunities are significant in natural and associated rural, areas of the MidCoast.

The DMP went on to document a SWOT analysis and highlighted the importance of environmental assets as tourism attractions to residents and visitors:

**Table 16. MidCoast Destination Management Plan SWOT Analysis – Environmental Opportunity<sup>104</sup>**

STRENGTHS	OPPORTUNITIES
<p>Natural environment including world heritage listed national parks, wetlands of international significance, waterways, lakes and river systems</p> <p>Range of existing outdoor recreation and nature-based facilities and places</p> <p>Villages showcasing rural heritage, history and rural lifestyle</p>	<p>Strengthen relationships with potential partners to deliver new products and experience, such as NPWS and the Local Aboriginal Land Councils and private sector</p>
WEAKNESSES	CHALLENGES
<p>Maintenance required to some visitor infrastructure and facilities e.g. walking trails</p> <p>Limited resources for implementation of signature experiences</p>	<p>Growing demand during non-peak (low and shoulder) seasons and increasing regional dispersal</p> <p>Access to waterways e.g. rivers in the hinterland and easements across private land</p>

## 6.5 Environmental Planning Instruments and other regulatory considerations

Upon the gazettal of Standard Instrument LEP local governments lost the ability to maintain or rezone certain rural and environmental zones for scenic protection. As a result, each Council within the MidCoast, transitioned these areas into an environmental zone, with scenic objectives.

For example, Gloucester LEP 2000 included:

- 7(j) Environmental Protection (Scientific) Zone - which typically covered elevations above 600m, karst or geological formations with scenic qualities, such as The Bucketts ranges and Mount Mograni to the east and west of the Gloucester township respectively.
- 7(d) Environmental Protection (Scenic) Zone – was applied between these natural features and the township, to prevent undesirable development which would have the potential to compromise views.

In the Gloucester LEP 2010, these layers were replaced with the E2 Environmental Conservation and E3 Environmental Management Zones respectively.

<sup>104</sup> <https://www.midcoast.nsw.gov.au/Part-of-your-every-day/Council-Projects/Tourism-Destination-Management-Plan>

The environmental zones applied within the three LEPs to maintain links to the aesthetic and scenic quality of identified lands are provided below for context.

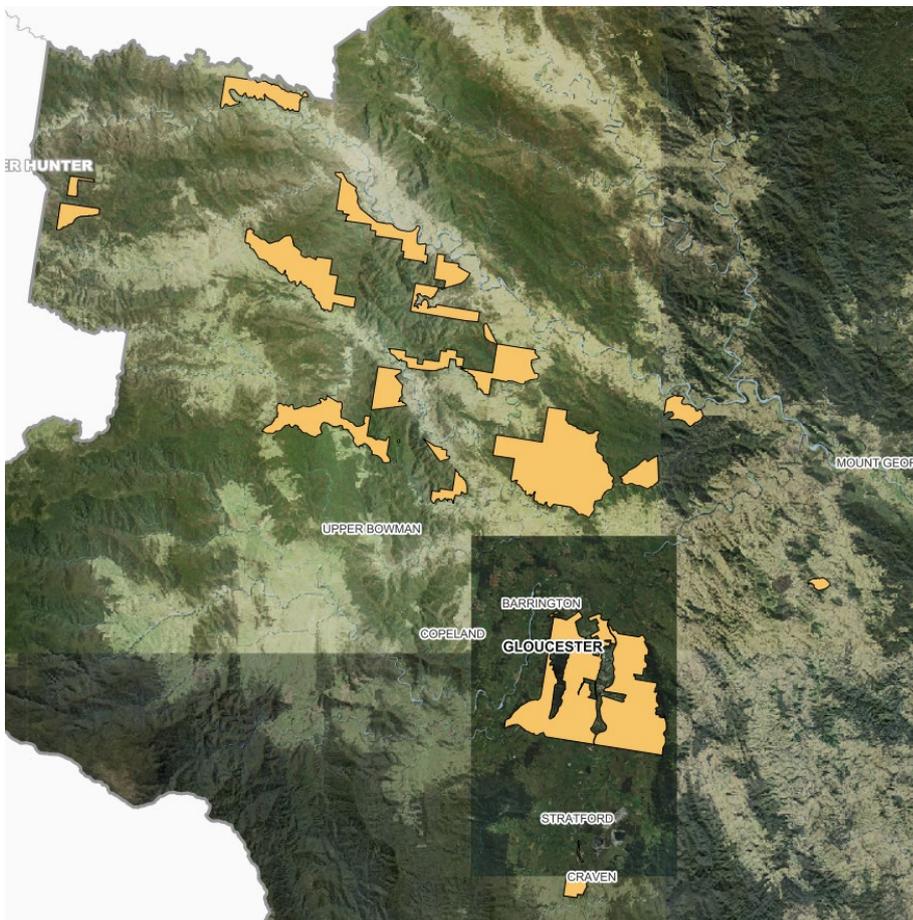
### ***Gloucester Local Environmental Plan 2010***

