

9 July 2024

Jazmin Van Veen
Director Metro North, East and Central Coast
Department of Planning, Housing and Infrastructure
Jazmin.VanVeen@planning.nsw.gov.au

Our Ref: 2024/408874

Dear Jazmin

CONSERVATION ZONES PILOT PROJECT

You may recall that the Department provided its final advice to Council on Council's Conservation Zones Review 20 November, 2023 (Appendix 1).

Council used that advice to amend its methodology/ criteria used for the Conservation Zones Review and subsequently for the determination of Conservation Zones in the Planning Proposal for the new Northern Beaches LEP which has recently been submitted to the Department for a Gateway Determination via the Planning Portal.

Please find attached Council's formal response to the matters raised in the Department's correspondence (Appendix 2). Whilst the attachment does not form part of Council's Planning Proposal, I believe it helps to explain the decisions we have made and will assist in the Department's consideration of the Planning Proposal.

Please feel free to contact me to discuss any of the contents of the attachment.

Regards



Neil Cocks

Acting Executive Manager, Strategic and Place Planning

Appendix 1 – Department's final advice on Conservation Zones Review (including Attachments 1 and 2)

Appendix 2- Detailed Response to DPHI Advice on Conservation Zones



Department of Planning and Environment

IRF23/2361

Mr Scott Phillips
Chief Executive Officer
Northern Beaches Council
PO Box 82
MANLY NSW 1630

Attention: Ms Louise Kerr, Director Planning and Place

Dear Mr Phillips

CONSERVATION ZONES PILOT PROJECT AND HOUSING DIVERSITY AREAS

I appreciate Council’s efforts to resolve the preparation of the Northern Beaches Local Environment Plan (LEP) and would like to acknowledge the collaboration between Council and the Department in working towards this outcome.

In order to resolve two of the key issues for the LEP, the following advice is provided in relation to complete the conservation zones pilot project and, provide clear direction on Council’s proposed Housing Diversity Areas. Feedback addressing other matters for will be provided separately.

Conservation Zones Pilot Project

I acknowledge Council’s approach to apply a consistent application of conservation zones (C zones) across the Northern Beaches Local Government Area (LGA). I note a series of meetings that took place between the Department and Council earlier this year as part of the pilot project and at those meetings feedback was provided to council in relation to a number of aspects of the pilot. The Department’s final position in relation to these issues is outlined below.

Hazard criteria as a primary determinant of conservation zones

Current Department practice is to apply conservation zoning to land that predominantly contains higher order environmental values and natural qualities.

Council’s proposed approach to conservation zoning relies on the LEP Practice Note PN 09-002 Environmental Protection Zones (the practice note) which provides guidance on how the C zones should be applied in the preparation of LEPs. The Practice Note establishes that C zones should only be applied where the protection of the environmental significance of the land is the primary consideration.

The Practice Note has not been adequately addressed by Council in developing the approach to C zones in the Northern Beaches. Council has used the hazard criteria as the primary determinant of C zones, with the aim to prohibit development in these areas, rather than demonstrate that the environmental significance of the land is the primary consideration.

It is understood that many of the environmental values proposed to inform C zones in the Northern Beaches are also proposed to form an LEP overlay and have associated assessment requirements (LEP and DCP clauses). The use of overlays and LEP provisions

Appendix 1 – Department’s final advice on Conservation Zones Review (including Attachments 1 and 2)

is supported as this provides for site-specific merit-based assessment and will ensure future development on any land containing these values undertakes the necessary environmental assessment in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Scenic value as a primary determinant of conservation zones

Council proposes to expand the application of its Foreshore Scenic Protection Area (FSPA), beyond its current use under Manly LEP 2013, and apply this as a medium value criterion to inform a conservation zone.

While guidance within the practice note includes the consideration of scenic values, the environmental significance of the land remains the primary consideration. The Department does not agree that aesthetic values alone hold ecological significance, nor does a FSPA establish that environmental capabilities are the primary concern. Residential land with foreshore views does not necessarily require protection through a FSPA.

The Department provides general support for Council to retain its existing conservation zones as they apply to the Pittwater area. However, the expansion of the FSPA beyond its current use under Manly LEP 2013 is not supported.

Environmental criteria used to justify conservation zones

Conservation zoned land is required to align with conservation objectives, including preventing development that could destroy areas of high ecological, scientific and cultural value. The Department is supportive of conservation zoning in areas where these values exist, however, some of Council’s proposed environmental criteria are do not justify conservation zoning.

A detailed analysis of Council’s framework, including its environmental criteria, thresholds and weighting is attached to this letter (**Attachment 1**).

Council is required to amend its methodology

Relevant policy reforms are anticipated in response to both the NSW Flood Inquiry 2022 and the NSW Bushfire Inquiry 2020., Until policy reform is progressed, current practice requires demonstration that the environmental significance of the land is the primary consideration when applying C zones.

Council is required to consider the advice provided regarding the rezoning of land to a conservation zone. This will include removing hazards and aesthetic values from Council’s methodology, removing unsupported environmental criteria and providing a comprehensive response to the comments from EHG (**Attachment 2**).

Council is also advised to provide an up-to-date evidence base and ensure that all technical reports and associated mapping products are specifically prepared to inform the proposed C zones. The verification requirements established in the Northern Councils E Zone Review - Final Recommendations should be applied to any studies undertaken by Council. This includes requirements for site inspections, rapid vegetation survey and map refinement.

Housing diversity areas provide an opportunity to unlock more homes in appropriate locations

Housing Diversity Areas (HDAs) were included in Council’s Local Housing Strategy (LHS) in 2021. The Department supports the approach of targeting centres to achieve housing diversity and acknowledges that Council’s approach will deliver approximately 198 additional dwellings in local centres.

Existing strategic housing plans did not anticipate the scale of the national housing crisis we now face, as outlined the Minister’s recent correspondence to all NSW Councils, emphasising the collective effort required to deliver 377,000 homes across the state by 2029. Council’s

HDA's provide an opportunity to unlock housing in well serviced locations across the Northern Beaches LGA.

The approach in Council's LHS risks locking in low density growth patterns over the longer term. Dual occupancy and boarding houses are a low-density form of housing and the Northern Beaches LEP should unify permissibility of these land uses in the R2 zone across the LGA.

Council should also consider other forms of low-rise diverse housing, such as terraces and multi-dwelling housing in well located R2 zones. In areas located close to larger and better serviced centres, Council needs to consider amending its housing strategy to permit housing types that can deliver more dwellings like small residential flat buildings and apply appropriate zones. Strategic land use and zoning changes would negate the reliance on additional permitted uses within centres for the implementation of Council's LHS.

The Department remains committed to working with Council to finalise the Northern Beaches LEP, including the amendments to the C zones methodology and improving housing diversity outcomes for the LGA.

If you have further questions on this process please contact Mr Brendan Metcalfe, Director, North District on 98601442.

Yours sincerely,



20 November 2023

Leah Schramm

**Acting Executive Director, Metro Central and North
Department of Planning and Environment**

Enclosed

1. Environment and Heritage Group comments on Environmental Criteria
2. Environmental Criteria discussion table

Department Letter Attachment 1 - Environmental Criteria

Environmental Criteria and Council’s Framework for Conservation Zones

The Department supports conservation zoning in areas where the primary objective is the conservation and/or management of environmental values, and where there has been ground truth investigation of the land to be rezoned.

If the environmental attributes have not been verified, then an LEP overlay may be more appropriate, and the existing zone or equivalent should be retained. Council should consider this advice together with comments received from Environment and Heritage Group (EHG) on each criterion.

Environmental Values

As shown in Table 1 below, the Department supports the use of some environmental criteria proposed by Northern Beaches Council to apply conservation zones (these are supported in the table below). Some criteria are not supported for this purpose.

For example, attributes such as Biodiversity Corridors and Tree Canopy in urban areas may diminish on a site naturally over time, regardless of land zoning. The creation of legacy issues where sites are zoned for conservation values now that may not be present in the future are to be avoided.

There is also concern about the inclusion of buffer areas, tree canopy and wildlife corridors in C Zones. These environmental values are dynamic in nature and should be further considered in the context of the proposed rezoning. For example, attributes such as biodiversity corridors and tree canopy in urban areas will change on a site naturally over time, regardless of development intensity.

The table below contains each of Council's environmental criteria, a recommended path forward and the Department's justification.

Table 1 – Environmental Criteria for Conservation Zone decisions.

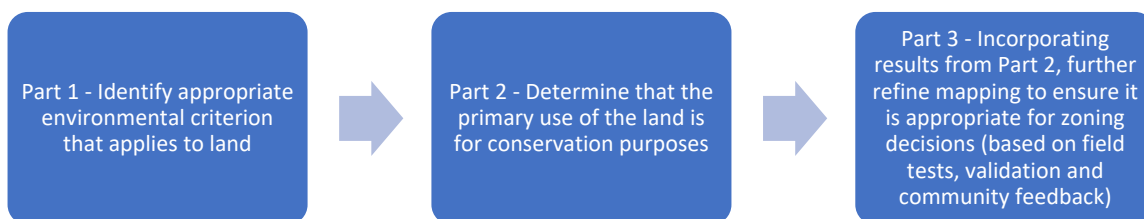
| NBC – Environmental Criteria Recommendations | | |
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| Criterion | Recommendation | Consolidated DPE Comments |
| Conservation Mechanism (inc. lands with bio-certification agreements, stewardship agreements, conservation covenants or court approval requirements. High Environmental Value (HEV) | Supported for C2 | This is a valid consideration to inform conservation zoning decisions. Further queries from the Department’s Environment and Heritage Group (EHG) are attached to this letter. |
| Bushland Parks and Reserves and/or Natural Open Space (HEV) | Supported for RE1 or C2 | This is a valid consideration to inform conservation zoning decisions. Council should ensure that any rezoning does not impact the recreational activities of RE1 land, and that ancillary development can still be carried out (for example: toilet structures on existing RE1 land) |
| Riparian Corridors Cat 1 and Cat 2 (HEV) | Supported for both C3 Non-urban and C4. | This is a valid consideration to inform conservation zoning decisions, however application of zoning to buffer areas is not supported. Land with no |

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| | | <p>conservation value is unable to be rezoned to a conservation zone.</p> <p>Further queries from the Department's Environment and Heritage Group (EHG) are attached to this letter.</p> |
| Wetland Area (HEV) | Supported for both C3 Non-urban and C4. | <p>This is a valid consideration to inform conservation zoning decisions.</p> <p>Land with no conservation value on site is unable to be rezoned to a conservation zone.</p> <p>Council is required to confirm that a buffer has not been used to inform zoning decisions.</p> |
| Biodiversity Core Habitat (HEV) | Supported for both C3 Non-urban and C4. | <p>In principle support, however there are concerns that the mapping provided has been prepared to inform overlays and that some land is cleared or developed. This may mean the validation and data used is not currently refined to the point where it is appropriate to make zoning decisions, and land without conservation value may be included. The Department will not support conservation zones for land where there is no conservation value.</p> <p>Further concerns from the Department's Environment and Heritage Group (EHG) are attached to this letter.</p> |
| Deferred lands Biodiversity (High and Very High) (HEV) | Partial Support for C3 non-urban land. | <p>In principle support is given, however there are concerns that areas adjoining national parks and threatened species do not contain conservation values.</p> <p>The Department does not support the rezoning of land that is buffering areas of environmental significance, as these areas do not contain environmental conservation values. The intent to manage the buffer to significant land can still be achieved without rezoning.</p> <p>Further concerns from the Department's Environment and Heritage Group (EHG) are attached to this letter.</p> |
| Threatened Ecological Communities (HEV) | Partial Support for C3 non-urban and C4. | <p>In principle support is given, however clarification around the use of buffers is required.</p> <p>It is also evident that this may be better utilised in a planning overlay as protection of these communities is likely to be provided for under the NSW Biodiversity Conservation Act and the Environment Protection and Biodiversity Conservation Act 1999.</p> <p>Council is required to justify why these should be included in the LEP to inform rezoning. i.e. What are the acts mentioned above not doing that a rezoning can do better.</p> |
| Existing C2 Environmental Conservation Zones (HEV) | Support | <p>The Department supports the retention and translation of existing C2 zones throughout the LGA.</p> |

