

OAKLANDS ESTATE STAGE 3

PLANNING PROPOSAL

For the proposed

AMENDMENT TO MINIMUM LOT SIZE

Lot 18 in DP 1199163
Oaklands Estate, Oaklands Drive,
Nemingha NSW 2340

Prepared for: Nunworth Pty Ltd

Our reference: 14111



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CONTENTS

1.0 Introduction.....	6
2.0 Proposal Objective	7
3.0 Planning Context	9
3.1 Tamworth Regional Local Environmental Plan 2010.....	9
4.0 Explanation of Provisions	10
5.0 Justification.....	11
5.1 Need for Planning Proposal.....	11
5.2 Relationship to Strategic Planning Framework.....	12
5.3 Environmental, Social & Economic Impacts	22
5.4 State and Commonwealth Interests.....	23
6.0 Mapping.....	23
7.0 Stakeholder Consultation.....	32
7.1 Community & Adjoining Landholders.....	32
7.2 Tamworth Regional Council.....	37
7.3 NSW Department of Primary Industries – Water	39
8.0 Project Timelines	40
9.0 Conclusion.....	41
10.0 Limitations	42
11.0References	43
Appendix A	Previous Conditions of Consent.....A-1
Appendix B	Biodiversity Constraints Assessment
Appendix C	Flora and Fauna Assessment
Appendix D	Market Value Impact Study
Appendix E	Servicing Strategy.....
Appendix F	Traffic Assessment
Appendix G	Correspondence



FIGURES

Figure 1: Site Locality Plan	24
Figure 2: Site Aerial Plan with Current Boundaries	25
Figure 3: Site Aerial Plan with Proposed Layout	26
Figure 4: Current Zoning and Lot Size Plan	27
Figure 5: Proposed Zoning and Lot Size Plan.....	28
Figure 6: NSW RFS Bushfire Mapping.....	29
Figure 7: Extent of White Box Grassy Woodland	30
Figure 8: Extent of Vegetated Riparian Zone	31

TABLES

Table 1: Site Identification.....	8
Table 2: Compliance with State Environmental Planning Policy	13
Table 3: Planning Proposal Compliance with Ministerial Directions	14
Table 4: Proposed Project Timeline	40



1.0 Introduction

Mitchel Hanlon Consulting Pty Ltd has been engaged to prepare a planning proposal to amend the Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010).

The proposed amendment will amend the TRLEP 2010 Lot Size Map. The subject land is currently zoned *R5 Large Lot Residential* and *E3 Environmental Management*.

The site is owned by Nunworth Pty Ltd and forms part of the 'Oaklands' rural-residential estate development. Existing infrastructure is present in the front portion of the estate with frontage to Nundle Road. This area forms Stage 1 and 2 of the development. Housing has been constructed and residents living within the estate.

This planning proposal has been prepared in accordance with the Department of Planning and Infrastructure's '*Guide to Preparing Planning Proposals*' (DP&E, 2016) and '*List of local planning directions issued by the Minister on or after 1 July 2009 (updated 5 August 2017)*'.

The reason for the proposed change to the planning instrument is as follows:

- Compliance with the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*;
- Compliance with the Matters of National Environmental Significance (MNES) for the Critically Endangered Ecological Community (CEEC) White Box – Yellow Box – Blakely's Red Gum Grassy Woodland;
- Supply of sufficient lot yield to offset the costs associated with the ongoing maintenance and management of the CEEC conservation area; and
- To increase the efficient use of infrastructure (in particular water supply infrastructure) to the site.



2.0 Proposal Objective

The objective of the planning proposal is to amend the Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010) Lot Size Map.

The site in relation to the immediate locality is presented in Figure 1. A site plan is shown in Figure 2 and the proposed lot layout is illustrated in Figure 3.

The subject site is zoned as *R5 Large Lot Residential*, *RU1 Primary Production* and *E3 Environmental Management* per the TRLEP 2010. It is proposed to reduce the minimum lot size on a portion of the *R5 Large Lot Residential* zone from 2 hectares (Z) to 1.5 hectare (Y1).

Reducing the minimum lot size will result in an increased lot yield from the site. This will increase properties that are able to utilise the present infrastructure.

The aim of the amendment is to allow a future subdivision of the site to create potentially 18 allotments with a lot size of 1.5ha and one lot with a lot area of approximately 345ha [Refer to Figure 3].

Stage 3 of Oaklands Estate was previously approved (DA0193/2010) for 17 rural residential lots (ranging from approximately 4.3ha to 77ha) [Refer to Appendix A]. This DA lapsed in 2015 and is now void.

It is also noted that six (6) lots contained within the approved Stage 1 (ranging in size from approximately 4.5ha to 15ha) were not constructed [Refer to Figure 2]. The location of these lots is now contained within the area subject to this planning proposal, therefore the proposal will only create potentially five (5) additional lots rather than eleven (11).



Table 1: Site Identification

ASPECT	DESCRIPTION
Site Address	Oaklands Drive, Nemingha
Lot / Section / DP	Lot 18 in DP 1199163
Town / City	Tamworth
Parish	Nemingha
County	Parry
LGA	Tamworth Regional
Site Owner/s	Nunworth Pty Ltd
Approximate Lot Area	383 ha
Current Use	Rural
Current Zoning [#]	<i>R5 – Large Lot Residential; RU1 – Primary Production; and E3 – Environmental Management.</i>
Current Minimum Lot Size [#]	<i>AD (100ha); Z (2ha); and AH (800ha)</i>

[#] Zoning under Tamworth Regional LEP 2010



3.0 Planning Context

3.1 Tamworth Regional Local Environmental Plan 2010

The subject site is zoned as *R5 Large Lot Residential*, *RU1 Primary Production* and *E3 Environmental Management* [Refer to Figure 4] per the TRLEP 2010. The site is also identified as having a minimum lot size of Z (2ha) for *R5* land, AD (100ha) for *E3* land and AH (800ha) for *RU1* land

The planning proposal seeks to amend the minimum lot size associated with the *R5* zoning. The objectives of the *R5* zone have been reproduced below to demonstrate the proposal's compliance to the zone.

Tamworth Regional Local Environmental Plan 2010 defines *R5 Large Lot Residential* as follows:

Zone R5 Large Lot Residential

1 Objectives of zone

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide a mix of housing that supports and encourages neighbouring equine-related facilities and is compatible with surrounding land uses and activities.

2 Permitted without consent

Home-based child care; Home occupations; Moorings; Roads

3 Permitted with consent

Backpackers' accommodation; Bed and breakfast accommodation; Cellar door premises; Dwelling houses; Home industries; Markets; Neighbourhood shops; Any other development not specified in item 2 or 4



4 Prohibited

Advertising structures; Air transport facilities; Amusement centres; Boat building and repair facilities; Boat sheds; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Dairies (pasture-based); Depots; Eco-tourist facilities; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Intensive livestock agriculture; Marinas; Mooring pens; Mortuaries; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Turf farming; Vehicle body repair workshops; Vehicle repair stations; Water recreation structures; Wharf or boating facilities; Wholesale supplies

4.0 Explanation of Provisions

This planning proposal seeks to amend the minimum lot size associated with the portion of the site zoned R5. The proposed amendment will affect TRLEP 2010 Lot Size Map – Sheet LSZ_004G.

It is proposed to increase the yield of lots on the remaining land by reducing the minimum lot size. Presently, the TRLEP 2010 Lot Size Map indicates the minimum lot size permissible on the site is two (2) hectares. It is proposed to reduce this to one and a half (1.5) hectares. This reduction in lot area and increase in yield will ensure the endangered CEEC is protected and the cost of the ongoing maintenance of the CEEC is offset by the additional land sales.

The Critically Endangered Ecological Community (CEEC) White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Box-gum woodland) found to the rear of the site will remain undeveloped and will be placed under a yet to be determine Conservation mechanism ensuring its conservation and management.

The biodiversity constraints assessment undertaken by Niche Environment and Heritage and the flora and fauna assessment prepared by Eco Logical Australia have been included in this submission as Appendix B and Appendix C respectively.



5.0 Justification

5.1 Need for Planning Proposal

Is the planning proposal a result of any strategic study or report?

Tamworth Regional Development Strategy

The Tamworth Regional Development Strategy (TRDS 2008) prepared by GHD for Tamworth Regional Council provides a direction for the settlement land within the Tamworth region.