#### ***E3 Environmental Management***

##### ***1 Objectives of zone***

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To conserve biological diversity and native vegetation corridors, and their scenic qualities, in a rural setting.*

**Figure 27. Gloucester LEP 2010 - E3 Environmental Management Zone over aerial imagery**



### ***Great Lakes Local Environmental Plan 2014***

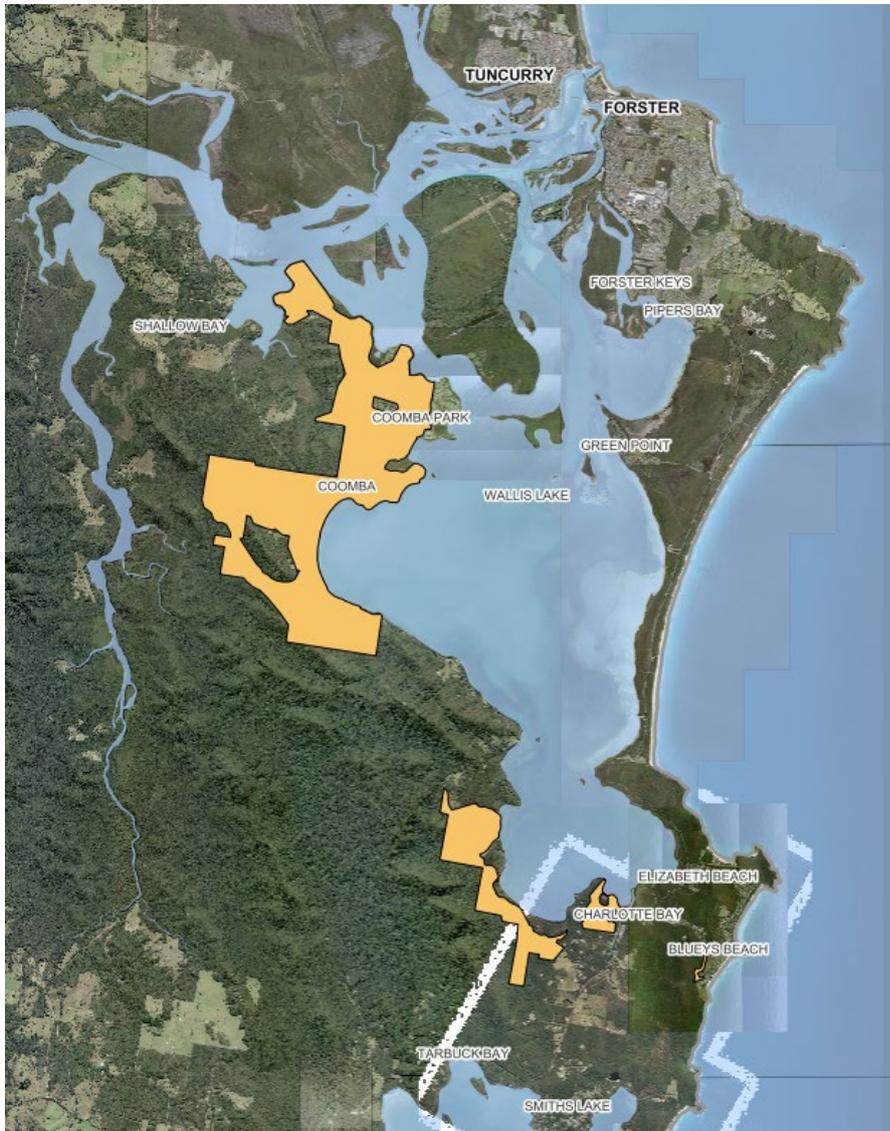
#### ***Zone E4 Environmental Living***

##### ***1 Objectives of zone***

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

- To provide for other types of low-impact development that complement and support residential development and do not have an adverse effect on the special ecological, scientific or aesthetic values of the land.