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| Threatened Species – Selected (HEV) | Partial Support for C3 non-urban and C4. | <p>In principle support is given, however there are concerns over the selective nature of this criterion.</p> <p>Not clear why other species were not selected and would need further evidence as to how this would be translated to a standard approach. This would be better suited as a planning overlay.</p> |
| Heritage Conservation Areas (HEV) | Unsupported | <p>The existence of a heritage conservation area should not inform conservation zoning decisions.</p> <p>There are also multiple mechanisms within the standard instrument that consider the impact development may have on heritage significance.</p> |
| Transition Areas (HEV) | Unsupported | <p>It is highly unlikely that land adjoining waterways, reserves etc contains conservation values on site that support conservation zones.</p> <p>Council has not justified the appropriateness of this criterion to inform land zoning decisions, specifically how they enhance or protect adjoining areas. To rezone land to conservation without the land having conservation value is not supported. The intent of Council to buffer land can still be achieved without rezoning.</p> <p>There may be merit in proceeding with this criterion as an LEP overlay, however at this stage no appropriate justification has been provided.</p> |
| Biodiversity Corridor and Urban Tree Canopy (MEV) | Unsupported | <p>There is no evidence to suggest that this land primarily contains conservation value beyond what would be mapped as threatened ecological communities or covered under other environmental values.</p> <p>Ensuring connectivity is important, however is not a valid reason to support a rezoning decision. The Department would support this as an overlay to consider development impacts on the retention of trees and connectivity to significant vegetation.</p> <p><u>Tree Canopy</u> It is unlikely that land within this criterion would contain conservation values at a level to suitably inform conservation zoning decisions.</p> <p>A planning overlay would more suitably capture the intent of Council without rezoning land.</p> |
| Geotech Planning (Class C3 Hawkesbury and C5 Narrabeen) (MEV) | Unsupported | <p>Using this criterion/hazard to inform zoning decisions is not appropriate.</p> <p>There are existing provisions that adequately capture the considerations required for developing on land susceptible to geotechnical hazards.</p> |

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| Ridgeline or Escarpments (MEV) | Unsupported | Scenic landscape hazards are not an appropriate mechanism to inform zoning decisions. It is also evident that this land is highly vegetated and undeveloped regardless of the existing zoning. Rezoning to a conservation zone will not alter the way this land is currently being preserved, and an LEP overlay is more appropriate. |
| Foreshore Scenic Protection Areas (MEV) | Unsupported | This criterion is not appropriate to inform conservation zoning decisions. The expansion of the foreshore scenic protection area clause beyond the immediate foreshore is not supported. As noted in the E-Zones review, the Department is not looking to use an LEP map for areas of scenic protection or aesthetic values in the way FSPA is proposed. |

To determine the appropriateness of a proposed conservation zone (particularly for C2 or C3 zones in either urban or non-urban areas), the following steps should be taken. If the land does not satisfy any of these steps, an alternative zone should be applied and an LEP overlay may be appropriate. A C4 zone should also rely on the advice above and the Department's interpretation of *Practice Note PN 09-002. Environmental Protection Zones*.



Existing Conservation Zones

The Department supports the retention of existing conservation zones throughout the existing LEP's, highlighting the Pittwater area and its extensive utilisation of the C4 – Environmental Living zone.

The fact that existing C4 land may not fulfil the thresholds of Council's framework does not preclude a detailed assessment of the appropriateness of a residential zone for the Pittwater area, and C4 should be retained.

Weighting score and thresholds

Given the detailed advice provided to Council, the Department does not support a weighting score framework to inform land zoning decisions and all medium environmental criteria is not supported. Council is required to provide evidence that conservation value exists to the extent that a conservation zone is appropriate. It is noted that C4 – Environmental Living also has objectives relating to special ecological values needing to be present on site.

In terms of thresholds, the Department supports a bespoke approach to land zoning across its LGA when it comes to split zoning of land for conservation purposes where conservation values exist. The Department also supports Council's focus on using two lots or more before a rezoning may occur to avoid isolated lots.

Department Letter Attachment 2 - EHG comments against NBC Environmental Criteria

Comments on Northern Beaches Council proposed Environmental Value Criteria – C-Zone Review

Background

Northern Beaches Council is undertaking work to deliver a consolidated LEP across the LGA. Part of this work includes the development of new environmental values and criteria that will be used to inform Conservation Zoning. EHG has previously provided advice on this proposal which predominately focused appropriateness of the use of flood hazard criteria to inform zoning.

DPE planning has requested that EHG provide further advice and position on the proposed environmental values and criteria to assist in the review of the proposal. Several briefing sessions have been facilitated by Northern Beaches Council to further brief DPE Planning and EHG on the various environmental values and rezoning criteria being proposed.

EHG has reviewed the High and Medium Environmental Values and provides commentary on these below. EHG also provides comment on the proposed rezoning criteria (how the values are proposed to be applied to inform the rezoning decision).

Conservation Zone objectives

As noted in EHG's submission on the non-statutory exhibition for this proposal, the purpose of conservation zoning is to conserve the environmental values and natural qualities in areas where this land use zoning is applied and the zone objectives includes protecting, managing and restoring areas of high ecological, scientific, cultural or aesthetic values. EHG's position remains that conservation zoning should only be applied to areas where the primary objective is the conservation and/or management of environmental values. Conservation Zone objectives from the standard instrument LEP are copied below for reference.

Table 1: Conservation zone objectives

| C2 – Environmental Conservation | C3 – Environmental Management | C4 - Environmental Living |
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| <ul style="list-style-type: none">- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.- To prevent development that could destroy, damage or otherwise have an adverse effect on those values | <ul style="list-style-type: none">- 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. | <ul style="list-style-type: none">- 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. |

Proposed Environmental Values

EHG supports the approach of identifying and using high and medium environmental value criteria to guide conservation zoning decisions and does not raise any specific objection in relation to the Environmental Values proposed to inform conservation zoning across the Northern Beaches LGA, however some further consideration and refinement of the proposed values and mapping methodologies may be beneficial. Comments against the proposed Environmental Criteria and their application in the decision-making framework are provided and discussed below in Table 2.

EHG considers that all environmental values proposed by Northern Beaches Council represent conservation values which exist across the LGA and that where these values are present on site, Conservation Zoning is a reasonable and valid consideration. With this noted, the proposal establishes a framework to identify and rezone land for conservation in a manner that is beyond ‘business as usual’. Some of the proposed environmental values are dynamic in nature and this should be further considered in the context of the proposed rezoning. For example, attributes such as Biodiversity Corridors and Tree Canopy in urban areas may diminish on a site naturally over time, regardless of development intensity. The creation of legacy issues where sites are zoned for conservation values now that may not be present in the future should be avoided.

EHG also understands that many of the environmental values proposed to inform rezoning decision are still proposed to form an LEP overlay and have associated assessment requirements (LEP and DCP clauses) which is essential in ensuring future development on any land containing these values undertakes the necessary environmental assessment in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Table 2: EHG comment on proposed Environmental Values

| High Environmental value | Council’s Data Description | EHG comments on values and data |
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| Bushland parks and reserves / Natural areas. <i>Weighting = 1</i> <i>Rezoning Threshold = any</i> | Natural areas and State Parks identified in Council's Open Space and Recreation Strategy. This map was further refined to identify portions of parks and reserves managed for conservation and natural areas within adopted plans of management and a review of those lands currently zoned RE1 Public Recreation and associated uses. Source: Open Space Audit. | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • Council has undertaken an audit of its open space areas and associated plans of management and identified natural open space where the primary purpose is for conservation of natural values. • It is unclear if any existing C2 zoning is proposed to be removed from bushland parks and reserves / natural areas. This should be clarified and justified if proposed. Consistency with Ministerial Direction 3.1 would need to be demonstrated. |
| Biodiversity Core Habitat <i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i> | Areas of contiguous native vegetation, generally at least 3.5 hectares in area. Biodiversity Core Habitats are most representative of the original structure of natural areas and provide important | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • Core habitat areas consist predominantly of native vegetation with all structural layers intact and with a minimum patch size of 3.5ha. • Smaller patches considered for inclusion where they represent a Threatened Ecological Community (TEC). |

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| <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold =</i> <i>Rural</i> <i>>5000m²</i> <i>between 30-70% site</i> <i>coverage – split zone</i> <i><5000m²</i> <i>>50% site coverage</i> <i>Residential</i> <i>>50% site coverage</i></p> | <p>habitat for threatened species. May include small areas of cleared or developed land. Source: Biodiversity Planning Review.</p> | <ul style="list-style-type: none"> • The Biodiversity Planning Review states that the purpose of the core habitat mapping is to inform LEP overlays and DCP controls. The planning review does not specifically indicate that the data is sufficiently refined for zoning decisions. The accuracy of the data to inform zoning decisions should be further considered and justified. • The Biodiversity Planning Review presents a methodology for mapping core habitat. It indicates that some patches identified as core habitat did not strictly meet the criteria, however, have been included when the vegetation contains a TEC or other high biodiversity value. Given TEC's are also mapped as a separate layer, it is unclear why these areas would also need to be included in the core habitat layer. • Due to mapping methodology, core habitat may include a limited number of sites without conservation values, particularly where there are breaks of up to 100m between patches of native vegetation. Where this occurs the rezoning threshold should not be applied to properties that do not explicitly have core habitat. The approach for identifying and rezoning these excluded sites should be further addressed. Criteria for excluding sites should be included in the mapping process flow chart for clarity. • There appears to be some duplication in the environmental criteria. For example, Core habitat areas may also be identified on the TEC map. Has consideration been given to consolidating these maps/layers? • Further consideration should be given to the rezoning threshold of >50% site coverage. No specific objection is raised to this application threshold however the impacts of higher, lower or no thresholds should be considered. • All areas of core habitat should still contribute to an LEP overlay and have associated development controls. This includes areas where the map covers <50% of a site. |
| <p>Threatened Ecological Communities (TECs)</p> | <p>Thirteen TECs listed under the <i>NSW Biodiversity Conservation Act 2016</i> (BC Act) were identified within the Northern Beaches LGA. Of these, seven TECs were also listed under the Commonwealth</p> | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • State government TEC maps were refined using local data and knowledge. • The Biodiversity Planning Review indicates that low quality/condition patches of TECs were not included in the mapping. Further discussion around what constitutes low condition/quality is required. Further |

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| <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = Rural >5000m² between 30-70% site coverage – split zone <5000m² >50% site coverage Residential >50% site coverage</i></p> | <p>Environment Protection and <i>Biodiversity Conservation Act 1999</i> (EPBC Act). Source: Biodiversity Planning Review.</p> <p>Within the Deferred Lands, five different TECs listed under the NSW BC Act and/or EPBC Act are identified as occurring in the deferred lands. Source: Deferred Lands Biodiversity Assessment.</p> | <p>justification/discussion for the exclusion of low condition patches should be provided.</p> <ul style="list-style-type: none"> • Please clarify if any buffers have been applied to TEC mapping. • Consider how TEC mapping varies from Core habitat and Biodiversity Corridor mapping and if there is potential to consolidate these criteria. • How much TEC mapping is there without overlap from other layers? i.e., if core habitat and corridors containing TEC were excluded from the TEC layer, how much remaining TEC mapping would there be? • Need to clarify how up-listing of communities would be managed into the future. • Regardless of condition, all areas of TEC could be utilised in an LEP biodiversity overlay. |
| <p>Threatened Species - Selected</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = Rural >5000m² between 30-70% site coverage – split zone <5000m² >50% site coverage Residential >50% site coverage</i></p> | <p>Twenty-five threatened species listed under the BC Act and/or EPBC Act were mapped within the LGA, including: twenty-one threatened flora species listed under the BC Act, thirteen of which are also listed under the EPBC Act; and four threatened fauna species listed under the BC Act, one of which is also listed under the EPBC Act. Selected features of the threatened species mapping were considered in the conservation zones criteria. Source: Biodiversity Planning Review.</p> | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • Four species that exist outside of core habitat and biodiversity corridors have been selected to inform this rezoning value. This includes <i>Grevillea caleyi</i>, Grey-headed Flying-fox colony, Little penguin and <i>Prostanthera marifolia</i>. • Most other threatened fauna and flora species are contained within core habitat and biodiversity corridors. Others are considered reasonably adapted to the urban setting. • Buffers for threatened flora records were identified in the Biodiversity Planning Review. Given threatened species are largely consolidated with core habitat and corridors, please clarify if buffers to threatened species records have been included in the creation of these maps. • Criteria for ‘cherry picked’ species should be detailed if not already. Further clarification on how these species were selected and why others were excluded should be documented and justified. • It should be clarified if all records of these species are being used to inform rezoning or only select records on existing residential land. |