The TRDS 2008 states that the Tamworth region is expected to continue to grow in the future. It also identifies that the predominant form of housing is detached dwellings on lots ranging from 700 – 1000m².

By increasing the available lots of the predominant housing type, coupled with an anticipated increase in population, people in the area will be supplied with preferred housing options. Further, the TRDS 2008 identifies that significant areas of native vegetation should be protected through zoning and development controls as well as reinforcing distinctive natural elements such as hills and vegetation. By placing the CEEC under a conservation agreement (a restrictive covenant or similar) administered by the NSW government, this goal can be achieved.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the most appropriate method for amending the TRLEP 2010.



5.2 Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub regional Strategy?

Strategic Regional Land Use Policy

The Department of Planning and Infrastructure released the Strategic Regional Land Use Policy for the New England and North West in September 2012 (NSW DPI, 2012).

The Strategy identified that there is a requirement for new housing to provide for population growth in the area. Further, it identified that Tamworth may need to rezone additional residential land by 2016.

The planning proposal is consistent with the regional strategy, as it will allow for the development of housing and will result in effective use of infrastructure.

The proposal is also consistent with the *New England North West Regional Plan 2036*. This strategy was prepared by NSW Planning and Environment.

Is the planning proposal consistent with the local Council's Community Strategic Plan or other local strategic plan?

The planning proposal is considered consistent with the strategic planning direction outlined in the TRDS as well as the Strategic Regional Land Use Policy.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

The following State Environmental Planning Policy (SEPP) is considered to be relevant to the subject land:

- SEPP No. 44 – Koala Habitat Protection;
- SEPP No. 55 – Remediation of Land; and
- SEPP – Rural Lands 2008.

An assessment has been undertaken to determine the level of consistency within the planning proposal has with the relevant State Environmental Planning Policy (SEPP). The results of the assessment are provided in Table 2.



Table 2: Compliance with State Environmental Planning Policy

SEPP	RELEVANCE	IMPLICATIONS
SEPP 44 – Koala Habitat Protection	This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.	<p>Ecological assessments undertaken onsite concluded that based on the definitions under SEPP 44, the areas supporting White Box Woodland and Yellow Box/River Red Gum on the site are 'potential Koala habitat'. However, no Koalas have been sighted in the study area during the numerous studies undertaken.</p> <p>The assessments undertaken determined that the proposed action will not adversely affect habitat critical to the survival of the Koala. The site is not deemed to be 'core koala habitat'.</p> <p>It is noted that the area considered to be potential Koala habitat are predominately located within the future conservation area (and existing E3 zoned land).</p>
SEPP 55 – Remediation of Land	The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.	<p>The planning proposal does not have any implications in terms of the application of the provisions of SEPP 55.</p> <p>A SEPP 55 assessment for the entire development site (stages 1 – 3) was undertaken in the development application associated with Stages 1 & 2.</p> <p>The subject site is not known to be contaminated. The site is not listed on the NSW EPA Register of Contaminated Sites, or the Contaminated Land – Record of Notices.</p>
State Environmental Planning Policy (Rural Lands) 2008	The object of this Policy is to provide for a Statewide planning approach to the subdivision of rural land to ensure the orderly and economic use and development of rural lands and to minimise land use conflict.	Given the current zoning the proposal is deemed to generally comply with the objectives of the SEPP and will have a positive environmental outcome.

No other relevant State Environmental Planning Policies (SEPP) were identified.



Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Table 3: Planning Proposal Compliance with Ministerial Directions

MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
1. Employment and Resources		
1.1 Business & Industrial Zones	Not applicable to this planning proposal.	The subject site is not within an existing or proposed business or industrial boundary.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	A small portion of the site (the north eastern corner) is zoned RU1. However, the proposal does not intend to rezone this portion of the site i.e. the RU1 zoned land will be retained. As such the proposal is deemed to satisfy the objectives of this direction.
1.3 Mining, Petroleum Production & Extractive Industries	Not applicable to this planning proposal.	The planning proposal does not relate to the rezoning of land with a known future associated with the Mining, Petroleum Production and Extractive Industries.
1.4 Oyster Aquaculture	Not applicable to this planning proposal.	The planning proposal does not relate to a Priority Oyster Aquaculture Area.
1.5 Rural Lands	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> ○ protect the agricultural production value of rural land, ○ facilitate the orderly and economic development of rural lands for rural and related purposes. 	<p>The subject site contains land identified within existing rural and environment protection zones (RU1 and E3 under the TRLEP 2010).</p> <p>The proposal does not intend to rezone the RU1 zoned land within the site.</p> <p>The proposal will result in better management of the CEEC and E3 zoned land.</p>



MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
2. Environment and Heritage		
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The subject site is within an existing environment protection zone (E3 under the TRLEP 2010), the proposal will result in better management of the E3 zoned land and provide for its ongoing maintenance.
2.2 Coastal Management	Not applicable to this planning proposal.	The subject site is not within the coastal zone.
2.3 Heritage Conservation	Not applicable to this planning proposal.	The planning proposal will not affect land in a known heritage conservation area.
2.4 Recreation Vehicle Areas	Not applicable to this planning proposal.	The planning proposal does not relate to a Recreational Vehicle Area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable to this planning proposal.	The planning proposal does not relate to land in a Far North Coast LEP



MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource lands. 	<p>The planning proposal provides consistency with this direction.</p> <p>The subject site is within an existing residential zone (R5) under the TRLEP 2010.</p> <p>The proposal aims to make efficient use of the existing infrastructure and services of the site. Electricity, telecommunications and adequate water supply services are existing for the site.</p> <p>There is no proposal to subdivide or rezone environmentally sensitive or resource lands.</p>
3.2 Caravan Parks and Manufactured Home Estates	Not applicable to this planning proposal.	The planning proposal does not restrict land available for caravan parks or manufactured home estates.
3.3 Home Occupations	Not applicable to this planning proposal.	The planning proposal does not relate to home occupations.
3.4 Integrating Land Use and Transport	Not applicable to this planning proposal.	The planning proposal does not relate to transport access.
3.5 Development Near Regulated Airports and Defence Airfields	Not applicable to this planning proposal.	The proposal is not in the vicinity of a regulated airport or defence airfield.
3.6 Shooting Ranges	Not applicable to this planning proposal.	The planning proposal does not relate to or impact on a shooting range.



3.7

Reduction in non-hosted short term rental accommodation period

Not applicable to this planning proposal.

The planning proposal does not relate to land in Byron Shire Council.

MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Not applicable to this planning proposal.	There are no known occurrences of acid sulfate soils in the region.
4.2 Mine Subsidence and Unstable Land	Not applicable to this planning proposal.	The land is not identified to be an area affected by mine subsidence or unstable land.
4.3 Flood Prone Land	Not applicable to this planning proposal	The land is not identified to be a flood prone.
4.4 Planning for Bushfire Protection	<p>Bush fire mapping indicates parts of the site are affected [Refer to Figure 6].</p> <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> ◦ (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and ◦ (b) to encourage sound management of bush fire prone areas. 	<p>The requirement of Planning for Bushfire Protection will be implemented during the development application and subsequent construction certificate phases of the development.</p> <p>As the conservation area will be limited to the area shown in Figure 3, the proposed future lots will not be burdened by the agreement. As such, the future lots are deemed to be capable of complying with the requirements of PBP.</p>



MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
5. Regional Planning		
5.1 Implementation of Regional Strategies	Not applicable to this planning proposal.	The site is not located within the South Coast Regional or the Sydney-Canberra Corridor Regional Strategies.
5.2 Sydney Drinking Water Catchments	Not applicable to this planning proposal.	The site is not within the Sydney drinking water catchment.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable to this planning proposal.	The planning proposal does not relate to state or regionally significant farmland on the NSW Far North Coast.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to this planning proposal.	The planning proposal does not relate to commercial and retail development along the Pacific Highway, North Coast.
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)		Revoked & Not Applicable
5.6 Sydney to Canberra Corridor		Revoked & Not Applicable
5.7 Central Coast		Revoked & Not Applicable
5.8 Second Sydney Airport: Badgerys Creek		Revoked & Not Applicable



MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
5.9 North West Rail Link Corridor Strategy	Not applicable to this planning proposal.	The planning proposal is not in proximity to the North West Rail Link Corridor
5.10 Implementation of Regional Plans	The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The Regional Plan for the New England North West was released by NSW Planning and Environment. The project is consistent with Goal 4 Attractive and thriving communities and Direction 21 Deliver well planned rural residential housing.
5.11 Development of Aboriginal Land Council land	The objective of this direction is to provide for the consideration of development delivery plans prepared under State Environmental Planning Policy (Aboriginal Land) 2019 when planning proposals are prepared by a planning proposal authority.	The planning proposal does not relate to land shown on the Land Application Map of the <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> .

MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
6. Local Plan Making		
6.1 Approval and Referral Requirements	Not applicable to this planning proposal.	Not deemed applicable.
6.2 Reserving Land for Public Purposes	Not applicable to this planning proposal.	The planning proposal does not relate to land that is reserved for public purpose.
6.3 Site Specific Provisions	Not applicable to this planning proposal.	The planning proposal does not seek to impose restrictive site specific provisions.



MINISTERIAL DIRECTIONS	PROVISIONS	IMPLICATIONS
7. Metropolitan Planning		
7.1 Implementation of a Plan for Growing Sydney	Not applicable to this planning proposal.	The site is not subject to the Plan for Growing Sydney.
7.2 Implementation of Greater Macarthur Land Release Investigation	Not applicable to this planning proposal.	The site is not located on land within the Greater Macarthur Land Release Investigation Area.
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not applicable to this planning proposal.	The site is not located on land within the Parramatta Road Corridor.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable to this planning proposal.	The site is not located on land within the North West Priority Growth Area.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to this planning proposal.	The site is not located on land within the Greater Parramatta Priority Growth Area.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable to this planning proposal.	The site is not located on land within the Wilton Priority Growth Area.
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable to this planning proposal.	The site is not located on land within the precincts between Glenfield and Macarthur.



7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan	Not applicable to this planning proposal.	The site is not located on land within the Western Sydney Aerotropolis or land affected by the obstacle limitation surface and ANEF contours for Western Sydney Airport.
7.9 Implementation of Bayside West Precincts 2036 Plan	Not applicable to this planning proposal.	The site is not located on land within the Bayside West Precincts of Arncliffe, Banksia and Cooks Cove.
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable to this planning proposal.	This land is not located on land within the Cooks Cove Precinct.



5.3 Environmental, Social & Economic Impacts

Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the proposal?

The proposal occurs on land which comprises the Critically Endangered Ecological Community (CEEC) White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland (Box-gum woodland). This box-gum woodland is predominantly located in a current E3 *Environmental Management zoned area*. The proposed development will not impact this zoning or the box-gum woodland. All development will be limited to a 39ha portion of the zoned R5 area. As a result, no negative impacts on the CEEC have been identified. Further, a conservation area will be created containing the box-gum woodland, this area will be placed under a conservation agreement (a restrictive covenant or similar) administered by the NSW government ensuring its conservation [Refer to the proposed conservation area identified in Figure 3].

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Bushfire mapping indicates parts of the site are affected [Refer to Figure 6].

The requirement of Planning for Bushfire Protection will be implemented during the development application and subsequent construction certificate phases of the development.

As the conservation area will be limited to the area shown in Figure 3, the proposed future lots will not be burdened by the agreement. As such, the future lots are deemed to be capable of complying with the requirements of PBP.

No other environmental effects have been identified.

How has the planning proposal adequately addressed any social and economic impacts?

The social and economic impact of the planning proposal is predicted to be positive as it will allow for additional residential areas thus providing for a broader range of buyer's tastes and economic circumstances.

As the Tamworth Regional Development Strategy (GHD, 2008) identifies, Tamworth is a growing area, resulting in a demand for housing options.

The development will allow for the continued expansion of an identified future growth zone for the Tamworth Local Government Area. This will help ensure that future services are provided and maintained within the Nemingha locality.



The proposal is also considered to have a positive impact on the surrounding locality as the proposed development will generally be marketed to 'second' and 'third' home buyers whom generally have young children. As such, it is anticipated the increased in lot yield will potentially result in an increase in children attending Nemingha Public School.

It is also noted that the proposal is not expected to have a negative impact to property values within the surrounding area.

5.4 State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

Investigations show that there will be adequate existing infrastructure to service the site. The subject site is serviced by electricity, stormwater, telecommunications and has access via a sealed road.

There is adequate area for on-site sewerage systems for each lot.

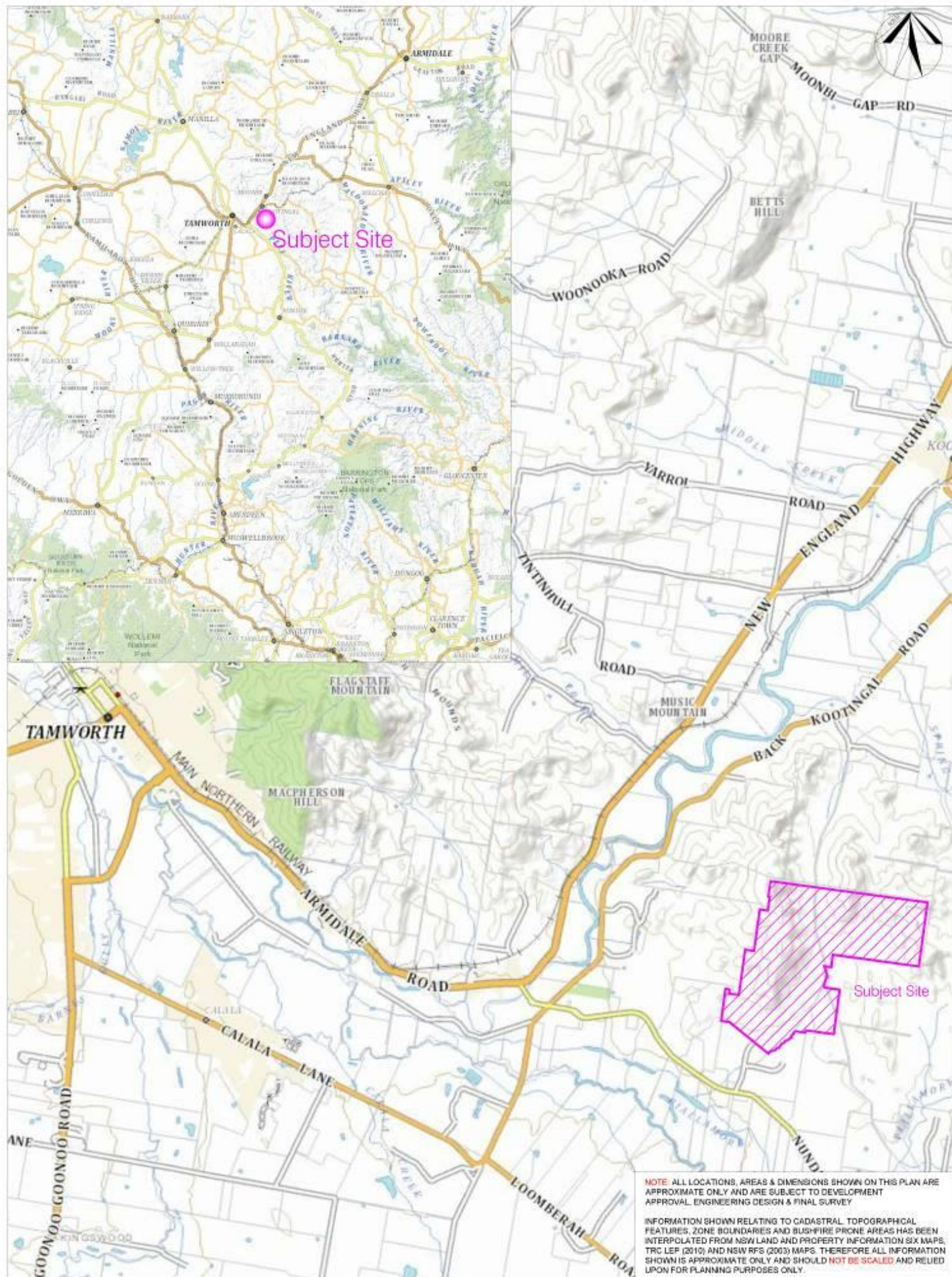
What are the views of State and Commonwealth public authorities consulted with the gateway determination?