**Figure 28. Great Lakes LEP 2014 - E4 Environmental Living zone over aerial imagery**



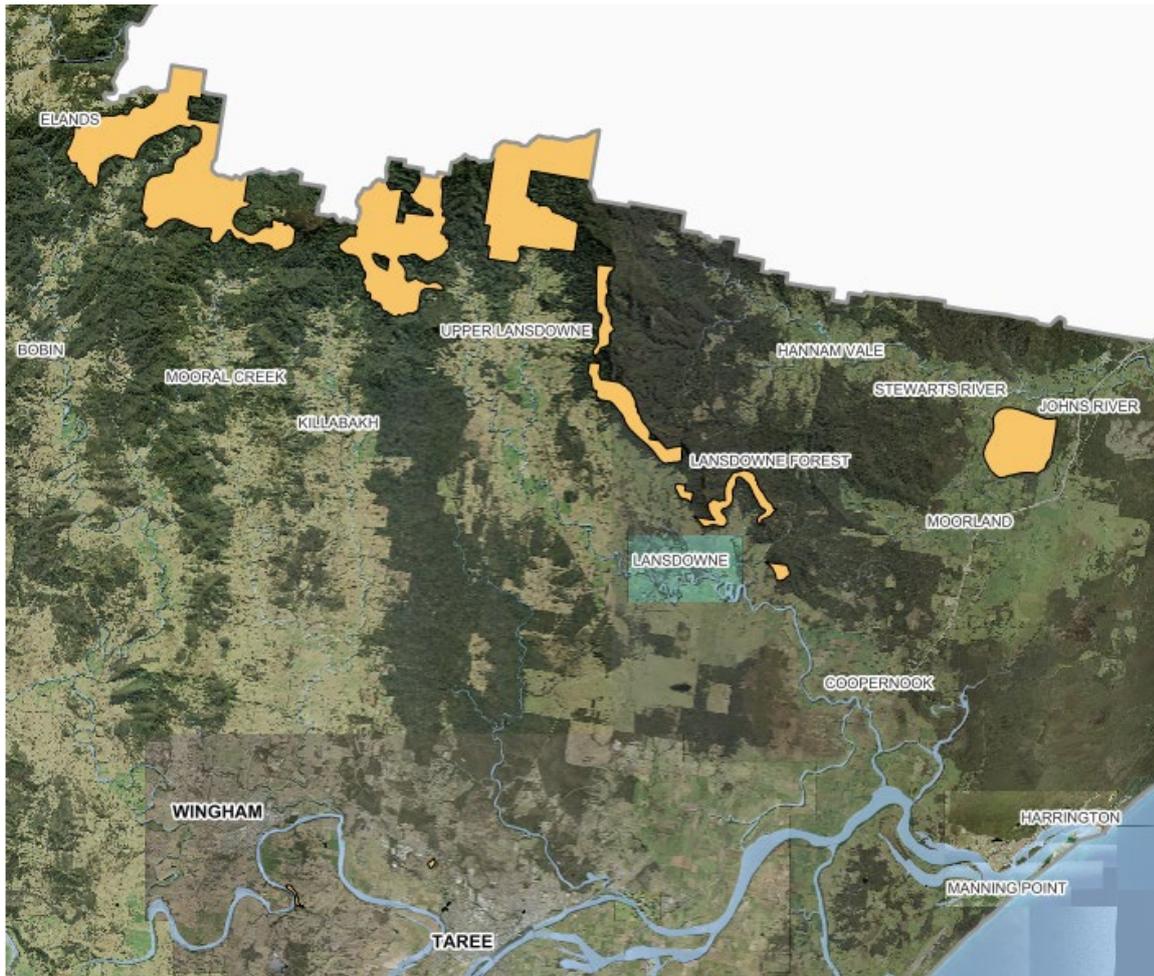
**Greater Taree Local Environmental Plan 2010**

**E3 Environmental Management**

**1 Objectives of zone**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.

Figure 29. Greater Taree LEP 2010 - E3 Environmental Management zone over aerial imagery



Throughout the MidCoast there is also commonality in that these environmentally zoned areas are characterised by their proximity to: national parks, state forests and other significant environmental features, including but not limited to steep lands and significant waterbodies, all of which contribute to the value of these rural and natural settings.

Subsequent to the gazettal of Gloucester LEP 2010, Great Lakes LEP 2014 and Greater Taree LEP 2010, a number of LEP's in New South Wales have successfully introduced mechanisms for scenic protection.