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| | | <ul style="list-style-type: none"> • Was C2 – Environmental Conservation zoning considered for any areas where these species are located i.e. where not already impacted by existing residential uses? • While EHG considers the protection of these species is important, concern is raised that C3 or C4 zoning does not offer much additional protection for these species. • It is assumed the four species that have been individually mapped will require specific LEP and DCP controls and be subject to an LEP overlay. |
| <p>Deferred Lands Biodiversity - Very High Value and High Value</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold =</i></p> <p><i>Rural only</i> >5000m² <i>between 30-70% site coverage – split zone</i></p> <p><5000m² <i>>50% site coverage</i></p> | <p><i>Very High Value</i> This includes areas adjoining protected bushland (National Parks estate), threatened species habitat (e.g., recent records of threatened flora and fauna), TECs and riparian habitat along larger creeks. Source: Deferred Lands Biodiversity Assessment.</p> <p><i>High Value</i> Threatened species habitat (e.g., recent records of threatened flora and fauna), native vegetation (native Plant Community Types (PCTs)), habitat connectivity (large areas of habitat connecting to other large patches), riparian habitats along creeks. Source: Deferred Lands Biodiversity Assessment.</p> | <ul style="list-style-type: none"> • This is value is a valid consideration to inform conservation zoning decisions. • Deferred lands Biodiversity Assessment (stage 1 and 2) considers the range of environmental and biodiversity values present within deferred lands. • Applies as High Environmental Value in rural areas only. • Different categories were used in the deferred lands assessment which reflects difference between urban and rural areas. The deferred lands biodiversity study created a map based on the following five criteria. <ul style="list-style-type: none"> - Threatened species habitat (extent and quality) - Threatened ecological communities (extent and quality) - Proximity to protected bushland - Wildlife corridors - Riparian land/water sustainability. • Areas containing these criteria were then further categorised into low, moderate high and very high conservation areas. Clarify if there is a defined buffer distance from low conservation/developed areas to medium/high conservation areas. • A review of mapping indicates that low Conservation areas appear to have been ‘buffered’ with medium Conservation values • The Biodiversity Planning Review indicates mapping of core habitat and biodiversity corridors includes the deferred lands however TECs and threatened species habitat within deferred lands were mapped separately. The Biodiversity Planning review does however suggest that TEC and threatened species data would be incorporated into the review when the |

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| | | <p>deferred lands assessments were completed. Rather than consolidating this information, separate environmental criteria was developed for this data. The rationale for this should be further documented.</p> <ul style="list-style-type: none"> • The conservation values within deferred lands and the methods used to identify these are not disputed however it is unclear why separate criteria is required and why the biodiversity values present cannot be considered under Biodiversity Core Habitat, Threatened Ecological Communities and Biodiversity Corridors criteria. • EHG considers that much of the deferred land area may be better suited to C2 – Environmental Conservation Zoning. Rezoning these lands for residential development may hinder the delivery of higher conservation outcomes on these sites. • Regarding the application threshold, EHG has assumed where >70% coverage is identified, the entire site would be rezoned. • There appears to be some conflict between ‘excluded sites’ and ‘surrounded sites’ in deferred lands and possibly more broadly. Clarification on how sites meeting both criteria are dealt with should be provided. • Lot 2 Morgan Road Belrose is currently zoned RE1. The site is fully vegetated, covered by Biodiversity Core habitat and surrounded by sites which will attract a C zoning under the proposed methodology. Could the application of the rezoning framework be explained for this example. |
| <p>Conservation Mechanism</p> <p><i>Informing C2 rezoning decisions.</i></p> <p><i>Weighting = 1</i></p> <p><i>Threshold = any</i></p> | <p>This could include lands with bio-certification agreements, stewardship agreements, conservation covenants or court approval requirements. Current mapping includes Council records of known Biobank Sites and Biodiversity Stewardship sites. Source: Council records.</p> | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • These sites are proposed to be rezoned to C2 – Environmental Conservation. • Is a list of the sites available? • Has Council approached the Biodiversity Conservation Trust to confirm the list of conservation agreement sites. How have these sites been otherwise verified. • Has Council considered identifying and rezoning any ‘avoided land’ from past development that has been specifically set aside for |

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| | | <p>conservation. If any such areas exist, they may share similarities in their management with court approval requirements.</p> <ul style="list-style-type: none"> • Following above, has Council considered including specific criteria to consider how future 'avoided land' might be required to be rezoned for conservation under this criterion? • How will sites that do not currently meet these requirements but may do in the future be managed. Will the LEP be amended periodically to capture sites that meet this criterion in the future? i.e., future BSA sites or avoided areas within certification sites. how would any such changes be managed, and could they be considered 'housekeeping amendments' if the criteria is adopted? |
| <p>Existing C2 Environmental Conservation zones</p> <p><i>Informing C2 rezoning decisions.</i></p> <p><i>Weighting = 1</i></p> <p><i>Threshold = any</i></p> | <p>Land currently zoned for environmental protection where strict controls on development apply. Source: Manly LEP, Warringah LEP 2011 and Pittwater LEP.</p> | <ul style="list-style-type: none"> • This value is a valid consideration to inform conservation zoning decisions. • EHG considers all existing C2 zones should be retained. • Should any E2 zoning be removed. Suitable justification must be provided as per Ministerial Direction 3.1. This may need to be considered on a site-by-site basis rather than generalised. • Some existing C2 zones are now proposed as split zones. Examples of these sites should be provided for further review. This should include specific details of the conservation values present on the site and why the C2 zoning is proposed for removal over the specified area. |
| <p>Wetlands</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = Rural >5000m² between 30-70% site coverage – split zone</i></p> | <p>Wetlands comprise natural and artificial wetlands, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands. This includes the estuarine wetlands of Careel Bay and Pittwater, freshwater wetlands at Warriewood and coastal floodplain wetlands lining the four coastal lagoons at Narrabeen, Dee Why, Curl Curl and Manly. Many wetland habitats are now recognised as endangered in NSW, emphasising the need for ongoing conservation. Source:</p> | <ul style="list-style-type: none"> • Given the significance of the ecological functions of wetlands and riparian corridors, they are an appropriate consideration to inform Conservation zoning decisions • 100m buffers have been applied to wetlands however the buffer area does not inform the rezoning decision. This should be confirmed. • It should be clarified if artificial water bodies such as farm dams are mapped under the proposed methodology |

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| <p><5000m² <i>>50% site coverage</i></p> <p><i>Residential</i> <i>>50% site coverage</i></p> | <p>Watercourse, Wetland and Riparian Lands Study.</p> | |
| <p>Riparian Corridor Category 1 and 2</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = Rural</i> >5000m² <i>between 30-70% site coverage – split zone</i> <5000m² <i>>50% site coverage</i></p> <p><i>Residential</i> <i>>50% site coverage</i></p> | <p><i>Category 1</i> Riparian corridor that potentially supports relatively intact native vegetation and habits within a nominated width measured from the edge of the channel. Riparian corridors comprise the nominated terrestrial environment adjoining the watercourse channel to be managed to support waterway functions, values, and long-term use and to address risks associated with waterways. Source: Watercourse, Wetland and Riparian Lands Study.</p> <p><i>Category 2</i> Riparian corridor that potentially supports disturbed lands within a nominated width measured from the edge of the channel. Riparian corridors comprise the nominated terrestrial environment adjoining the watercourse channel to be managed to support waterway functions, values, and long-term use and to address risks associated with waterways. Source: Watercourse, Wetland and Riparian Lands Study.</p> | <ul style="list-style-type: none"> • Given the significance of the ecological functions of wetlands and riparian corridors, they are an appropriate consideration to inform Conservation zoning. • Mapped as per guidelines for waterfront land. • EHG considers that the 50% application threshold in urban areas may be too high and could be refined or removed completely. • It may also be appropriate to review the threshold in rural areas. Example scenarios for the application of each threshold would be beneficial to understand the implications. • For split zones, it should be clarified where the zone boundary is positioned? Is it applied along the edge of the vegetated riparian zone or is a buffer applied? EHG notes these boundaries would naturally shift over time. |

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| <p>Transition Areas</p> <p><i>Informing C4 (urban) rezoning decisions</i></p> <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = >50% site coverage required</i></p> | <p>Analysis using Nearmap to identify properties that adjoin waterways, reserves with high environmental value, national parks, beaches, and headlands. This generally includes properties separated by a reserve or any unmade roads, but not properties separated by a road or car park. Source: Nearmap analysis.</p> | <ul style="list-style-type: none"> • Transition areas have a role in the ongoing protection of conservation values on adjoining areas however limiting development on these sites may not directly protect conservation values. • Further commentary justification should be provided to justify how conservation zoning for these transitional areas will benefit the environmental values they adjoin (as identified in the data description). • For transitional areas, Council’s suit of development controls are arguably more valuable in protecting these values than prohibiting some development types via conservation zoning. • This criterion may be more practical as an LEP overlay with no application threshold and a larger buffer area considered. • The effect of the rezoning threshold is unclear. |
| <p>Heritage Conservation Areas</p> | <p>The following heritage conservation areas were found to have high environmental value:</p> <ul style="list-style-type: none"> • Warringah LEP Conservation Areas: • Cottage Point: Waterfront Cottages (item C4) • South Curl Coastal Cliffs (item C14) • Pittwater LEP Conservation Areas: • Palm Beach: Florida Road (Item C3) • Palm Beach: Ocean Road (Item C4) • Palm Beach: Sunrise Hill (Item C6) • Avalon Beach: Ruskin Rowe (Item C5) | <p>Council/ DPE Planning should seek comment from Heritage NSW in relation to rezoning of heritage items if required.</p> |
| <p>Medium Environmental value</p> | <p>Data Description</p> | <p>EHG comments</p> |
| <p>Biodiversity Corridor and/or Urban Tree Canopy</p> <p><i>Informing C4 (urban) rezoning decisions</i></p> | <p>Biodiversity corridors identified to facilitate flora and fauna movement across the landscape, providing an important connection to areas of Biodiversity Core Habitat. Source: Biodiversity Planning Review. These areas were considered together with areas of high urban tree</p> | <p>Biodiversity Corridors</p> <ul style="list-style-type: none"> • Identified corridors have an emphasis on supporting core habitat. • Biodiversity Corridors includes open space adjacent to core habitat. Consider appropriateness of this for a rezoning decision. Details of the buffers applied from edge of core habitat in these scenarios should be provided. Identification of these areas as transitional areas may be more appropriate. |