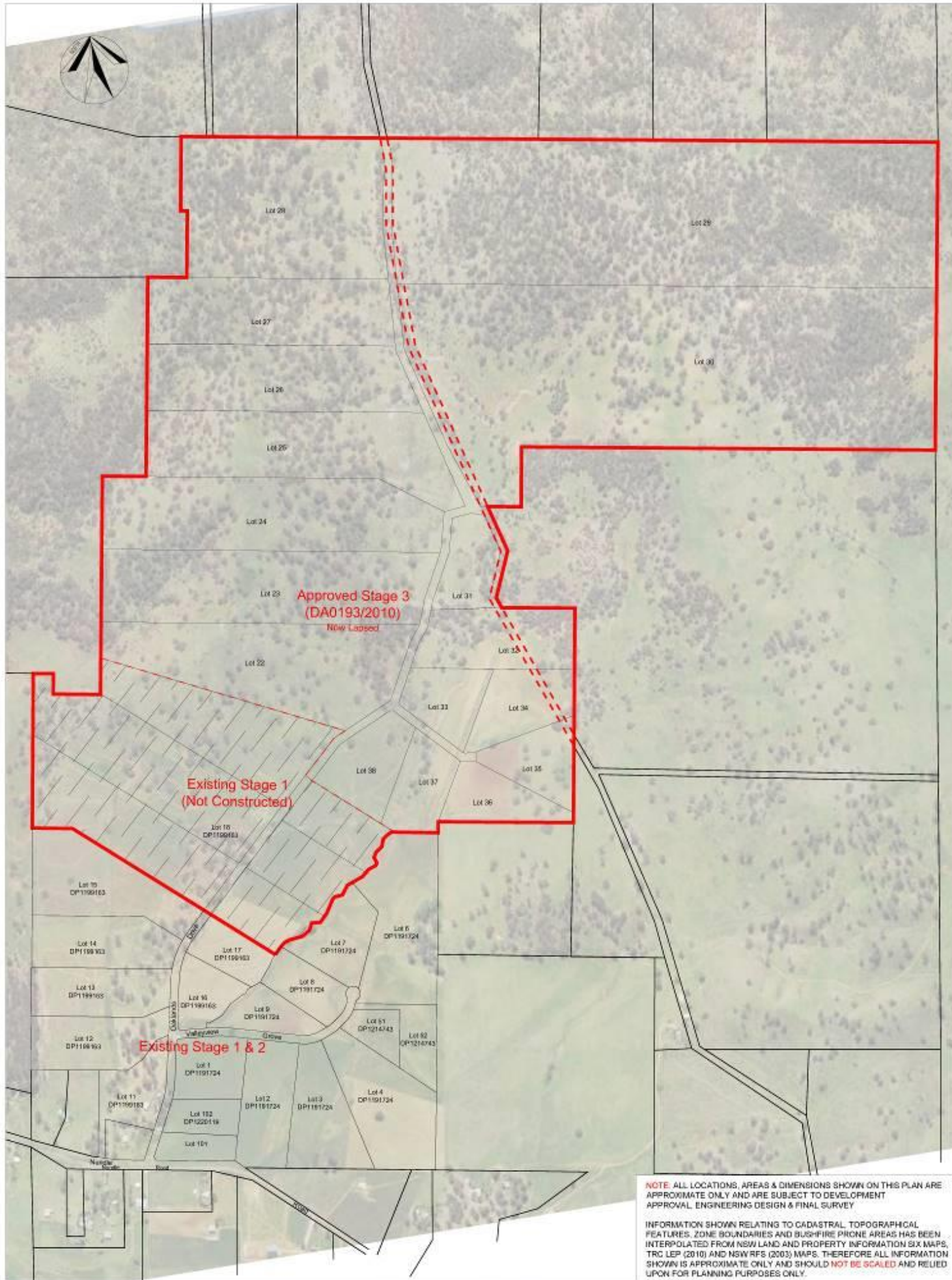
The issues raised by State and Commonwealth public authorities were addressed during the Planning Proposal public exhibition phase. The matters were included in the report to the 28 August 2018 Ordinary Meeting of Council.

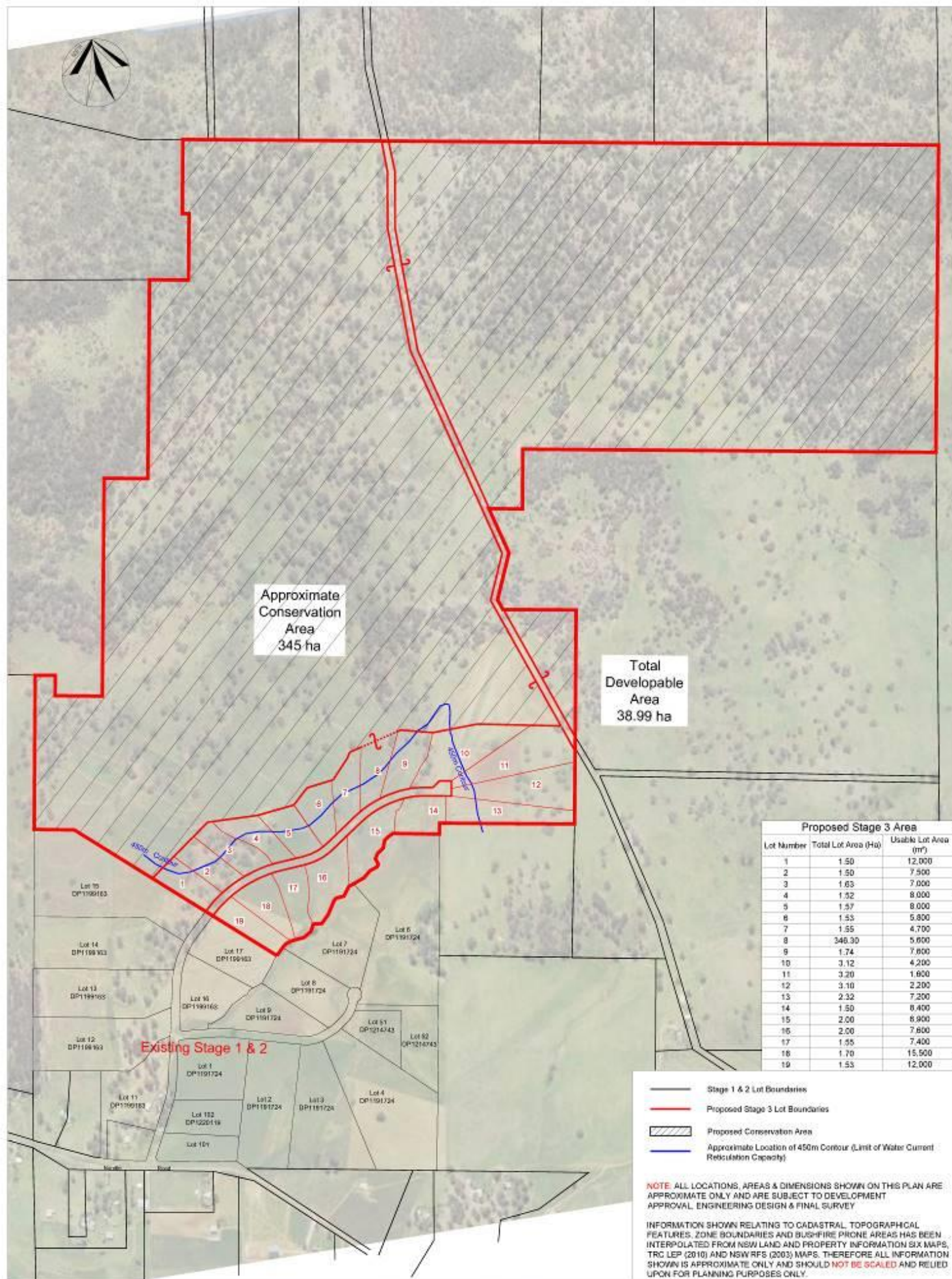
6.0 Mapping

To assist with the assessment of the proposal, the following mapping has been prepared:

- Figure 1: Site Locality Plan;
- Figure 2: Site Aerial Plan with Current Boundaries;
- Figure 3: Site Aerial Plan with Proposed Layout;
- Figure 4: Current Zoning and Lot Size Plan;
- Figure 5: Proposed Zoning and Lot Size Plan;
- Figure 6: NSW RFS Bushfire Mapping;
- Figure 7: Extent of White Box Grassy Woodland; and
- Figure 8: Extent of Vegetated Riparian Zone.