Within the Sydney area the provisions ensure that views to Sydney harbour and the headlands are maintained, through a foreshore scenic protection map: Manly LEP 2013<sup>105</sup>; Randwick LEP 2012<sup>106</sup>; Mossman LEP 2012<sup>107</sup>; and Draft Georges River LEP<sup>108</sup>;

The Hunters Hill LEP 2009<sup>109</sup> also includes a river front area map which preserves views to waterways.

The significance of these maps is in the recognition of “foreshores” and “riverfronts” as environmentally sensitive areas in local environmental plans and the Exempt & Complying

<sup>105</sup> <https://www.legislation.nsw.gov.au/#/view/EPI/2013/140/part6/cl6.9>

<sup>106</sup> <https://www.legislation.nsw.gov.au/#/view/EPI/2013/36/part6/cl6.7>

<sup>107</sup> <https://www.legislation.nsw.gov.au/#/view/EPI/2011/647/part6/cl6.4>

<sup>108</sup> Georges River Council 2020

<sup>109</sup> <https://legislation.nsw.gov.au/#/view/EPI/2013/34/part6/cl6.7>

Development SEPP, which exclude complying development within these scenic and visually significant locations.

Other plans of specific interest are those which provide protection for places of rural scenic and landscape value, including but not limited to the Blue Mountains LEP 2015, Shoalhaven LEP 2014 and Snowy River LEP 2013.

In particular, [Blue Mountains Local Environmental Plan 2015](#) provides for the protection of areas of scenic and landscape value both for the significant escarpments in that region but also crucially for the area between towns. These provisions are not only closely linked with the ecological and visual significance of areas adjoining the National Park, but the potential impact of development across this landscape:

### **6.12 Protected area—escarpment**

(1) *The objectives of this clause are as follows—*

- (a) to preserve and enhance the visual, cultural and ecological values of the escarpment systems in the Blue Mountains,*
- (b) to restrict development, including buildings, alterations and vegetation clearing, so as to minimise any adverse impact on the perception of escarpments as significant natural features,*
- (c) to limit the proportion of hard surfaces in close proximity to escarpment systems,*
- (d) to ensure that the design and siting of development minimises any adverse environmental impact,*
- (e) to encourage the retention, restoration and maintenance of areas of disturbed native vegetation.*

(2) *This clause applies to land identified as “Protected Area—Escarpment” on the [Scenic and Landscape Values Map](#).*

(3) *Development consent must not be granted to development on land to which this clause applies that requires the clearing of native vegetation unless the consent authority is satisfied that—*

- (a) the development will not have any adverse impact on the ecological or scenic values of the escarpment system, and*
- (b) all existing native vegetation situated outside the land required for the development will be retained and appropriate measures will be incorporated to facilitate the maintenance of such vegetation, and*
- (c) the development will incorporate measures to regenerate any native vegetation that has been cleared from land to which this clause applies that does not form part of the site of any existing or proposed development, and*
- (d) the development will be designed and sited to respond sympathetically to the landform of which it will form a part, and*
- (e) no part of the development will protrude above any adjacent buildings or the existing vegetation canopy surrounding the site area, and*
- (f) the development will not visually disrupt the skyline by protruding above the ridgeline within or behind the site, and*
- (g) the development will use unobtrusive and non-reflective materials to blend structures into the natural environment, and*
- (h) the development will incorporate appropriate measures to minimise the reflection of sunlight from glazed surfaces.*

### **6.13 Protected area—land between towns**

- (1) *The objectives of this clause are as follows—*
  - (a) *to identify and maintain land between towns with particular scenic value viewed from the Great Western Highway or other public places,*
  - (b) *to conserve the natural bushland character of land that separates the villages of the Blue Mountains,*
  - (c) *to ensure that development is sited and designed to minimise any adverse visual impact.*
- (2) *This clause applies to land identified as “Protected Area—Land between towns” on the [Scenic and Landscape Values Map](#).*
- (3) *Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development—*
  - (a) *incorporates appropriate measures to minimise any adverse visual impact on the landscape, and*
  - (b) *will be screened from view from the Great Western Highway and other public places by existing vegetation or by planting indigenous vegetation.*

At the alternative end, the broad-ranging attributes of scenic landscapes in the Shoalhaven have also been afforded protection and consideration in assessment through the [Shoalhaven Local Environmental Plan 2014](#) mapping and clause:

### **7.8 Scenic protection**

- (1) *The objective of this clause is to protect the natural environmental and scenic amenity of land that is of high scenic value.*
- (2) *This clause applies to land identified as “Scenic Protection” on the [Scenic Protection Area Map](#).*
- (3) *In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must—*
  - (a) *consider the visual impact of the development when viewed from a public place and be satisfied that the development will involve the taking of measures that will minimise any detrimental visual impact, and*
  - (b) *consider the number, type and location of existing trees and shrubs that are to be retained and the extent of landscaping to be carried out on the site, and*
  - (c) *consider the siting of the proposed buildings.*

## 7 Northern Councils Environmental Zone Review

During the transition of local environmental plans into the Standard Instrument Principal Local Environmental Plan (2006) several Council's in northern NSW proposed the rezoning extensive areas of rural land to an environmental zone.

This prompted a review of the application of environmental zones within these jurisdictions and recommendations for the rezoning of land to ensure consistency: in the process; that the zoning reflected the primary use of the land; and the land had attributes that reflected the E2 Environmental Conservation or E3 Environmental Management zone criteria<sup>110</sup>.

The review resulted in the [Northern Councils E Zone Review Final Recommendations Report](#) and introduction of a new Ministerial Direction:

- **Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.** The Direction does not directly apply to the MidCoast LGA at this time, however it is considered appropriate to consider the content and recommendations of this Direction in formulating the approach to zoning environmental lands within the MidCoast. In particular, the objective of ensuring 'a *balanced and consistent approach is taken when applying environmental protection zones and overlays to land*' and 'any associated clause'.

The final recommendations of the report, which inform application and consideration of the Direction are reproduced in full, given the extent of significant conservation lands (biodiversity, cultural and scenic) across the MidCoast and critical need to establish a clear and consistent approach to rezoning land for environmental purposes:

### 1 When will E zones be applied?

- *E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone (Tables 1 and 2).*
- *An E4 zone can be applied if the land contains attributes that are consistent with the Department's Practice Note [PN09-002 Environment Protection Zones](#).*

### 2 How will the primary use of the land be determined?

- *The primary use of the land is the main use for which the land has been used for the last two (2) years. This may mean that land which is currently zoned rural will continue to have a rural zone but it may have parts of that land which have attributes that meet the criteria for an E2 or E3 zone included in a mapped planning control.*
- *The primary use of the land may vary across a particular property depending on the characteristics of the land. This may result in more than one zone being applied to the land.*
- *The primary use of land will be identified during the preparation of a planning proposal.*

### 3 What are the E zone Criteria?

- *The land proposed to be zoned E2 or E3 must contain one or more of the criteria listed in Tables 1 and 2.*

### 4 What is the procedure for applying an E2 or E3 zone to land?

<sup>110</sup> <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/northern-councils-e-zone-review-final-recommendations-report-2015-10-20>

- Councils will assess land against the E zone criteria and consider the primary use of the land before proposing an E2 or E3 zone.
- An E2 or E3 zone can only be applied to land with a primary use of environmental conservation or environmental management and, which has attributes that have been verified to meet the E zone criteria.
- If the land has attributes that meet the E2 criteria, however the primary use of the land is environmental management rather than environmental conservation, a council may apply an E3 zone.
- If a council believes the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.
- The E zones will not include buffers to the vegetation attributes that meet the E zone criteria.

**Table 17. Environmental Zone Review - E2 Environmental Conservation Zone Criteria**

Criteria	Description
SEPP 26 Littoral Rainforests (superseded).	<p>Land mapped as littoral rainforest in accordance with the state-wide policy for littoral rainforest protection (State Environmental Planning Policy 26 – Littoral Rainforests).</p> <p>Littoral Rainforests as identified by <a href="#">SEPP Coastal Management 2018</a></p>
SEPP 14 Coastal Wetlands (superseded).	<p>Land mapped as coastal wetlands in accordance with the state-wide policy for coastal wetland protection (State Environmental Planning Policy 14 – Coastal Wetlands).</p> <p>Coastal Wetlands as identified by <a href="#">SEPP Coastal Management 2018</a></p>
<p>Endangered Ecological Communities (EECs) listed the Threatened Species Conservation (TSC) Act 1995 (superseded) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBCA)</p> <p>Note: provisions of the TSC Act now incorporated into <a href="#">Biodiversity Conservation Act 2016</a></p>	<p>Land containing vegetation communities listed as Endangered Ecological Communities under the Threatened Species Conservation Act 1995 (TSC)<sup>111</sup> and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC)<sup>112</sup></p> <p>The Far North Coast Regional Conservation Plan<sup>113</sup> lists the following vegetation communities as examples of EECs that currently exist on the Far North Coast:</p> <p>Byron Bay Dwarf Graminoid Heath Community, Coastal Cypress Pine Forest, Coastal Saltmarsh, Freshwater Wetlands in Coastal Floodplains, Littoral Rainforest, Lowland Rainforest, Lowland Rainforest on Floodplains, Subtropical Coastal Floodplain Forest, Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest on Coastal Floodplains, Themeda grassland on Seacliffs and Coastal Headlands, White Gum Yellow Gum Blakely's Red Gum Woodland, and White Gum Moist Forest.</p> <p>Other vegetation communities may be added consistent with these Acts in the future.</p>