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| <p><i>Weighting = 1</i></p> <p><i>Rezoning threshold = >50% site coverage required</i></p> | <p>canopy. The urban tree canopy data was based on an analysis of Council's 2019 Aerial LIDAR (Light Detection and Ranging) data using the 'urban tapestry' method as outlined in the Greener Neighbourhood's Guide. Areas where tree canopy were greater than 50% within a 100m buffer of a 100m grid were considered when intersected with the Biodiversity Corridor. Source: 2019 Aerial LIDAR data.</p> | <ul style="list-style-type: none"> • Cleared and disturbed coastal habitat is included. • The Biodiversity Planning review notes that <i>'In recognition of the generally more limited value of urban native, exotic and weedy vegetation, any of the areas mapped as less than one hectare were generally excluded from the corridor layer. However, areas of this vegetation type mapped within five metres of core or other mapped corridor, regardless of the size, were included as corridor as these areas were considered to be important for connectivity'</i>. The impacts of including these additional areas in the corridor mapping should be detailed (number of additional properties impacted). • Patches were considered contiguous where there is a gap of 100m or less between other areas of native vegetation. It should be clarified if there is any additional criteria relating to the minimum area threshold for adjoining patches to be considered/mapped as part of the corridor? • A 100m buffer has been incorporated from tidal attributes. Are these areas also mapped under another criteria? If so, this may be a duplication causing the attribute to be 'counted' twice in the decision making process. • The Biodiversity Planning review states that criteria used to identify, and map biodiversity corridor areas includes: <i>'A final selective review of corridor polygons to refine the extent of important areas of Council managed bushland and land zoned RE1 Public Recreation (LEP 2011), resulting in inclusion of some areas of corridor that do not conform to the above rules.'</i> The methodology used in this final review should be clearly documented particularly why areas were included or excluded from mapping. • Regarding threatened species records it is unclear how these records and their associated buffers influence the core habitat and corridor mapping. The importance of this data to inform the corridor layer is unclear given consideration to gaps in threatened species records or locations and the complex differences between various threatened species habitat requirements. • Threatened species and TECs are mapped under multiple criteria, more clarity around how the mapping methodologies vary particularly how |
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| | | <p>duplication of data in different layers has been avoided should be provided.</p> <ul style="list-style-type: none">• If the criteria for the corridor mapping was to be further refined to priority areas, weightings and thresholds could be reviewed for this criterion. The impacts of any such approach would need to be considered and justified. <p>Tree Canopy</p> <ul style="list-style-type: none">• Currently mapped using an urban tapestry method from the Greener Neighbourhoods guide. This method relies on a 100m grid and buffer whereby areas that contain >50% canopy within the buffer are mapped. This approach may result in extensive areas being mapped including areas that do not contain canopy.• A revised and potentially better mapping approach is being investigated where canopy coverage is mapped by street blocks and only included where >30% canopy is present across a given block. This is still likely to result in mapping of properties with little to no canopy coverage. Further clarification of how this will be avoided should be provided.• Further consideration and comparison between the two methodologies should be undertaken and documented.• Mapping methodology may not be appropriate to inform landscape scale rezoning decisions. Finer grain mapping may be required.• Were this to be an LEP overlay EHG would suggest identifying existing canopy in addition to areas where there is priority and/or opportunity for additional urban canopy development. This could be accompanied by stricter development controls relating to tree retention, management and replenishment.• When this layer is applied, how many additional lots are proposed for c zoning? Discuss and justify this outcome. Do these additional lots contribute to as expected the aims and objectives of the proposal/changing zones.• EHG has assumed that tree canopy mapping consists of 'left over' areas of canopy that are not captures under other criteria mapping (corridors, TECs, riparian etc). this should be clarified. |
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| | | <ul style="list-style-type: none"> • It may be inappropriate to remap canopy that is mapped under other criteria. This could result in duplication of data. • Protection and enhancement of urban tree canopy continues to be an emerging priority. The proposed mapping and rezoning for this value would offer additional protection particularly by excluding application of codes SEPP which provides pathways for tree removal under complying development and also allows for development in closer proximity to trees (than deemed appropriate by Australia standard and most local government guidelines relating to tree protection) which may ultimately lead to their decline in the short-medium term. • EHG supports the identification and conservation of Biodiversity corridors and tree canopy in urban areas however consideration must be given to the real-world management of these assets on private land. When individual or groups of trees decline in urban areas, they may not be subject to replenishment. Conservation zoning over such sites may result in legacy issues where sites maintain their C-Zoning but no longer contain any conservation values. EHG notes that this contrasts with natural areas where vegetation communities may decline and regenerate over time. |
| <p>Geotechnical Planning Class C3 Hawkesbury Sandstone with Slope > 25 degrees</p> <p><i>Weighting = 0.5</i></p> <p>Applies to urban areas only to inform C4 zones: >50% required</p> | <p>Land that requires a detailed geotechnical report with most development applications. Slopes developed on Hawkesbury Sandstone are usually relatively stable, the key hazards are the potential for collapse of cliff lines, boulders falling from cliffs caused by weathering of softer layers, root jacking by trees, water pressure along open joints or undermining of large boulders. Source: Geotechnical Review - Geotechnical Planning Controls.</p> | <p>EHG raises no comments or concern in relation to the use of known/existing geological features to inform conservation zoning and has not undertaken any review of the methodologies to map these features for this proposal.</p> |
| <p>Geotechnical Planning Class C5 Narrabeen Group with Slope > 15 degrees</p> | <p>Land that requires a detailed geotechnical report for most development applications. The rocks of the Narrabeen Group are known to be relatively less stable and</p> | <p>EHG raises no comments or concern in relation to the use of known/existing geological features to inform conservation zoning however has not undertaken any review of the methodologies to map these features for this proposal.</p> |

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| <p><i>Weighting = 0.5</i></p> <p>Applies to urban areas only to inform C4 zones: >50% required</p> | <p>weather more rapidly than the Hawkesbury Sandstone. Landslides are relatively common on slopes underlain by the Narrabeen Group rocks, particularly in areas where there have been excavations into the natural slopes or concentrations of stormwater. Source: Geotechnical Review - Geotechnical Planning Controls.</p> | |
| <p>Ridgelines or Escarpment</p> | <p>A 50m buffer was mapped of ridgelines or escarpments which provide scenic landscape values, they are generally vegetated given they have had limited development opportunities over time and thus contribute to the urban ecology. Source: 2019 Aerial LIDAR data.</p> | <ul style="list-style-type: none"> • EHG assume the 50m buffer applies to each side of the ridge line however this should be clarified. • If this criterion applied only to vegetated ridgelines and escarpments or are cleared/developed areas also included. • It is unclear if the key objective of this criteria conservation however the objectives of the C3 zone include those that relate to the landscape value of the site. Given this criterion has been identified as of value and aligns with the objective of the zone it may be appropriate. |

Rezoning thresholds and weighting framework

The rezoning thresholds establish a framework for application of environmental values in the rezoning decision making process. Site coverage parameters are used to determine when an environmental value is a valid consideration in the rezoning decision.

Weightings are also used to determine if the conservation values that exist on a specific site are significant enough to trigger conservation zoning. All high environmental values have a weighting of 1 which means they automatically trigger C-Zoning if they exceed the application threshold. Medium environmental values have a weighting of 0.5 meaning at least two such values are required before the application threshold is considered. There is some concern that assigning weighting criteria to particular environmental values could be perceived to erode the value of other important conversation values.

In urban areas the application threshold for conservation zoning is generally 50% as opposed to rural areas where split zoning is considered for sites greater than 5000m² with 30-70% site coverage of medium-high environmental values. Clarification is required regarding threshold - is calculated by the sum of all values present or if any given value must exceed 50% coverage.

The removal of any environmental value criteria or alteration of the thresholds will ultimately impact the number of properties proposed for conservation zoning across the LGA. EHG has previously expressed concern regarding the use of flood hazard criteria to inform conservation zoning. Should this criterion or any other criteria be removed from the proposal Council may need to re-examine their decision making framework to consider if the weighting systems

and thresholds need to be revised. For example, removal of hazard criteria and more refined biodiversity corridors may increase the significance of this criteria and a higher weighting may be appropriate. It may also be considered appropriate to reduce or remove the application threshold.

End of Comments

Appendix 2 - Detailed Response to DPHI Advice on Conservation Zones

Environmental criteria used to justify conservation zones

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| Environmental criteria | The Department is supportive of conservation zoning in areas that align with conservation objectives, including preventing development that could destroy area of high ecological, scientific and cultural value, but some of Council's proposed environmental criteria do not justify conservation zoning as detailed in Attachment 1. | <p>EHG considers that all environmental values proposed by Northern Beaches Council represent conservation values which exist across the LGA and that where these values are present on site, Conservation Zoning is a reasonable and valid consideration. EHG has previously provided advice on this proposal which predominantly focused on appropriateness of the use of flood hazard criteria to inform zoning.</p> <p>As noted in EHG's submission on the non-statutory exhibition for this proposal, the purpose of conservation zoning is to conserve the environmental values and natural qualities in areas where this land use zoning is applied and the zone objectives include protecting, managing and restoring areas of high ecological, scientific, cultural or aesthetic values. EHG's position remains that conservation zoning should only be applied to areas where the primary objective is the conservation and/or management of environmental values.</p> | Meridian's report outlines extensive justification for the environmental criteria which was based on the Practice Note and a review of other C Zone Reviews. | The revised methodology has been based on DPHI supported criteria. |
| Ground Truthing | The Department supports conservation zoning where there has been ground truth investigation of the land to be rezoned. | | <p>For the deferred lands, extensive on ground survey (or ground truthing) has been conducted as part of the current study. Further intensive surveys by various experts have been conducted across the deferred lands over the last 10-15 years as summarised in the Stage 1 report.</p> <p>The current study of the deferred lands prioritised survey efforts to areas where less survey effort had been conducted previously. The current and past studies have demonstrated that the areas of intact bushland across the whole of the deferred</p> | Independent reviews, potentially including site visits, will continue to be undertaken as required for any remaining disputed rezonings, or for any new disputed rezonings arising from the public exhibition of the LEP Planning Proposal. |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | | <p>lands provide important habitat for many different threatened species.</p> <p>Map layers prepared for the Biodiversity Planning Review cover the entire Northern Beaches LGA and are based on the best information available, including existing NSW Government vegetation mapping and detailed mapping and studies developed by the former Pittwater, Warringah and Manly Councils. The Biodiversity Planning Review and previous studies also included on ground verification of biodiversity values. The Biodiversity Planning Review also utilised remote sensing including recent high resolution aerial photography and airborne laser imaging, detection, and ranging (LIDAR).</p> <p>Council technical experts working on the project also have substantial local knowledge which has helped improve accuracy of the draft mapping.</p> | |
| LEP Overlays | If environmental attributes have not been verified, an LEP overlay may be more appropriate, and the existing zone should be retained. | EHG also understands that many of the environmental values proposed to inform rezoning decision are still proposed to form an LEP overlay and have associated assessment requirements (LEP and DCP clauses) which is essential in ensuring future development on any land containing these values undertakes the necessary environmental assessment in accordance with the requirements of the <i>Environmental Planning and Assessment Act 1979</i> | <p>As outlined in Council’s LEP/DCP Discussion Paper, several LEP overlays were proposed in addition to the introduction of C zones. The maps informing these overlays were publicly exhibited together with the C zones (i.e. for Biodiversity, Waterways, Coastal Hazards and Geotechnical constraints).</p> <p>It must be noted however that these overlays would not result in the desired outcome for Council’s draft C zones which was:</p> <ul style="list-style-type: none"> • In C4 zones, switching off complying developments and allowing development which would diminish areas with environmental values • In C3 zones, prohibiting uses which would result in sensitive land uses in areas of high hazard (e.g. seniors and child care) and/or lead to intensification of development in areas that require special management. | <p>Council accepts DPHI’s final advice on environmental criteria, and notes that Council’s desired outcomes will not be achieved using this approach.</p> <p>Council also notes that proposed changes to the residential zones, such as the recent housing reforms, will mean that areas identified as having environmental values, and/or hazard constraints could be subject to intensification of development.</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| Dynamic environmental values and legacy issues | <p>Attributes such as Biodiversity Corridors and Tree Canopy in urban areas may diminish on a site naturally over time, regardless of land zoning. The creation of legacy issues where sites are zoned for conservation values now that may not be present in the future are to be avoided.</p> <p>There is also concern about the inclusion of buffer areas, tree canopy and wildlife corridors in C Zones. These environmental values are dynamic in nature and should be further considered in the context of the proposed rezoning. For example, attributes such as biodiversity corridors and tree canopy in urban areas will change on a site naturally over time, regardless of development intensity.</p> | <p>EHG considers that all environmental values proposed by Northern Beaches Council represent conservation values which exist across the LGA and that where these values are present on site, Conservation Zoning is a reasonable and valid consideration. With this noted, the proposal establishes a framework to identify and rezone land for conservation in a manner that is beyond 'business as usual'. Some of the proposed environmental values are dynamic in nature and this should be further considered in the context of the proposed rezoning. For example, attributes such as Biodiversity Corridors and Tree Canopy in urban areas may diminish on a site naturally over time, regardless of development intensity. The creation of legacy issues where sites are zoned for conservation values now that may not be present in the future should be avoided.</p> | <p>The purpose of a Conservation Zone in these instances was to prevent values such as areas of native vegetation located in Biodiversity Corridors from further diminishing over time. A keyway this could happen is by preventing development under SEPPs which allow smaller areas of landscape open space and setbacks and thus diminish, native vegetation cover, tree canopy and corridor values.</p> | <p>As requested, biodiversity corridors, buffers and tree canopy have been excluded from the methodology and C zones criteria.</p> |
| Existing C3 and C4 zones | <p>The Department supports the retention of existing conservation zones throughout the existing LEP's, highlighting the Pittwater area and its extensive utilisation of the C4 – Environmental Living zone.</p> <p>The fact that existing C4 land may not fulfil the thresholds of Council's framework does not preclude a detailed assessment of the appropriateness of a residential zone for the Pittwater area, and C4 should be retained.</p> | | <p>Council's draft approach aimed to identify a set of consistent criteria and up-to-date evidence base to apply conservation zones across the entire Local Government area.</p> | <p>Council proposes to retain existing conservation zones without having to justify the environmental values of these sites.</p> |
| Weighting score and thresholds | <p>Given the detailed advice provided to Council, the Department does not support a weighting score framework to inform land zoning decisions and all medium environmental criteria is not supported. Council is required to provide evidence that conservation value exists to the extent that a conservation zone is appropriate. It is noted that C4 – Environmental Living also has objectives relating to special ecological values needing to be present on site.</p> | <p>EHG supports the approach of identifying and using high and medium environmental value criteria to guide conservation zoning decisions and does not raise any specific objection in relation to the Environmental Values proposed to inform conservation zoning across the Northern Beaches LGA, however some further consideration and refinement of the proposed values and mapping methodologies may be beneficial.</p> | <p>Council assumes DPE advice takes precedence over that of EHG hence will discontinue use of MEV criteria.</p> <p>It is noted that Biodiversity Corridors (an MEV criteria) incorporate tracts of intact native vegetation cover including Plant Community Types (PCTs) which are not part of any Threatened Ecological Community. These areas will therefore not be attributable to a C zone with the direction of DPE.</p> | <p>Council has removed MEV criteria from its methodology. Further consideration and refinement of proposed values and mapping methodologies has been undertaken. Council considers that the revised draft mapping better reflects the application of C zones to land where conservation or ecological values are present on site.</p> |