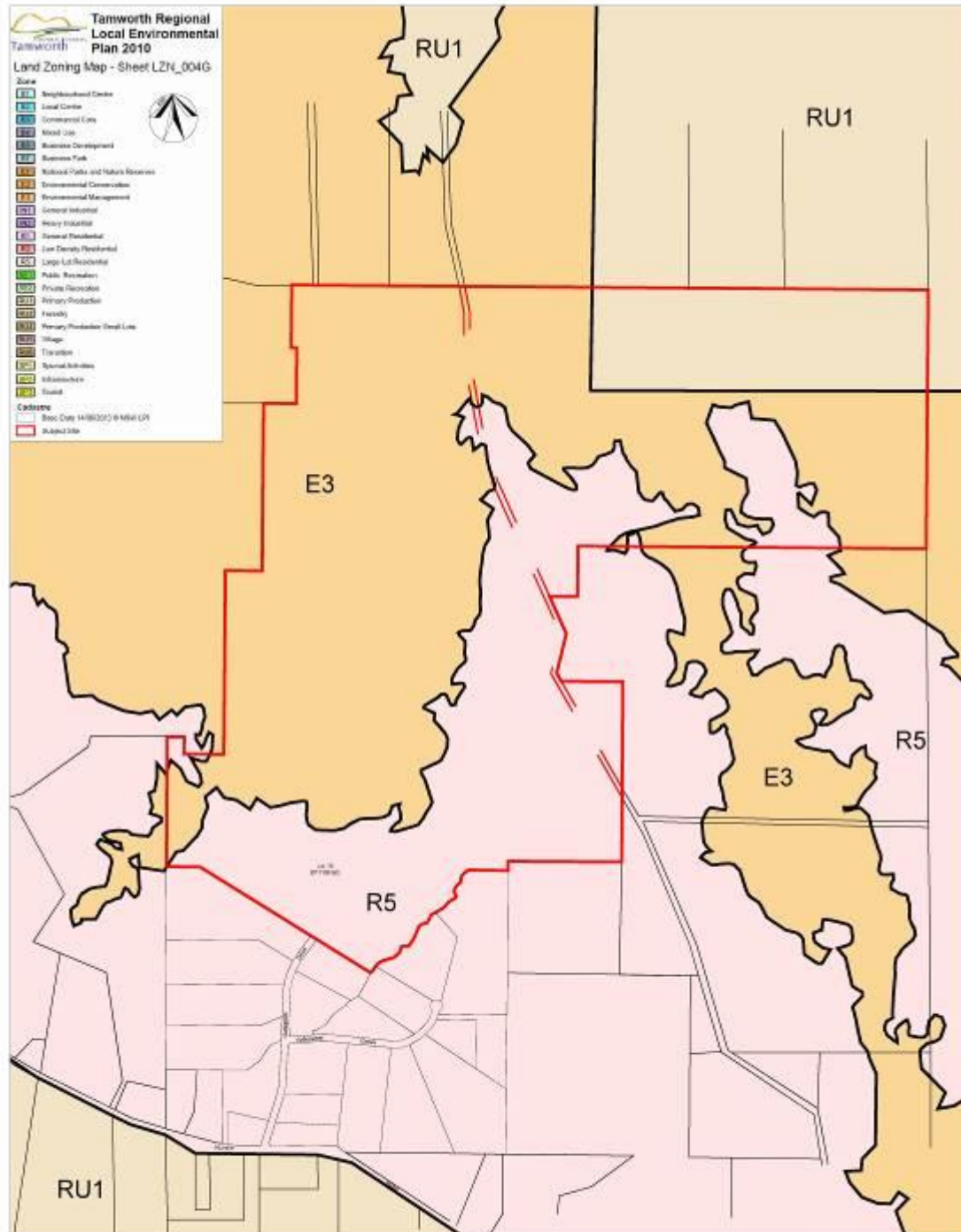
Tamworth Regional Local Environmental Plan 2010
Land Zoning Map - Sheet LZN_004G

Zone

- Neighbourhood Centre
- Local Centre
- Commercial Core
- Mixed Use
- Business Development
- Business Park
- Rural Parks and Nature Reserves
- Environmental Conservation
- Environmental Management
- General Industrial
- Heavy Industrial
- General Residential
- Low Density Residential
- Large Lot Residential
- Public Reserves
- Private Reserves
- Primary Residential
- Facility
- Primary Residential (Credit Lane)
- Wages
- Transition
- Special Activities
- Infrastructure
- Special

Cadastre

- Base Data (14/06/2010) @ NSW LPI
- Subject Site



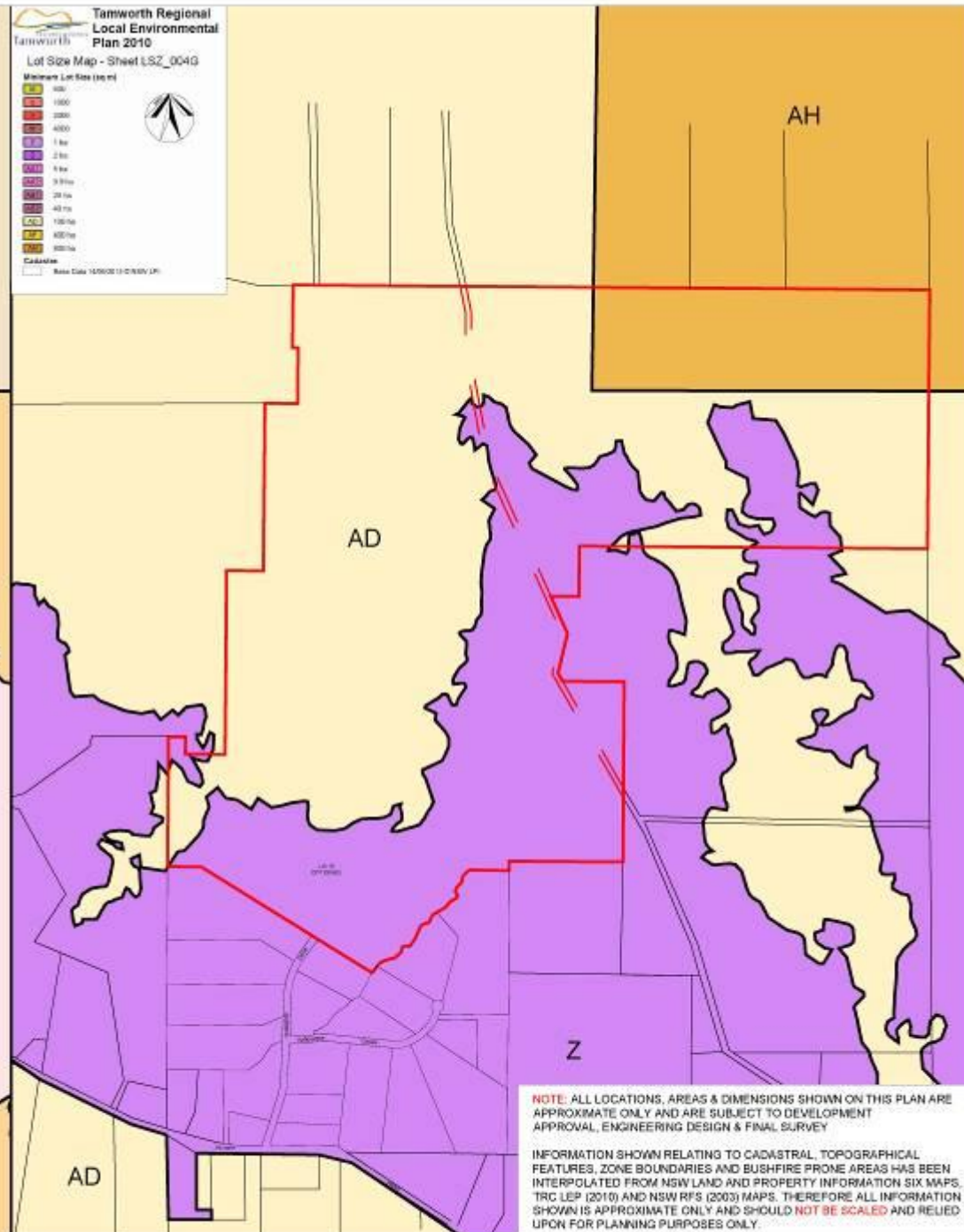
Tamworth Regional Local Environmental Plan 2010
Lot Size Map - Sheet LSZ_004G

Minimum Lot Size (sq m)