<sup>111</sup> <http://www.environment.gov.au/biodiversity/>

<sup>112</sup> <https://www.environment.nsw.gov.au/>

<sup>113</sup> Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p24

<i>Key Threatened Species Habitat</i>	<p><i>This criterion includes:</i></p> <ul style="list-style-type: none"> <li>• <i>old-growth forests where the over-storey or canopy trees are in the late mature stage of growth<sup>114</sup>;</i></li> <li>• <i>areas of predicted high conservation value for forest fauna assemblages, refugia, endemic forest fauna or endemic invertebrates<sup>115</sup>, and</i></li> <li>• <i>habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present<sup>116</sup>.</i></li> </ul>
<i>Over-cleared vegetation communities.</i>	<p><i>Land comprising:</i></p> <ol style="list-style-type: none"> <li><i>1. over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared<sup>117</sup> and</i></li> <li><i>2. native vegetation in over-cleared Mitchell landscapes<sup>118</sup>.</i></li> </ol> <p><i>The Far North Coast Regional Conservation Plan lists the following as examples of:</i></p> <ul style="list-style-type: none"> <li>• <i>Over-cleared vegetation communities on the Far North Coast<sup>119</sup>: Rainforests, Wet sclerophyll forests (shrubby and grassy subformations), Dry sclerophyll forests (shrubby and shrub/grass subformations), Grassy woodlands, Grasslands (Themeda australis sod tussock), Heathlands, Forested wetlands, Freshwater wetlands, Saline wetlands; and</i></li> <li>• <i>Over-cleared Mitchell landscapes: Byron–Tweed Alluvial Plains, Byron–Tweed Coastal Barriers, Clarence–Richmond Alluvial Plains and Upper Clarence Channels and Floodplains</i></li> </ul>
<i>Culturally significant lands.</i>	<i>Areas of culturally significant lands such as Aboriginal object sites, Aboriginal places of heritage significance, and other significant objects identified by the local Aboriginal community<sup>120</sup>.</i>

**Table 18. Environmental Zone Review - E3 Environmental Management Zone Criteria**

<b>Criteria</b>	<b>Description</b>
<i>Riparian and estuarine vegetation and wetlands.</i>	<p><i>Land comprising riparian and estuarine vegetation on waterfront land, defined under the NSW Water Management Act 2000, or wetland areas other than those mapped as SEPP 14 Coastal Wetlands.</i></p> <p><i>Waterfront land is defined under the NSW Water Management Act 2000 as the bed of any river, lake or estuary and any land within 40</i></p>

<sup>114</sup> <http://www.epa.nsw.gov.au/resources/pnf/OGRFreviewFieldIdent.pdf>

<sup>115</sup> Key Habitats and Corridors for Forest Fauna, Scotts, 2003

<sup>116</sup> NSW Office of Environment and Heritage 'Threatened Species Profiles Database' <http://www.bionet.nsw.gov.au/>

<sup>117</sup> Ocean Shores to Desert Dunes, Keith 2006

<sup>118</sup> NSW Ecosystems Study: Background and Methodology, Mitchell 2002

<sup>119</sup> Far North Coast Regional Conservation Plan, NSW Environment Climate Change and Water, 2010, p26

<sup>120</sup> Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011)

	<i>metres of the river banks, lake shore or estuary mean high water mark.</i>
<i>Rare, Endangered and Vulnerable Forest Ecosystems.</i>	<i>Land comprising areas of rare, endangered and vulnerable forest ecosystems as defined by the Joint ANZEC/MCFFA National Forest Policy Statement Implementation sub-committee (JANIS) (Commonwealth of Australia 1997)<sup>121</sup>.</i>
<i>Native vegetation on coastal foreshores.</i>	<i>Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform.</i>