Appendix 1 – Department’s final advice on Conservation Zones Review (including Attachments 1 and 2)

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | There is some concern that assigning weighting criteria to particular environmental values could be perceived to erode the value of other important conservation values. | The weighted score system would not have resulted in the ‘erosion’ of other important conservation values, as the draft methodology enabled multiple criteria to apply. | The revised methodology also enables multiple criteria to apply to a site. |
| | | In urban areas the application threshold for conservation zoning is generally 50% as opposed to rural areas where split zoning is considered for sites greater than 5000m ² with 30-70% site coverage of medium-high environmental values. Clarification is required regarding threshold - is calculated by the sum of all values present or if any given value must exceed 50% coverage. | To clarify the threshold approach, any given value must exceed the threshold (e.g. 50%). | Thresholds were updated in the revised methodology. |
| | | The removal of any environmental value criteria or alteration of the thresholds will ultimately impact the number of properties proposed for conservation zoning across the LGA. EHG has previously expressed concern regarding the use of flood hazard criteria to inform conservation zoning. Should this criterion or any other criteria be removed from the proposal Council may need to re-examine their decision-making framework to consider if the weighting systems and thresholds need to be revised. For example, removal of hazard criteria and more refined biodiversity corridors may increase the significance of this criteria and a higher weighting may be appropriate. It may also be considered appropriate to reduce or remove the application threshold. | As above and in response to DPE and EHG’s comments, further refinement of criteria and the mapping methodology has now been undertaken. Council considers that the revised mapping better reflects the application of C zones to land where conservation or ecological values are present on site. | Hazard criteria and biodiversity corridors are no longer proposed criteria in the revised methodology. |
| Split zones | In terms of thresholds, the Department supports a bespoke approach to land zoning across its LGA when it comes to split zoning of land for conservation purposes where conservation values exist. | | Noted. | Split zones have been used in the revised methodology. |
| Isolated sites | The Department also supports Council’s focus on using two lots or more before a rezoning may occur to avoid isolated lots. | | Noted. | A review of isolated sites was undertaken to verify the presence of environmental criteria. Those with environmental values were retained (often when adjoining reserves and and/or creek lines) and some were removed (e.g. sites with biodiversity values close to the threshold). This aligns with Department advice that supports a C |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | | | zoning where environmental values are identified. |
| Foreshore Scenic Protection Area | <p>DPE doesn't agree with aesthetic values holding ecological significance, nor does a FSPA establish environmental capabilities are the primary concern.</p> <p>Residential land with foreshore views does not necessarily require protection through a FSPA.</p> <p>Unsupported</p> <p>This criterion is not appropriate to inform conservation zoning decisions. The expansion of the foreshore scenic protection area clause beyond the immediate foreshore is not supported.</p> <p>As noted in the E-Zones review, the Department is not looking to use an LEP map for areas of scenic protection or aesthetic values in the way FSPA is proposed.</p> | | <p>Council did not include foreshore scenic protection area (FSPA) as criteria in the draft methodology based on previous Department advice. However, given the significant community support for this criteria, Council provided the Department with draft conservation zones mapping using the FSPA as a 'Medium Environmental Value' criterion using mapping exhibited with Council's LEP/DCP Discussion Paper in 2021.</p> <p>In response to the Department's advice, Council notes:</p> <ul style="list-style-type: none"> - The FSPA was not proposed as the only concern. It was established as a Medium Environmental Value and triggered a Conservation Zone when coupled with other environmental criteria. - FSPA was supported for conservation zones in the Mosman LEP, with approximately 2,000 properties where this was the only criteria. - The purpose of the FSPA clause is to protect views of and from the waterways, not just the land with foreshore views. | FSPA was not used for the revised methodology based on DPE's advice. |
| | The expansion of the FSPA beyond its current use under Manly LEP is not supported. | | Council commissioned a report to identify this mapping and the community indicated strong support for the use of this clause. The draft mapping was exhibited in our LEP/DCP Discussion Paper exhibited in 2021. Council proposed to include this as an overlay based on precedents in Georges River 2021, Manly LEP 2013 and Randwick 2012. | The additional FSPA mapping exhibited with the LEP/DCP Discussion Paper was not included in the draft Planning Proposal based on the Department's advice. |
| Conservation Mechanism (inc. lands with bio-certification agreements, | <p>Supported for C2</p> <p>This is a valid consideration to inform conservation zoning decisions.</p> | See below | The responses to EHG's comments are provided below. | |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| <p>stewardship agreements, conservation covenants or court approval requirements.</p> <p>High Environmental Value (HEV)</p> <p><i>Informing C2 rezoning decisions.</i></p> <p><i>Weighting = 1</i></p> <p><i>Threshold = any</i></p> | <p>Further queries from the Department's Environment and Heritage Group (EHG) are attached to this letter.</p> | | | |
| | | <p>This value is a valid consideration to inform conservation zoning decisions. These sites are proposed to be rezoned to C2 – Environmental Conservation.</p> | <p>Noted and agreed.</p> | <p>Conservation Mechanisms were taken to include:</p> <ul style="list-style-type: none"> • Privately owned land currently zoned either C2 or RE1. • Biodiversity stewardship agreement sites (BSAs) and biobank sites. • Conservation covenants or development consent requirements for vegetation protection. |
| | | <p>Is a list of the sites available?</p> | | <p>Council is developing an online tool that will enable the Department to view all sites subject to change, including the justification.</p> |
| | | <p>Has Council approached the Biodiversity Conservation Trust to confirm the list of conservation agreement sites. How have these sites been otherwise verified.</p> | <p>BSA and biobank sites are now published online by the Biodiversity Conservation Trust and are consistent with Council's records used in the mapping.</p> | <p>A C2 zone was either retained or allocated to known finalised BSAs and biobank sites.</p> |
| | | <p>Has Council considered identifying and rezoning any 'avoided land' from past development that has specifically been set aside for conservation? If any such areas exist, they may share similarities in their management with court approval requirements.</p> | <p>Council does not have an accurate and complete record of 'avoided land'.</p> | <p>Avoided land not considered in revised methodology.</p> |
| | | <p>Following above, has Council considered including specific criteria to consider how</p> | <p>No</p> | <p>Council welcomes any advice in this area.</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | future 'avoided land' might be required to be rezoned for conservation under this criterion? | | |
| | | How will sites that do not currently meet these requirements but may do in the future be managed. Will the LEP be amended periodically to capture sites that meet this criterion in the future? i.e., future BSA sites or avoided areas within certification sites. how would any such changes be managed, and could they be considered 'housekeeping amendments' if the criteria is adopted? | | <p>A C2 zone was only allocated to the known finalised Biodiversity Stewardship / Biobank Sites. Other privately owned lands subject to conservation mechanisms (e.g. conservation covenants or development consent requirements for vegetation protection) are not included as they were either not finalised or Council's records were incomplete.</p> <p>A further review is required to identify further lands subject to conservation mechanisms.</p> <p>Council could consider housekeeping amendments for future sites and is interested to understand if the Department has any recommendations for this process.</p> |
| <p>Bushland Parks and Reserves and/or Natural Open Space (HEV)</p> <p>Weighting = 1</p> <p>Rezoning Threshold = any</p> | <p>Supported for RE1 or C2</p> <p>This is a valid consideration to inform conservation zoning decisions.</p> <p>Council should ensure that any rezoning does not impact the recreational activities of RE1 land, and that ancillary development can still be carried out (for example: toilet structures on existing RE1 land)</p> | <ol style="list-style-type: none"> 1. This value is a valid consideration to inform conservation zoning decisions. 2. Council has undertaken an audit of its open space areas and associated plans of management and identified natural open space where the primary purpose is for conservation of natural values. 3. It is unclear if any existing C2 zoning is proposed to be removed from bushland parks and reserves / natural areas. This should be clarified and justified if proposed. Consistency with Ministerial Direction 3.1 would need to be demonstrated. | <p>Council proposed to add an objective to the C2 zone stating that this area could support sustainable recreational use.</p> <p>The draft exhibited maps were based on an assessment of natural open space, however the exhibited maps contained errors.</p> | <p>Council undertook an assessment of publicly owned bushland, land managed by Council, and land zoned C2, RE1 and W1 to ensure the zoning of these lands accurately reflected the primary use.</p> <p>An RE1 zone was either retained or allocated on Council managed reserves predominantly comprised of:</p> <ul style="list-style-type: none"> • Mown areas, hard infrastructure & playgrounds, including Plan of Management (POM and draft POM) categories 'Parks' or 'General Use'. • Beaches, sand or rockpool areas, including POM and draft POM categories 'Natural Area – Foreshore <p>Recreation areas are no longer proposed to be permitted in the C2 zone. However, Council notes the Transport and Infrastructure SEPP permits works without consent by or on behalf of a public authority on: National parks, marine parks or aquatic reserves, crown land, land under control or vested in Council, including: roads, pathways, single storey car parks, pedestrian bridges, recreation areas,</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | | | recreation facilities (outdoor), information facilities including visitor info centres, lighting, amenities, food preparation and related facilities, maintenance depots. |
| Riparian Corridors Cat 1 and Cat 2 (HEV) | Supported for both C3 Non-urban and C4. This is a valid consideration to inform conservation zoning decisions, however application of zoning to buffer areas is not supported. Land with no conservation value is unable to be rezoned to a conservation zone. Further queries from the Department's Environment and Heritage Group (EHG) are attached to this letter. | Given the significance of the ecological functions of wetlands and riparian corridors, they are an appropriate consideration to inform Conservation zoning. Mapped as per guidelines for waterfront land. | Council did not use buffers for this criterion. Council agrees these are an appropriate consideration to inform conservation zoning mapped as per guidelines for waterfront land. | Council did not use buffers for this criterion. |
| | | EHG considers that the 50% application threshold in urban areas may be too high and could be refined or removed completely | A 50% threshold was applied for criteria: Riparian Corridor Category 1, Riparian Corridor Category 2, and wetlands. | In Urban Areas, a >0% threshold has been applied to Riparian Corridors Inner Area 'inner', Riparian Corridor Category 1 areas and wetlands. The Riparian Category 2 category is not used as criterion in urban areas. The results of this approach have been reviewed to verify whether a C4 zone was suitable based on the mapped criteria. For large sites, a C4 split zone was proposed. |
| | | It may also be appropriate to review the threshold in rural areas. Example scenarios for the application of each threshold would be beneficial to understand the implications. | In rural areas, waterway criteria included: Riparian Corridor Category 1, Riparian Corridor Category 2, and wetlands. On sites smaller than 5000m2, a 50% threshold was applied for the above criteria. On sites greater than 5000m2, a 70% threshold was applied for a C3 zone, or sites between 30-70% were allocated a split C3 zone. Alternative threshold scenarios were explored prior to public exhibition but the above thresholds were found to be the most suitable. | In rural areas, the same riparian corridors and wetland criteria and thresholds were applied as per the exhibited approach |
| | | For split zones, it should be clarified where the zone boundary is positioned? Is it applied along the edge of the vegetated | Council underwent a manual process in determining zoning boundaries, using where possible straight lines. A | The same approach was applied for the revised methodology. |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | <p>riparian zone or is a buffer applied? EHG notes these boundaries would naturally shift over time.</p> | <p>conservative approach was taken where the straight line was drawn within the environmental criteria identified on site, rather than outside of it.</p> <p>Very few split zone boundaries were informed by riparian areas and buffers were not used as criteria.</p> | <p>Where a C3 Split zone was triggered, Council reviewed the property to determine if a split zone is most appropriate for that site, and if so, the most appropriate location for the split zone to occur. In addition, a C3 Split zone may have been recommended for select sites close to the above thresholds, taking into consideration high biodiversity values of the site in the context of the surrounding area.</p> |
| <p>Wetland Area (HEV)</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> <p>Weighting = 1</p> <p>Rezoning threshold = Rural</p> <p>>5000m² between 30-70% site coverage – split zone</p> <p><5000m² >50% site coverage</p> <p>Residential >50% site coverage</p> | <p>Supported for both C3 Non-urban and C4</p> <p>This is a valid consideration to inform conservation zoning decisions.</p> <p>Land with no conservation value on site is unable to be rezoned to a conservation zone.</p> <p>Council is required to confirm that a buffer has not been used to inform zoning decisions.</p> | <ol style="list-style-type: none"> Given the significance of the ecological functions of wetlands and riparian corridors, they are an appropriate consideration to inform Conservation zoning decisions 100m buffers have been applied to wetlands however the buffer area does not inform the rezoning decision. This should be confirmed. It should be clarified if artificial water bodies such as farm dams are mapped under the proposed methodology | <ol style="list-style-type: none"> Agreed. The 100m buffer did not inform rezoning decisions, only the actual wetland boundary has been considered. Artificial waterbodies that have not been constructed specifically as a wetland, such as farm dams and golf course water traps, are not mapped as wetlands. It should be noted however, that they would be considered as waterfront land if identified under the NSW Government Water Management (General) Regulation 2018 hydroline spatial data. | <p>In Urban Areas, a >0% threshold has been applied to Riparian Corridors Inner Area 'inner', Riparian Corridor Category 1 areas and wetlands.</p> |
| <p>Biodiversity Core Habitat (HEV)</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i></p> | <p>Supported for both C3 Non-urban and C4.</p> <p>In principle support, however there are concerns that the mapping provided has been prepared to inform overlays and that some land is cleared or developed. This may mean the validation and data used is not currently refined to the point where it is appropriate to make zoning decisions, and land without conservation value may be included. The Department will not support conservation zones for land where there is no conservation value.</p> | <ol style="list-style-type: none"> This value is a valid consideration to inform conservation zoning decisions. Core habitat areas consist predominantly of native vegetation with all structural layers intact and with a minimum patch size of 3.5ha. Smaller patches considered for inclusion where they represent a Threatened Ecological Community (TEC). | <ol style="list-style-type: none"> Noted Correct Core Habitat has been identified on four Council reserves and one Biodiversity Stewardship Agreement site smaller than 3.5ha due to the presence of high biodiversity values (i.e., TEC or threatened species). As public natural areas and conservation agreements, these areas are proposed for C2 | <p>The same thresholds were applied in the revised methodology.</p> <p>Core habitat and TEC mapping is based on the Native Vegetation of the Sydney Metropolitan Area layer (OEH 2016) and has been further refined based on desktop assessment, site survey and expert local knowledge. This has improved the accuracy of the mapping for zoning decisions.</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| <p><i>Weighting = 1</i> <i>Rezoning threshold = Rural >5000m2 between 30-70% site coverage – split zone <5000m2 >50% site coverage Residential >50% site coverage</i></p> | <p>Further concerns from the Department’s Environment and Heritage Group (EHG) are attached to this letter</p> | <p>4. The Biodiversity Planning Review states that the purpose of the core habitat mapping is to inform LEP overlays and DCP controls. The planning review does not specifically indicate that the data is sufficiently refined for zoning decisions. The accuracy of the data to inform zoning decisions should be further considered and justified.</p> <p>5. The Biodiversity Planning Review presents a methodology for mapping core habitat. It indicates that some patches identified as core habitat did not strictly meet the criteria, however, have been included when the vegetation contains a TEC or other high biodiversity value. Given TECs are also mapped as a separate layer, it is unclear why these areas would also need to be included in the core habitat layer.</p> <p>6. Due to mapping methodology, core habitat may include a limited number of sites without conservation values, particularly where there are breaks of up to 100m between patches of native vegetation. Where this occurs the rezoning threshold should not be applied to properties that do not explicitly have core habitat. The approach for identifying and rezoning these excluded sites should be further addressed. Criteria for excluding sites should be included in the mapping process flow chart for clarity.</p> | <p>irrespective of their designation as Core Habitat.</p> <p>4. This mapping is based on the Native Vegetation of the Sydney Metropolitan Area (OEH 2016) mapping. The reference to the report informing LEP and DCP controls does not preclude the use of this data for zoning decisions.</p> <p>5. As both TECs and Core Habitat are considered as High Environmental Value criteria, any one of these criteria would result in a C zone if it met the threshold. Consequently, the fact that a property may be both core habitat and TEC does not increase the C zone status of that land. While there may be some overlap in these criteria, each has a distinct definition in legislative and ecological terms.</p> <p>6. As the Core Habitat map is based on the polygon set of OEH (2016), cleared areas within these breaks have already been removed during OEH’s data quality assurance process. Adjoining areas of vegetation (including those within the <100m breaks) which do not meet the criteria for Core Habitat have been designated as Corridor, which is now proposed to be removed as a criterion.</p> | |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | <ol style="list-style-type: none"> 7. There appears to be some duplication in the environmental criteria. For example, Core habitat areas may also be identified on the TEC map. Has consideration been given to consolidating these maps/layers? 8. Further consideration should be given to the rezoning threshold of >50% site coverage. No specific objection is raised to this application threshold however the impacts of higher, lower or no thresholds should be considered. 9. All areas of core habitat should still contribute to an LEP overlay and have associated development controls. This includes areas where the map covers <50% of a site. | <ol style="list-style-type: none"> 7. See response to 5. 8. See response in 'revised methodology' 9. The Core Habitat layer will inform an LEP overlay and will not be subject to thresholds. | |