- 100
- 1500
- 2000
- 4000
- 1 ha
- 2 ha
- 4 ha
- 9.9 ha
- 20 ha
- 40 ha
- 100 ha
- 400 ha
- 800 ha

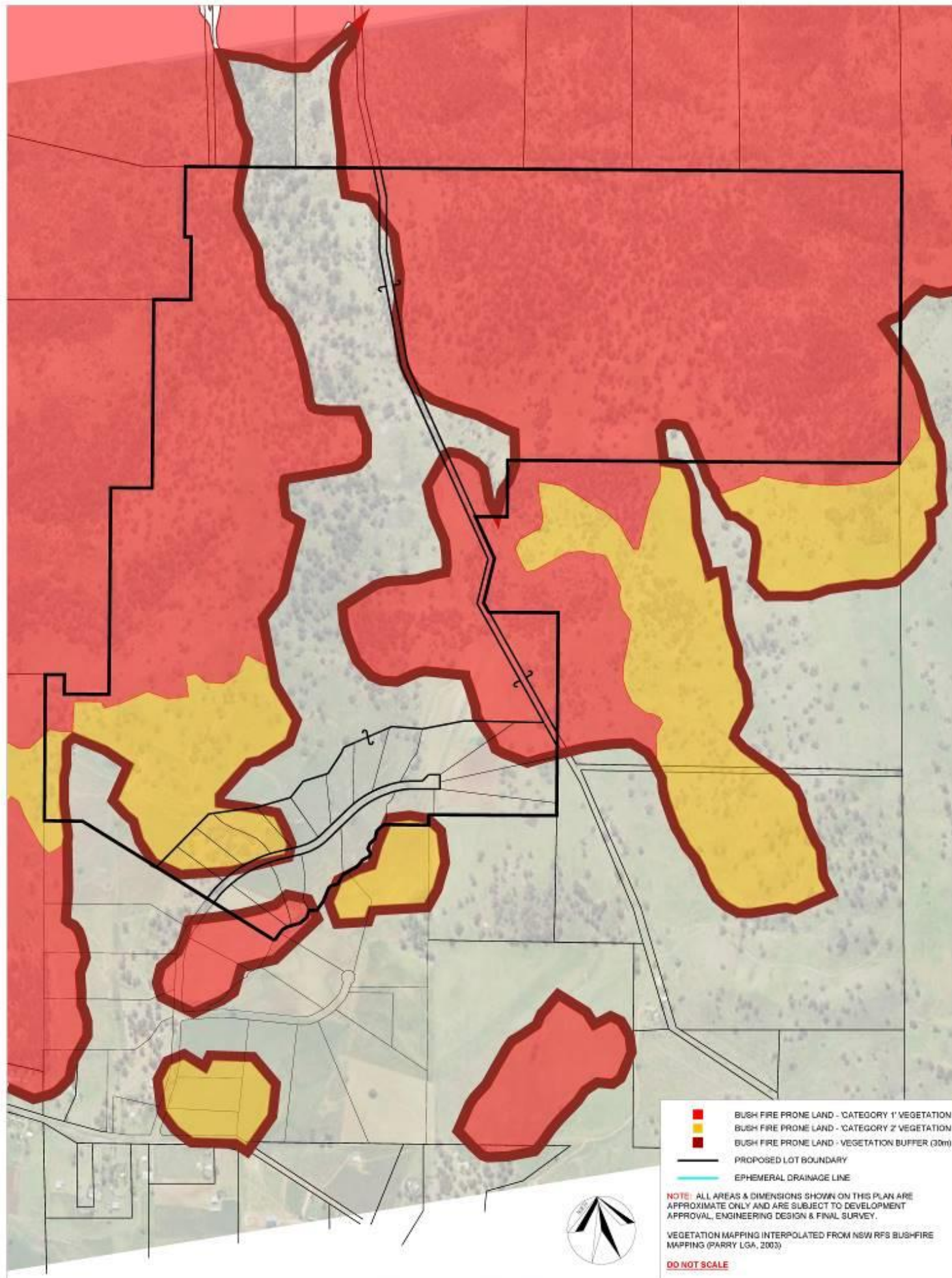
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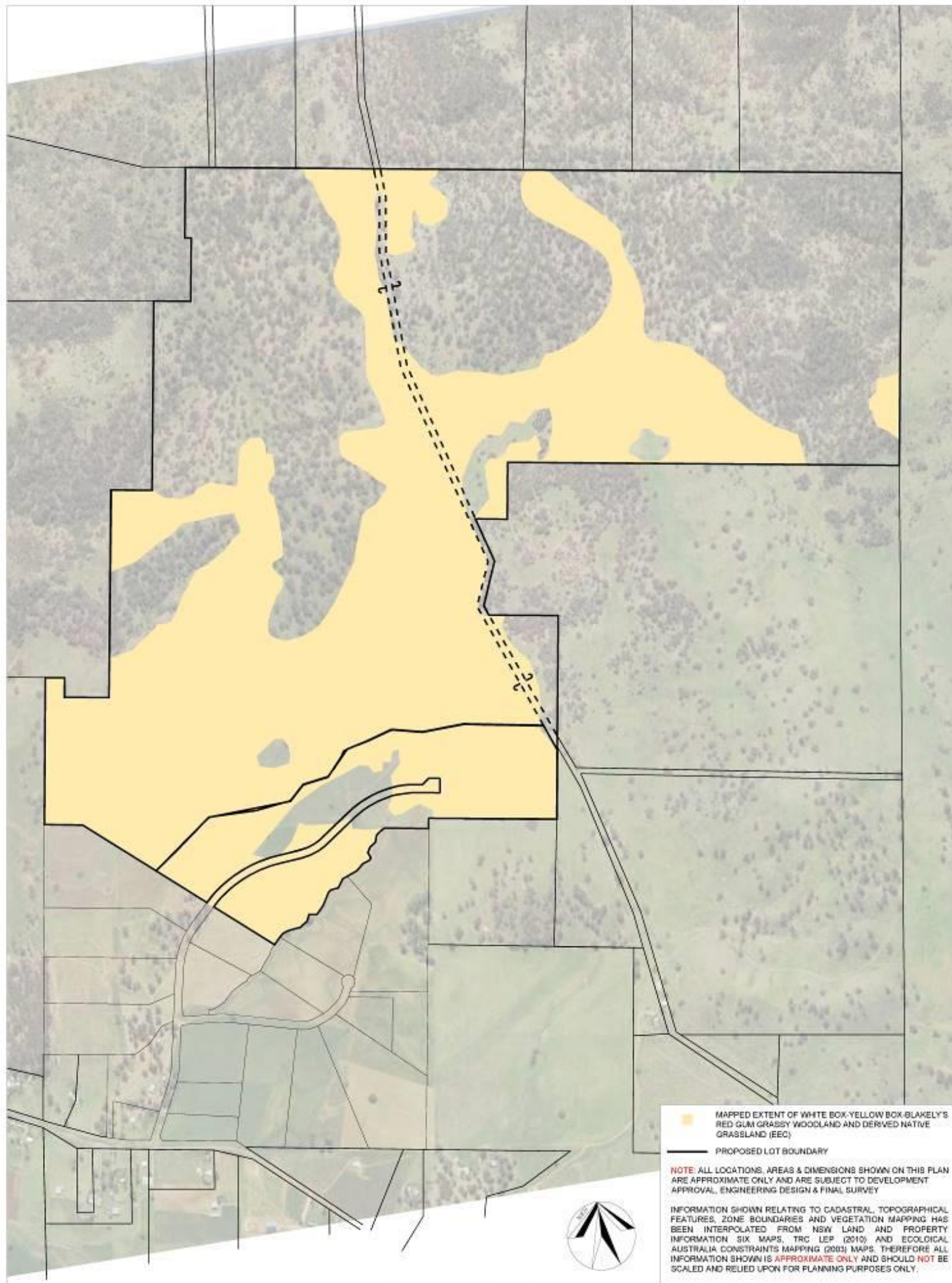
- Base Data (14/06/2010) @ NSW LPI