### **5 How is the E zone criteria verified?**

- *An E2 or E3 zone or other mapped planning controls cannot be applied to land unless the attributes that meet the E2 or E3 criteria have been verified on that land.*
- *Verification of the presence of attributes that meet the E2 or E3 criteria on the site must be undertaken by one or a combination of the following:*
  - *biodiversity field inspections and ground surveys conducted by an appropriately qualified person.*
  - *Aboriginal heritage field inspections and ground surveys conducted by an appropriately qualified person or someone with extensive field experience and in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW, NSW Department of Environment, Climate Change & Water (2010).*
  - *supporting flora and fauna reports conducted by a suitably qualified person and guided by the Draft Framework for Biodiversity Assessment, NSW Office of Environment and Heritage (2014) and the Draft Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities, NSW Department of Environment and Conservation (2004). Such reports will only be acceptable where the field work is not more than five years old.*
  - *review of current (not more than five years old) high resolution digital aerial photography that has been verified by another one of these verification techniques.*
  - *supporting cultural heritage reports conducted by a suitably qualified person and in accordance with a Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011).*
  - *consultation with Aboriginal cultural knowledge holders in regard to culturally significant lands in accordance with a Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011).*

<sup>121</sup> <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/northern-councils-e-zone-review-final-recommendations-report-2015-10-20>

## 8 Recommended Planning Framework

### 8.1 Identifying and planning for biodiversity

The NSW Government generally supports implementation of environmental zones consistent with the recommendations of the [Northern Councils E Zone Review Final Recommendations Report](#) and Ministerial Direction:

- **Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.** The Direction does not directly apply to the MidCoast LGA at this time, however it is considered appropriate to consider the content and recommendations of this Direction in formulating the approach to zoning environmental lands within the MidCoast. In particular, the objective of ensuring ‘a *balanced and consistent approach is taken when applying environmental protection zones and overlays to land*’ and ‘*any associated clause*’.

The final recommendations of the report, which inform application and consideration of the Direction provide specific evidence-based guidance on the identification and planning for biodiversity.

Within the MidCoast this process will require a mixture of:

- retention of land that is already identified within an environmental zone in an existing LEP;
- updating areas identified as significant in terms of biodiversity or ecological value within a SEPP; and
- validation of additional areas based on relevance and currency of studies, data and agreements.

In this regard the procedure for applying an E2 Environmental Conservation or E3 Environmental Management zone will closely follow the Report Recommendations:

- *Councils will consider the primary use of the land before proposing an E2 or E3 zone.*
- *An E2 or E3 zone can only be applied to land which has attributes that have been verified to meet the E zone criteria.*
- *If the primary use of the land does not warrant an E zone, and the land meets the E zone criteria, then a LEP Map and associated clauses can be applied.*
- *E zones will not include buffers to the vegetation attributes that meet the E zone criteria.*

**Table 19. Recommended E2 Environmental Conservation Zone Criteria**

Criteria	Description
Littoral Rainforests	Land mapped as littoral rainforest by <a href="#">SEPP Coastal Management 2018</a>
Coastal Wetlands	Land mapped as coastal wetlands by <a href="#">SEPP Coastal Management 2018</a>
Endangered Ecological Communities Threatened Species	Land identified in local and/or site specific studies undertaken within the last 5yrs, as containing vegetation communities listed as Endangered Ecological Communities under the

	Threatened Species Conservation Act 1995 (TSC) <sup>122</sup> and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC) <sup>123</sup>
Key Threatened Species Habitat	Land identified in local and/or site specific studies undertaken within the last 5yrs, as containing:  Old-growth forests where the over-storey or canopy trees are in the late mature stage of growth <sup>124</sup> ;  Areas of predicted high conservation value for forest fauna assemblages, refugia, endemic forest fauna or endemic invertebrates <sup>125</sup> , and  Habitats for threatened species or endangered populations that cannot withstand further loss where the threatened species or endangered population is present <sup>126</sup> .
Over-cleared vegetation communities.	Land identified in local and/or site specific studies undertaken within the last 5yrs, as containing:  Over-cleared vegetation communities, where more than 70% of the original (pre 1750) extent of the native vegetation type has been cleared <sup>127</sup> and  Native vegetation in over-cleared Mitchell landscapes <sup>128</sup> .
Culturally significant lands.	Land identified in local and/or site specific studies undertaken within the last 5yrs, as containing:  Areas of culturally significant lands such as Aboriginal object sites, Aboriginal places of heritage significance, and other significant objects identified by the local Aboriginal community <sup>129</sup> .
Land subject to a conservation agreement	Lands subject to an existing conservation agreement, court required restoration/rehabilitation site, biodiversity stewardship, bio-certification off-set, development off-set, native vegetation clearing set-aside, wildlife refuge or similar, that is either registered on title or identified on a public register and reported on a planning certificate.