| <p>Deferred lands Biodiversity (High and Very High) (HEV)</p> <p><i>Informing C3 (non-urban) and C4 (urban) rezoning decisions</i> <i>Weighting = 1</i> <i>Rezoning threshold = Rural only >5000m2 between 30-70% site coverage – split zone <5000m2 >50% site coverage</i></p> | <p>Partial Support for C3 non-urban land.</p> <p>In principle support is given, however there are concerns that areas adjoining National Parks and threatened species do not contain conservation values.</p> <p>The Department does not support the rezoning of land that is buffering areas of environmental significance, as these areas do not necessarily contain environmental conservation values. The intent to manage the buffer to significant land can still be achieved without rezoning.</p> <p>Further concerns from the Department's Environment and Heritage Group (EHG) are attached to this letter.</p> | <ol style="list-style-type: none"> 1. This value is a valid consideration to inform conservation zoning decisions. 2. Deferred Lands Biodiversity Assessment (stages 1 and 2) consider the range of environmental and biodiversity values present within deferred lands. 3. Applies as High Environmental Value in rural areas only. 4. Different categories were used in the deferred lands assessment which reflects difference between urban and rural areas. The deferred lands biodiversity study created a map based on the following five criteria: <ol style="list-style-type: none"> a. Threatened species habitat (extent and quality) b. Threatened ecological communities (extent and quality) c. Proximity to protected bushland d. Wildlife corridors e. Riparian land/water sustainability. | <ol style="list-style-type: none"> 1. Noted 2. Agreed 3. Correct 4. Correct <p>Regarding buffers applied to the deferred lands biodiversity assessment, refer to the sections below.</p> | <p>See below</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | <p>Areas containing these criteria were then further categorised into low, moderate, high and very high conservation significance areas. Clarify if there is a defined buffer distance from low conservation/developed areas to moderate/high conservation areas.</p> | <p>The deferred lands assessment applied buffers to bushland adjoining National Park (Very High Conservation Value), select watercourses (Very High Conservation Value) and at the interface with cleared areas (moderate conservation significance areas- buffered into bushland areas from low conservation significance areas by 50m).</p> <p>It is understood that DPE have not supported the application of buffers and therefore these buffers have not been applied in the C zones criteria.</p> | <p>The mapping was revised to remove buffers where environmental values were confirmed not to occur (e.g. cleared land)</p> |
| | | <p>A review of mapping indicates that low conservation areas appear to have been 'buffered' with moderate conservation values</p> <p>The Biodiversity Planning Review indicates that mapping of core habitat and biodiversity corridors includes the deferred lands however TECs and threatened species habitat within deferred lands were mapped separately. The Biodiversity Planning Review does however suggest that TEC and threatened species data would be incorporated into the review when the deferred lands assessments were completed. Rather than consolidating this information, separate environmental criteria was developed for this data. The rationale for this should be further documented.</p> | <p>See above.</p> <p>Mapping prepared for the Biodiversity Planning Review was undertaken at a landscape scale for the entire Northern Beaches LGA. The review has consolidated and updated existing mapping from the three former LGAs into a consistent and up-to-date set of maps. Since the draft was prepared in 2021, Council technical experts working on the project have reviewed the Core Habitat and TEC mapping to further improve its accuracy.</p> <p>The deferred lands has no existing land zoning and a long history of land use disputes. In 2009 the NSW Planning and Assessment Commission recommended that major studies (including ecological) be undertaken to inform the appropriate areas to be zoned for conservation (Review of Four Sites Within Oxford Falls Valley for Urban Development, NSW PAC, 2009). On this basis, more intensive on ground assessment and reporting was considered necessary to support zoning decisions for the deferred lands.</p> <p>The Biodiversity Planning Review and Deferred Lands Biodiversity Assessment reports are not intended to be adopted by Council. However, the mapping outputs are</p> | <p>See above.</p> |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | | intended to inform the LEP and will be consolidated for this purpose. | |
| | | The conservation values within deferred lands and the methods used to identify these are not disputed however it is unclear why separate criteria is required and why the biodiversity values present cannot be considered under Biodiversity Core Habitat, Threatened Ecological Communities and Biodiversity Corridors criteria. | The fact that a property may be both core habitat and TEC does not increase the C zone status of that land. | |
| | | EHG considers that much of the deferred land area may be better suited to C2 – Environmental Conservation Zoning. Rezoning these lands for residential development may hinder the delivery of higher conservation outcomes on these sites. | Although it's agreed a C2 zone is preferred, this zoning was not pursued due to possible expectation of land acquisition and noting the current range of permissible uses under WLEP2000. | |
| | | Regarding the application threshold, EHG has assumed where >70% coverage is identified, the entire site would be rezoned. | Correct | Where a C3 Split zone is triggered, Council has reviewed the property to determine if a split zone is most appropriate for that site, and if so, the most appropriate location for the split zone to occur. In addition, a C3 Split zone may have been recommended for select sites close to the above thresholds, taking into consideration high biodiversity values of the site in the context of the surrounding area. |
| | | There appears to be some conflict between 'excluded sites' and 'surrounded sites' in deferred lands and possibly more broadly. Clarification on how sites meeting both criteria are dealt with should be provided. | The exclusion of 'isolated sites' and inclusion of 'surrounded sites' method was not used in the non-urban area. | The exclusion of 'isolated sites' and inclusion of 'surrounded sites' method was not used in the non-urban area. |
| | | Lot 2 Morgan Road Belrose is currently zoned RE1. The site is fully vegetated, covered by Biodiversity Core habitat and surrounded by sites which will attract a C zoning under the proposed methodology. Could the application of the rezoning framework be explained for this example. | Unfortunately, a mapping error resulted in number of sites identified as natural areas not being zoned as C2 in the exhibited map. Council has undertaken a review to fix any known errors and a detailed list of changes will be provided in the Planning Proposal. | Council undertook an assessment of publicly owned bushland, land managed by Council, and land zoned C2, RE1 and W1 to ensure the zoning of these lands accurately reflected the primary use. |
| Threatened Ecological Communities (HEV) | Partial Support for C3 non-urban and C4. In principle support is given, however clarification around the use of buffers is required. It is also evident that this may be better utilised in a planning overlay as protection | <ol style="list-style-type: none"> 1. This value is a valid consideration to inform conservation zoning decisions. 2. State government TEC maps were refined using local data and knowledge. 3. The Biodiversity Planning Review indicates that low quality/condition | <ol style="list-style-type: none"> 1. Noted 2. Correct 3. TEC mapping was based on OEH (2016) and further refined through desktop assessment and field survey to determine whether vegetation identified as 'potential TEC' satisfied relevant TEC | Further refinements/updates were undertaken via desktop assessment and, where required, site survey. The review focussed on areas where new C zones may be triggered by biodiversity criteria. Removal of sites with cleared areas such as |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | <p>of these communities is likely to be provided for under the NSW Biodiversity Conservation Act and the Environment Protection and Biodiversity Conservation Act 1999.</p> <p>Council is required to justify why these should be included in the LEP to inform rezoning. i.e. What are the acts mentioned above not doing that a rezoning can do better.</p> | <p>patches of TECs were not included in the mapping. Further discussion around what constitutes low condition/quality is required. Further justification/discussion for the exclusion of low condition patches should be provided.</p> <ol style="list-style-type: none"> 4. Please clarify if any buffers have been applied to TEC mapping. 5. Consider how TEC mapping varies from Core habitat and Biodiversity Corridor mapping and if there is potential to consolidate these criteria. 6. How much TEC mapping is there without overlap from other layers? i.e., if core habitat and corridors containing TEC were excluded from the TEC layer, how much remaining TEC mapping would there be? 7. Need to clarify how up-listing of communities would be managed into the future. 8. Regardless of condition, all areas of TEC could be utilised in an LEP biodiversity overlay. | <p>diagnostic criteria. No patches of mapped or newly identified TECs were excluded based on low quality or condition.</p> <ol style="list-style-type: none"> 4. Buffers were not applied to TECs. 5. As above, consolidation of criteria is not required as any one of these will trigger a conservation zone. While there may be some overlap in these criteria, each has a distinct definition in legislative and ecological terms. 6. The area of TEC not covered by other maps is approx. 0.4 ha 7. Up-listing of communities should be considered in any future rezoning process 8. All patches of vegetation which meet diagnostic criteria for a TEC have been included in the TEC map, regardless of condition. These are also proposed for inclusion in the LEP biodiversity overlay. | <p>buildings, roads and other infrastructure was prioritised.</p> |
| <p>Threatened Species - Selected</p> <p>Informing C3 (non-urban) and C4 (urban) rezoning decisions</p> <p>Weighting = 1</p> <p>Rezoning threshold =</p> <p>Rural</p> <p>>5000m2</p> <p>between 30-70% site coverage – split zone</p> | <p>Partial Support for C3 non-urban and C4.</p> <p>In principle support is given, however there are concerns over the selective nature of this criterion.</p> <p>Not clear why other species were not selected and would need further evidence as to how this would be translated to a standard approach. This would be better suited as a planning overlay.</p> | <ol style="list-style-type: none"> 1. This value is a valid consideration to inform conservation zoning decisions. 2. Four species that exist outside of core habitat and biodiversity corridors have been selected to inform this rezoning value. This includes <i>Grevillea caleyi</i>, grey-headed flying-fox colonies, little penguin endangered population and <i>Prostanthera marifolia</i>. 3. Most other threatened fauna and flora species are contained within core habitat and biodiversity corridors. Others are considered reasonably adapted to the urban setting. 4. Buffers for threatened flora records were identified in the Biodiversity Planning Review. Given threatened species are largely consolidated with core habitat and corridors, please clarify if buffers to threatened | <p>Habitat for threatened flora species – <i>Grevillea caleyi</i> and <i>Prostanthera marifolia</i> were selected as C zone criteria in recognition of their critically endangered threat status. Important habitat for threatened fauna (grey-headed flying-fox camps, little penguin AOBV) was also included in the selected threatened species criterion in recognition of the high conservation values which may be located outside of outside of core habitats or natural areas.</p> <ol style="list-style-type: none"> 1. Agreed 2. Correct 3. Correct * 4. The mapping of threatened flora records and associated habitats in the Biodiversity Planning Review was assessed for suitability in informing C zone criteria. Threatened flora habitat was modelled wherever an associated | |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| <5000m2 >50% site coverage Residential >50% site coverage | | species records have been included in the creation of these maps. | Plant Community Type (PCT) occurred within 30m of a verified record. Due to uncertainty in the mapping, most threatened flora habitat mapping was considered unfit for purpose (in the context of C zones) and was not subsequently used in the methodology. Select polygons for critically endangered flora <i>Grevillea caleyi</i> and <i>Prostanthera marifolia</i> were retained only. * Despite inclusion of selected threatened species in the methodology, other criteria (e.g. core habitat, existing reserve natural areas and existing C zones) meant that the select threatened species map criteria did not influence the final C zone outcomes. | |
| | | Criteria for 'cherry picked' species should be detailed if not already. Further clarification on how these species were selected and why others were excluded should be documented and justified | As above | |
| | | It should be clarified if all records of these species are being used to inform rezoning or only select records on existing residential land. | As above. Little Penguins – only the Little Penguin Declared Area (as per Division 3.2 of BC Reg) is mapped. Flying-foxes – only known camps on Council land are mapped <i>G. caleyi</i> – all records underwent desktop and/or field review, with some removed if the review indicated the species records had a low degree of confidence or accuracy, were historic records that were subject to doubt, or were no longer present (e.g. were built upon). <i>P. marifolia</i> – as above | |
| | | Was C2 – Environmental Conservation zoning considered for any areas where these species are located i.e. where not already impacted by existing residential uses? | The methodology for C2 was whether the site was either: existing C2, subject to a conservation mechanism or a 'natural area' with intact native vegetation. As such, threatened species records were not considered in this assessment. | The revised methodology for C2 zone mainly relates to the management of the land and includes reserves designated natural areas, sites subject to conservation mechanisms, and select protected waterbodies. |
| | | While EHG considers the protection of these species is important, concern is raised that C3 or C4 zoning does not offer much additional protection for these species | Council disagrees, a C3/C4 zone provides greater protection than the residential zone. For example, it would prevent the application of State Polices that over-ride | |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| | | | <p>local provisions and conditions, ensuring development is assessed by Council including Council's specialist biodiversity officers.</p> <p>It should be noted that most species polygons mapped for <i>Grevillea caleyi</i> and <i>Prostanthera marifolia</i> were located on public reserves and are therefore attributed to a C2 zone (see below).</p> | |
| | | It is assumed the four species that have been individually mapped will require specific LEP and DCP controls and be subject to an LEP overlay. | An overlay covering TECs and select threatened species is proposed. It is noted that other proposed overlays including core habitat will also include controls intended to protect threatened species. | |
| <p>Existing C2 Environmental Conservation Zones (HEV)</p> <p>Informing C2 rezoning decisions.</p> <p>Weighting = 1</p> <p>Threshold = any</p> | <p>Support</p> <p>The Department supports the retention and translation of existing C2 zones throughout the LGA.</p> | <ol style="list-style-type: none"> 1. This value is a valid consideration to inform conservation zoning decisions. 2. EHG considers all existing C2 zones should be retained. 3. Should any E2 zoning be removed, suitable justification must be provided as per Ministerial Direction 3.1. This may need to be considered on a site-by-site basis rather than generalised. 4. Some existing C2 zones are now proposed as split zones. Examples of these sites should be provided for further review. This should include specific details of the conservation values present on the site and why the C2 zoning is proposed for removal over the specified area. | <p>Note that a detailed review of existing C2 zone has identified some lands managed by Council that are primarily for other purposes such as recreation and/or infrastructure. These lands are proposed to be rezoned to another suitable zone such as RE1 Public Recreation.</p> <p>As part of our review many sites currently zoned as RE1 Public Recreation will be rezoned to C2 Environmental Conservation.</p> | Council is developing an online tool that will enable the Department to view all sites subject to change, including the justification. |
| Heritage Conservation Areas (HEV) | <p>Unsupported</p> <p>The existence of a heritage conservation area should not inform conservation zoning decisions.</p> <p>There are also multiple mechanisms within the standard instrument that consider the impact development may have on heritage significance.</p> | Council/ DPE Planning should seek comment from Heritage NSW in relation to rezoning of heritage items if required. | Council only selected Heritage Conservation Areas which were also found to have environmental values. PN 09-002 provides that the C3 Environmental Management zone is for land where there are special ecological, scientific, cultural or aesthetic attributes that require careful consideration / management and for uses compatible with these values. Heritage conservation areas have heritage significance and character that creates a sense of place that is valued and the careful management of development in these locations is required. | Heritage Conservation Areas were excluded from the revised methodology. |