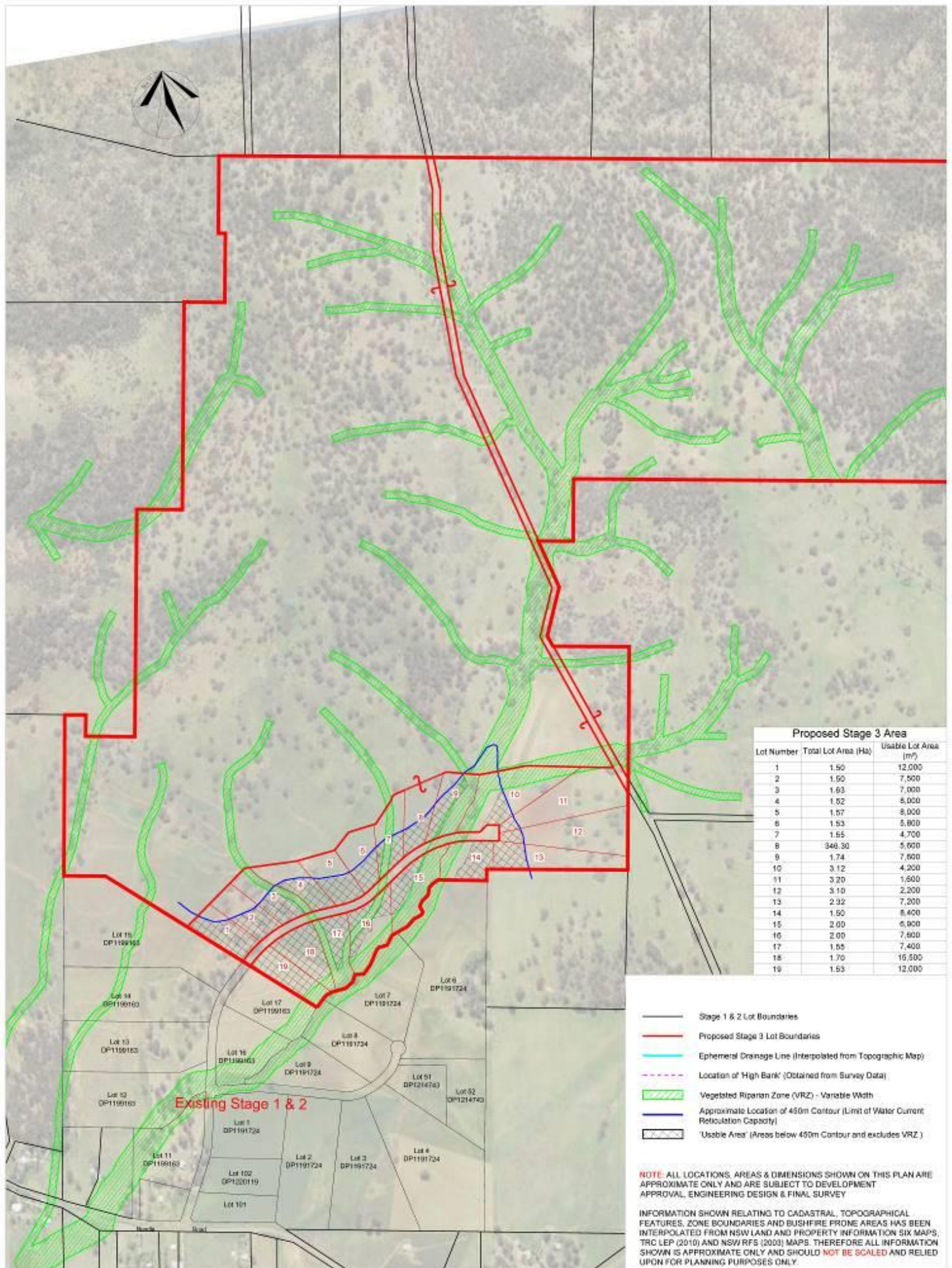


NOTE: ALL LOCATIONS, AREAS & DIMENSIONS SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND ARE SUBJECT TO DEVELOPMENT APPROVAL, ENGINEERING DESIGN & FINAL SURVEY

INFORMATION SHOWN RELATING TO CADASTRAL, TOPOGRAPHICAL FEATURES, ZONE BOUNDARIES AND BUSHFIRE PRONE AREAS HAS BEEN INTERPOLATED FROM NSW LAND AND PROPERTY INFORMATION SIX MAPS, TRC LEP (2010) AND NSW RFS (2003) MAPS. THEREFORE ALL INFORMATION SHOWN IS APPROXIMATE ONLY AND SHOULD NOT BE SCALED AND RELIED UPON FOR PLANNING PURPOSES ONLY.









7.0 Stakeholder Consultation

7.1 Community & Adjoining Landholders

In accordance with the NSW Department of Planning's *Guidelines to Preparing LEPs*, upon Gateway Determination adjoining landholders and any affected community organisation will be formally notified of the proposal and invited to provide comment.

Council notified MHC that engaging the community early in the Planning Proposal process was advisable. This was to ensure that any concerns raised are suitably assessed and mitigated or eliminated where possible.

A letter drop of residents and adjoining landholders provided notification of a meeting to on the 18th November 2016 [Refer to Appendix G]. The following summarises the concerns raised at the meeting together with a response.

Lot sizes are not appropriate and it was understood that lot sizes were to remain constant.

Initially, expectations from all parties (including the developer) were that lot sizes were to be larger than 2 ha throughout the estate.

Changes to listed matters under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) saw the available land for development reduce from 80 ha to 39 ha.

Properties will lose value as a result of higher density development.

Taylor Byrne Valuation and Property Consultants were engaged to prepare an independent Market Value Impact Study [Refer to Appendix D]. This was undertaken to identify any impacts to land value that a higher density may have.

It was found that:

Little, if any, impacts are created on existing property values which can be directly attributed to the existence of higher density development as proposed within the subject development.

The conclusion reached was that a reduction in minimum lot sizes is unlikely to negatively impact property values. In fact, it may increase the value of the existing lots in Stages 1 and 2 due to the shortage of larger rural-residential lots.



Will current landowners be compensated from the developer for loss of value?

No compensation is proposed.

As indicated in the report prepared by Taylor Byrne Valuation and Property Consultants, it is unlikely that property values will be affected. No compensation will occur as there will be no loss of value.

Increased traffic issues

The previously approved subdivision layout for Stage 3 (DA0193/2010) comprised 17 lots. The planning proposal seeks to allow potentially 28 lot.

It should be noted that, six (6) lots contained within approved Stage 1 (ranging in size from approximately 4.5ha to 15ha) were not constructed. The location of these lots is now contained within the area subject to this planning proposal, therefore the proposal will only potentially create five (5) additional lots rather than eleven (11).

Given the proposed increase in lot yield, TRC requested that an addendum be prepared to the initial traffic impact assessment associated with DA0193/2010.

Seca Solutions were engaged to undertake the necessary site works (including traffic counts) and prepare an addendum detailing any potential impacts to the local traffic environment associated with the planning proposal [Refer to Appendix F]..

The traffic assessment undertaken determined that there will be no traffic impact as a result of the additional lots associated with the proposal.

The road network within Stages 1 and 2 and the intersection at Nundle Road has been designed to cater for the expected number of traffic movements. This includes road geometry and pavement thickness.

Pavement thickness issues

All roads have been designed to meet the Australian Standards.

Too many neighbours

The total number of lots has only marginally changed. The number of potential residents will only increase by a maximum of five (5) residences.

Inadequate services

Stormwater is directed to the creek on the eastern side of the estate. All table drains and culverts have been adequately designed and sized to meet Tamworth Regional Council's guidelines and Australian Standards.

Water supply will remain trickle feed per TRC guidelines for rural residential subdivisions.



Loss of amenity

Definition

The online edition of the Merriam-Webster dictionary defines amenity as the quality of being pleasant or agreeable.

The Planning Academy (2017) defines the term as

The pleasant or normally satisfactory aspects of a location which contribute to its overall character and the enjoyment of residents or visitors.

The August 2008 newsletter from the Victorian Government Solicitor's Office provides the following definition of amenity:

Amenity is an elusive concept. It has its usual meaning of pleasantness, but also has a wider ambit. It has a physical (or tangible) component, which could include character and appearance of building and works, proximity to shopping facilities, quality infrastructure and absence of noise, unsightliness or offensive odours. It has been said to embrace all the features, benefits and advantages inherent in the environment in question. It also has a psychological or social component.

Amenity is a subjective quality and, in this regard, can be considered to be the agreeableness of the site and surrounds with respect to its rural character. This includes the sights, sounds, odours, scale and climate of the Oaklands estate. This implies the agreeableness of the site may be compromised if the agricultural use of the adjoining lands were to change from say lucerne cropping to intensive poultry farming.