**Table 20. Recommended E3 Environmental Management Zone Criteria**

Criteria	Description
Riparian and estuarine vegetation and wetlands.	Land comprising riparian and estuarine vegetation on waterfront land, defined under the NSW Water Management Act 2000, or wetland areas other than those mapped as coastal wetlands by <a href="#">SEPP Coastal Management 2018</a> .

<sup>122</sup> <http://www.environment.gov.au/biodiversity/>

<sup>123</sup> <https://www.environment.nsw.gov.au/>

<sup>124</sup> <http://www.epa.nsw.gov.au/resources/pnf/OGRFreviewFieldIdent.pdf>

<sup>125</sup> Key Habitats and Corridors for Forest Fauna, Scotts, 2003

<sup>126</sup> NSW Office of Environment and Heritage 'Threatened Species Profiles Database' <http://www.bionet.nsw.gov.au/>

<sup>127</sup> Ocean Shores to Desert Dunes, Keith 2006

<sup>128</sup> NSW Ecosystems Study: Background and Methodology, Mitchell 2002

<sup>129</sup> Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW, NSW Department of Environment, Climate Change & Water (2011)

	This should be undertaken as a priority where these lands are held in public ownership. The rezoning of private lands should be undertaken only with the consent of the landowner.
Rare, Endangered and Vulnerable Forest Ecosystems.	Land identified in local and/or site specific studies undertaken within the last 5yrs, as containing areas of rare, endangered and vulnerable forest ecosystems as defined by the Joint ANZEC/MCFFA National Forest Policy Statement Implementation sub-committee (JANIS) (Commonwealth of Australia 1997) <sup>130</sup> .
Native vegetation on coastal foreshores.	Native vegetation on land with frontage, or adjoining or adjacent to, a beach, estuary, coastal lake, headland, cliff or rock platform. Where this vegetation is not identified as littoral rainforest by <a href="#">SEPP Coastal Management 2018</a> .
Land subject to a property vegetation plan for conservation	Lands subject to an existing property vegetation plan for conservation, restoration, rehabilitation or similar, that is either registered on title or identified on a public register and reported on a planning certificate.

## 8.2 Identifying and planning for cultural heritage

The framework for identifying and planning for cultural heritage across the MidCoast represents a significant environmental, cultural, social and economic opportunity to be realised.

In this regard, previous Council-endorsed actions to undertake further studies and investigations to identify heritage values, including Aboriginal cultural heritage values do not appear to have been actioned to date.

It is noted however, that while previous studies are focussed on protection and conservation, there are new opportunities available to Council and Local Aboriginal Land Councils to investigate opportunities made available by the [State Environmental Planning Policy \(Aboriginal Land\) 2019](#), to implement for example, cultural heritage orientated and appropriate “game changer” projects nominated within the MidCoast Tourism Destination Plan.

## 8.3 Identifying and planning for scenic landscapes

There are historic similarities in the identification of scenic landscapes by their proximity to: national parks, state forests and other significant environmental features, including but not limited to steep lands and significant waterbodies, all of which contribute to the value of these rural and natural settings.

A study identifying the scenic qualities and visual assessment criteria is therefore recommended, to provide a basis for clear and consistent mapping of these areas across the MidCoast and incorporation into strategic planning and development assessment processes.

Given the recommendations of the E-Zones Report, the re-instating of historic scenic protection mapping is not supported until such time as these studies have been completed. However, with improved LIDAR, a steep lands map layer should be produced and

<sup>130</sup> <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/northern-councils-e-zone-review-final-recommendations-report-2015-10-20>

incorporated into the planning instrument, so the scenic and environmental value of these lands can be considered within the development assessment framework.

A framework similar to that of Blue Mountains Local Environmental Plan 2015 is recommended as it provides for the protection of areas of scenic and landscape value between towns; recognises the ecological and visual significance of areas adjoining the National Park; and the potential impact of development across the landscape.

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