| Criteria | DPE Comments – Letter and Attachment 1 | EHG Comments – Attachment 2 | Draft methodology response and justification | Revised methodology |
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| Transition Areas (HEV) | <p>Unsupported</p> <p>It is highly unlikely that land adjoining waterways, reserves etc contains conservation values on site that support conservation zones.</p> <p>Council has not justified the appropriateness of this criterion to inform land zoning decisions, specifically how they enhance or protect adjoining areas. To rezone land to conservation without the land having conservation value is not supported. The intent of Council to buffer land can still be achieved without rezoning.</p> <p>There may be merit in proceeding with this criterion as an LEP overlay, however at this stage no appropriate justification has been provided.</p> | <ol style="list-style-type: none"> 1. Transition areas have a role in the ongoing protection of conservation values on adjoining areas however limiting development on these sites may not directly protect conservation values. 2. Further commentary justification should be provided to justify how conservation zoning for these transitional areas will benefit the environmental values they adjoin (as identified in the data description). 3. For transitional areas, Council's suite of development controls are arguably more valuable in protecting these values than prohibiting some development types via conservation zoning. 4. This criterion may be more practical as an LEP overlay with no application threshold and a larger buffer area considered. 5. The effect of the rezoning threshold is unclear. | <p>Justification for this criterion was provided in Part 4 of Meridian's report – 'Technical data inputs'.</p> <p>The identification transitional areas adjacent to reserves and waterways with high environmental values, national parks, beaches, and headlands aligns with the recommended approach of the NSW National Parks and Wildlife Service's Developments adjacent to National Parks and Wildlife Service lands – Guidelines for consent and planning authorities, 2020.</p> <p>PN 09-002 provides that the C3 zone may be applied as a transition between high conservation value land e.g., land zone C1 or C2 and other land. Applying a C zone to lands adjacent to reserves and waterways with high environmental values, national parks, beaches, and headlands is an important consideration for the protection of these areas which require careful consideration / management of impacts from development and for uses compatible with these values.</p> | <p>Transition areas have been excluded from the revised methodology.</p> <p>Council will review the DCP for controls to ensure these objectives can be achieved.</p> |
| Biodiversity Corridor | <p>Unsupported</p> <p>There is no evidence to suggest that this land primarily contains conservation value beyond what would be mapped as threatened ecological communities or covered under other environmental values.</p> <p>Ensuring connectivity is important, however is not a valid reason to support a rezoning decision. The Department would support this as an overlay to consider development impacts on the retention of trees and connectivity to significant vegetation.</p> | Biodiversity Corridors | <p>Council did not propose Biodiversity Corridors and/or Urban Tree Canopy as the only matter to rezone a property. It was established as a Medium Environmental Value and triggered a Conservation Zone when coupled with other environmental criteria. Furthermore, as the urban tree canopy often overlaps with the biodiversity corridor layers in the urban domain, the layers were merged to create a single consolidated layer.</p> | Biodiversity corridors have been excluded from the revised C zone methodology. |
| | | Identified corridors have an emphasis on supporting core habitat. | Correct – corridors are initiated where OEH (2016) maps a patch of vegetation within 100m of core habitat | |
| | | Biodiversity corridors include open space adjacent to core habitat. Consider appropriateness of this for a rezoning | Biodiversity corridors were not solely used to rezone properties. Only vegetated areas that were contiguous with (within 100m) | |

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| | | <p>decision. Details of the buffers applied from edge of core habitat in these scenarios should be provided. Identification of these areas as transitional areas may be more appropriate.</p> | <p>Core Habitat were identified as corridor. Except where there may be errors/outdated mapping in OEH (2016), any cleared areas within the corridor layer are public open space within 100m of the coastline.</p> | |
| | | <p>The Biodiversity Planning review notes that 'In recognition of the generally more limited value of urban native, exotic and weedy vegetation, any of the areas mapped as less than one hectare were generally excluded from the corridor layer. However, areas of this vegetation type mapped within five metres of core or other mapped corridor, regardless of the size, were included as corridor as these areas were considered to be important for connectivity'. The impacts of including these additional areas in the corridor mapping should be detailed (number of additional properties impacted).</p> | <p>No further analysis will be undertaken as this criterion is not supported by DPE</p> | |
| | | <p>Patches were considered contiguous where there is a gap of 100m or less between other areas of native vegetation. It should be clarified if there is any additional criteria relating to the minimum area threshold for adjoining patches to be considered/mapped as part of the corridor?</p> | <p>Corridors were identified where OEH (2016) mapped 1) a PCT within 100m of core habitat or another patch of corridor; or 2) areas of urban/exotic vegetation >1ha within 100m of corridor and/or within 5m of core.</p> | |
| | | <p>A 100m buffer has been incorporated from tidal attributes. Are these areas also mapped under another criteria? If so, this may be a duplication causing the attribute to be 'counted' twice in the decision-making process.</p> | <p>This potential duplication would not have influenced the draft C zones mapping, as tidal and/or riparian criteria were considered 'High Environmental Value' and would have triggered a C zone on their own merit.</p> | |
| | | <p>The Biodiversity Planning review states that criteria used to identify, and map biodiversity corridor areas includes: 'A final selective review of corridor polygons to refine the extent of important areas of Council managed bushland and land zoned RE1 Public Recreation (LEP 2011), resulting in inclusion of some areas of corridor that do not conform to the above rules.' The methodology used in this final review should be clearly documented particularly why areas were included or excluded from mapping</p> | <p>Council notes that DPE have not supported the use of Biodiversity Corridors as C zones criteria. Regardless of this, the methodology that was applied provided for rationalisation of native vegetation located on public land but not within or proximal to core habitat. The methodology recognises that more isolated patches of native vegetation, still have connectivity values and can act as 'stepping stones' in an otherwise fragmented landscape.</p> <p>This was native vegetation on public land that did not fall within 100m of identified</p> | |

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| | | | core habitat or other areas of biodiversity corridor, or public land 100m within of the coastline. | |
| | | Regarding threatened species records it is unclear how these records and their associated buffers influence the core habitat and corridor mapping. | Threatened species records and buffers do not influence core habitat or corridor mapping, except for four Council reserves less than 3.5ha and one BSA site which was identified as Core Habitat due to high biodiversity values (TEC and important threatened species habitat). | |
| | | The importance of this data to inform the corridor layer is unclear given consideration to gaps in threatened species records or locations and the complex differences between various threatened species habitat requirements. | As above | |
| | | Threatened species and TECs are mapped under multiple criteria, more clarity around how the mapping methodologies vary particularly how duplication of data in different layers has been avoided should be provided. | Threatened species were only considered in the Core Habitat layer below the 3.5ha threshold in limited circumstances where important populations of critically endangered species are known to occur within TECs and in reserve areas. | Criteria used in the revised methodology is not cumulative and only requires one criteria above the relevant threshold to trigger a C zone. Therefore, the risk of duplication in the methodology is not a relevant consideration. |
| | | If the criteria for the corridor mapping was to be further refined to priority areas, weightings and thresholds could be reviewed for this criterion. The impacts of any such approach would need to be considered and justified. | Note the proposal to categorise corridors as Priority 1 (Native Vegetation) and Priority 2 (other) in future LEP/DCP overlays | As part of the Pilot Project, Council proposed the use of biodiversity corridors as 'High Environmental Value' criteria, where comprised of native vegetation'. However, this approach was not supported by the Department and therefore excluded from methodology |
| Urban Tree Canopy | <p>Tree Canopy It is unlikely that land within this criterion would contain conservation values at a level to suitably inform conservation zoning decisions.</p> <p>A planning overlay would more suitably capture the intent of Council without rezoning land.</p> | Currently mapped using an urban tapestry method from the Greener Neighbourhoods Guide. This method relies on a 100m grid and buffer whereby areas that contain >50% canopy within the buffer are mapped. This approach may result in extensive areas being mapped including areas that do not contain canopy. | EHG description correct in that areas with low canopy were counted as within an area with high canopy. | Excluded from methodology |
| | | A revised and potentially better mapping approach is being investigated where canopy coverage is mapped by street blocks and only included where >30% canopy is present across a given block. This is still likely to result in mapping of properties with little to no canopy coverage. Further clarification of how this will be avoided should be provided. | Correcting the revised methodology per block would still result in some lots with low canopy being counted. However it was investigated as a means of preventing isolated and surrounded sites. Mapping per property is available and can be done but this would result in a patchwork effect which Council were aiming to prevent. | Excluded from methodology |

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| | | Further consideration and comparison between the two methodologies should be undertaken and documented. | Council is likely to not proceed with this mapping given lack of support. Note however that the use of this data was in response to Strategic priorities to maintain and enhance the tree canopy. | Excluded from methodology |
| | | Mapping methodology may not be appropriate to inform landscape scale rezoning decisions. Finer grain mapping may be required. | As above Council is not going to use tree canopy mapping to inform conservation zones | |
| | | Were this to be an LEP overlay EHG would suggest identifying existing canopy in addition to areas where there is priority and/or opportunity for additional urban canopy development. This could be accompanied by stricter development controls relating to tree retention, management and replenishment. | Council is proposing an LEP overlay for landscape open space, with the objective to retain and enhance the tree canopy and ensure adequate deep soil is provided. | |
| | | When this layer is applied, how many additional lots are proposed for c zoning? Discuss and justify this outcome. Do these additional lots contribute to as expected the aims and objectives of the proposal/changing zones. | As above, it was just an MEV and also was combined with biodiversity corridors. Further analysis not required as this will not be pursued. | |
| | | EHG has assumed that tree canopy mapping consists of 'left over' areas of canopy that are not captured under other criteria mapping (corridors, TECs, riparian etc). this should be clarified. | The mapping was based on spatial analysis of LIDAR data without any manipulation or intention to complete 'left over' areas not captured by other criteria. As above it was only MEV and also combined with biodiversity corridor so was never the sole criteria resulting in a rezoning. | |
| | | It may be inappropriate to remap canopy that is mapped under other criteria. This could result in duplication of data. | As above, tree canopy was combined with corridor to ensure there was no duplication of data. | |
| | | Protection and enhancement of urban tree canopy continues to be an emerging priority. The proposed mapping and rezoning for this value would offer additional protection particularly by excluding application of codes SEPP which provides pathways for tree removal under complying development and also allows for development in closer proximity to trees (than deemed appropriate by Australia standard and most local government guidelines relating to tree protection) which | Agreed that tree canopy is an important consideration. | |

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| | | may ultimately lead to their decline in the short-medium term. | | |
| | | EHG supports the identification and conservation of Biodiversity corridors and tree canopy in urban areas however consideration must be given to the real-world management of these assets on private land. When individual or groups of trees decline in urban areas, they may not be subject to replenishment. Conservation zoning over such sites may result in legacy issues where sites maintain their C-Zoning but no longer contain any conservation values. EHG notes that this contrasts with natural areas where vegetation communities may decline and regenerate over time. | Although tree canopy and/or corridors may not be replenished, retaining larger landscape open space in these areas would help to retain landscape character. | |
| <p>Geotech Planning (Class C3 Hawkesbury and C5 Narrabeen) (MEV)</p> <p><i>Weighting = 0.5</i> Applies to urban areas only to inform C4 zones: >50% required</p> | <p>Unsupported</p> <p>Using this criterion/hazard to inform zoning decisions is not appropriate.</p> <p>There are existing provisions that adequately capture the considerations required for developing on land susceptible to geotechnical hazards.</p> | <p>EHG raises no comments or concern in relation to the use of known/existing geological features to inform conservation zoning and has not undertaken any review of the methodologies to map these features for this proposal.</p> | <p>Council did not propose Geotechnical Planning Classes as the only matter to rezone a property. It was established as a Medium Environmental Value and triggered a Conservation Zone when coupled with other environmental criteria.</p> <p>PN 09-002 provides that the C3 Environmental Management zone may be applied where there is highly constrained land where elements such as slope, erodible soils or salinity may have an impact on water quality within a hydrological catchment.</p> <p>Meridian's report recognises that the risk of landslip on development can be managed through the development assessment process with appropriate planning controls therefore a C3 zone was not recommended. It noted however that suburban residential land with high-risk geotechnical classifications that require a detailed geotechnical report do have environmental and hazard sensitives which need to be considered and managed which was why this was a consideration for the C4 Environmental Living zone to continue to encourage low impact residential development in suburban residential locations subject to steep slopes / landslip risk.</p> | <p>Excluded from methodology</p> |

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| | | | It is noted that slope has been used as a criteria in the following C zones: Pittwater LEP | |
| Ridgeline or Escarpments (MEV) | <p>Unsupported</p> <p>Scenic landscape hazards are not an appropriate mechanism to inform zoning decisions. It is also evident that this land is highly vegetated and undeveloped regardless of the existing zoning.</p> <p>Rezoning to a conservation zone will not alter the way this land is currently being preserved, and an LEP overlay is more appropriate.</p> | <ol style="list-style-type: none"> 1. EHG assume the 50m buffer applies to each side of the ridge line however this should be clarified. 2. If this criterion applied only to vegetated ridgelines and escarpments or are cleared/developed areas also included. 3. It is unclear if the key objective of this criteria conservation however the objectives of the C3 zone include those that relate to the landscape value of the site. Given this criterion has been identified as of value and aligns with the objective of the zone it may be appropriate. | <p>Council did not propose ridgelines or escarpments as the only matter to rezone a property. It was established as a Medium Environmental Value and triggered a Conservation Zone when coupled with other environmental criteria.</p> <p>Meridian’s report outlines the bushland landscape setting of some suburban places across the Northern beaches, particularly in Pittwater, can be attributed to the protection of these escarpments and ridgelines, which to date has been a product of access limitations, but has further enhanced the overall landscape character of the Northern Beaches.</p> <p>PN 09-002 sets out that the C4 Environmental Living zone is for land with special environmental or scenic values and accommodates low impact residential development. Whilst escarpments and major ridgelines provide scenic landscape values, given their protection over time due to access limitations, they are generally forested contributing to the urban ecology of the suburban residential setting.</p> | Excluded from methodology |