Concerns are typically expressed in terms such as:

- invasion of privacy through densification;
- too much extra demand on community services (health, education, social services)
- too much extra demand on public infrastructure (roads, water supply, sewerage, drainage, electricity, gas, etc)
- excessive environmental impacts (i.e. odour, dust, noise, chemicals, electromagnetic, etc);
- diminishment of land and property values;
- increased competition for businesses;
- detriment to physical and mental health;
- loss of neighbouring land for exclusive private use;
- sense of betrayal by the developer, the real estate agent, Council and the development consultants.



No doubt there are others.

Land holders sometimes have an idealised perception of a rural landscape. The use of machinery and pumps by existing primary producers may affect the perceived amenity of new residents not accustomed to the working noises and odours of a neighbouring farm.

Similarly the use of machinery and pumps at night may affect the perceived amenity of the site resulting in complaints to authorities.

For Oaklands, the following have been identified as the key concerns of the existing residents that could affect their amenity.

Visual impact

The proposed Stage 3 will have a visual impact.

The impact is perhaps greatest for the existing Lots 6 and 7 in Stage 1. These lots have the creek as their rear boundary. Should Stage 3 proceed, smaller one (1) ha lots will extend to the creek with the result being Lots 6 and 7 having up to three (3) neighbours rather than the expected single neighbour.

The consequences are three (3) homes built and three (3) family units in residence.

The loss of privacy concern for Lots 6 and 7 comes from the elevated nature and line-of-sight thereby allowing residents and visitors to peer into and out of each existing and proposed lot. Lot 6 and 7 will have this issue whether there is one lot or three (3) future neighbours.

Given the presence of a 4th order stream along the rear boundaries of the southern lots within Stage 3, it is anticipated that a vegetated riparian buffer along the northern bank (within proposed lots 1 to 7) of the 'stream' will be required. This buffer is considered to be sufficient to screen the future lots within Stage 3 and subsequently reduce any visual impact potentially experienced by adjoining landowners

Lot Density

The lot areas in Stages 1 and 2 range from 2.915 ha to 10.51 ha.

It is acknowledged the average lot size will reduce and lot density will increase compared to Stages 1 and 2.

The terrain of the initial section of Stage 3 site does not lend itself to large rural-sized lots. Whilst large-sized lots were considered, the ability to manage large lots on sidling country is not as conducive as for lots on the flatter Stages 1 and 2.

Traffic

The increase in traffic movements is not expected to impact the surrounding locality [Refer to Appendix F].



Water Supply and Utilities

The proposed layout has been developed to ensure adequate servicing provisions are available to each lot. The existing services present within the development site are deemed to be adequate to facilitate the proposal.

Misleading marketing

A statement was made that the marketing of the subdivision was misleading. It was the purchasers' belief that future stages were to be larger than average rural-residential lots.

In a sense, this thinking is understandable. This "social contract" is the view that a person's moral and/or political obligations are dependent upon a *contract* or agreement among them in order to form the society in which they live. In this case, that the remaining stages of Oakland would be large rural-residential lots.

It can be stated that the developer did comply with his moral contract as evidenced by the large lots within Stage 2. Thus the owners of the lots in Stage 1 saw the developer deliver on its obligation.

The change occurred as a result of an externality i.e. through no fault of the developer. The circumstances affecting the developer's ability to deliver the desired outcomes had changed. All contracts can be renegotiated if circumstances change.

The refusal to understand the needs of the developer and the wider community reflects human nature and is often at its most shrill when information is lacking.

The importance of the community engagement session to communicate the changes to Stage 3 due to the ecological study cannot be understated.

Unethical behaviour

A statement was made that subdivisions within Stage 1 were undertaken by the developer. No subsequent subdivision has been made by the developer.

It is noted that while two (2) lots were further subdivided by the developer in Stage 2, subsequent purchasers of lots within stage 1 have conducted their own subdivisions. Since plan registration of Stage 1, the following lots have been subdivided by their owners (i.e. not the developer):

- Lot 5 in Stage 1 into two (2) lots of 2 ha each.
- Lot 10 in Stage 1 into two (2) lots of 2 ha each

Continued access and use to land within Stage 3

Many residents expressed disappointment in not being able to access the land comprising Stage 3. They currently walk or ride their horses through the site. This will be restricted if the development is granted approval. It is noted



that the site is in the private ownership of the development company and is not a public reserve. Therefore, the adjoining residents do not currently have a right to access the site.

The plan of management will, most likely, restrict usage of the residue land so as to comply with the 'protect and enhance' requirements of the environmental approval. The unsupervised access of the protected lands may prevent achievement of the performance targets with the plan of management.

Future land owners of the lot containing the vegetation offset may be able to undertake selective grazing for weed control and land management.

Opportunity to use protected land for horse trails

This may not be possible due to the requirements of the future land management plan.

7.2 Tamworth Regional Council

In addition to consultation with the adjoining landholders within Oaklands Estate, Mitchel Hanlon Consulting has undertaken consultation with Tamworth Regional Council (TRC). This consultation comprised various discussions and meetings with TRC's planning and engineering staff as well as the preparation of lodgement of a draft planning proposal for review and comment by Council staff.

The correspondence received from Council staff following the review indicated that further information regarding riparian corridor requirements, servicing and traffic impacts was to be provided within the planning proposal.

The following has been undertaken in an attempt to comply with Councils request:

Riparian Corridor Requirements

The correspondence received from Council recommended that given the presence of a 'fourth (4th) order stream' within the development area, consultation with the NSW Department be undertaken to determine appropriate vegetation implantation and management of a riparian zone along the southern boundary of the subject site.

Initial discussions were held with NSW DPI (Water) staff to determine appropriate management of the required riparian and is outlined within Section 7.3.



Servicing

The correspondence received requested a preliminary servicing strategy be prepared to outline the proposed servicing provisions for the development with particular attention given to water and wastewater disposal. A preliminary strategy has subsequently been prepared and accompanies this planning proposal [Refer to Appendix E].

The strategy details that adequate servicing provisions can be provided to the proposed site. Final servicing details will be provided during the development application / construction certificate process.

Traffic

Given that the previously approved subdivision layout for Stage 3 (DA0193/2010) comprised 17 lots and the planning proposal seeks to allow potentially 28 lots, TRC requested that an addendum be prepared to the initial traffic impact assessment associated with DA0193/2010. It is also noted that six (6) lots contained within approved Stage 1 (ranging in size from approximately 4.5ha to 15ha) were not constructed. The location of these lots is now contained within the area subject to this planning proposal. Therefore the proposal will only potentially create five (5) additional lots rather than eleven (11).

Seca Solutions were engaged to undertake the necessary site works (including traffic counts) and prepare an addendum detailing any potential impacts to the local traffic environment associated with the planning proposal.

The assessment concluded:

The additional traffic associated with the implementation of the proposed 28 residential lots will be easily accommodated by the existing road network. The site connection with the New England Highway operates well, a review of the accident data found no accidents have occurred since 2015, with only 3 recorded in the period between October 2011 and September 2016. Given the volume of traffic utilising this intersection it is considered to provide a good level of safety for road users, with the low flows generated by the proposed development not considered to have a significant impact on its current operation.

Nundle Road currently operates well with low traffic flow passing the subject site and will remain well within its capacity as a rural road with the additional traffic flow associated with the proposed development. The auxiliary turn treatment that currently exists at the intersection of Nundle Road and Oakland Drive has been upgraded as part of the earlier stages of this development and whilst no longer considered ideal by the RMS given the low traffic flow through this area and the very low utilisation of this turn treatment, it is considered the intersection operates safely under its current configuration and will continue do so with the additional lots associated with Stage 3 of the development proposal.



The overall conclusion from the assessment is that access arrangements for the proposed development are sufficient and there are no traffic impediments to the development.

7.3 NSW Department of Primary Industries – Water

As recommended by TRC, Mitchel Hanlon Consulting has undertaken initial discussions with the NSW department of Primary Industries – Water (NSW DPI – Water).

The initial discussions related to the most effective management of the necessary riparian zone associated with the existing fourth (4th) order ephemeral stream which traverse the site. As the stream is identified as a fourth (4th) watercourse (as classified under the Strahler System), the NSW DPI – Water requires a total Vegetated Riparian Zone (VRZ) width of 95m (comprising of 40m each side of the watercourse plus the approximate channel width of 15m).

Plate 1 illustrates the layout of a typical VRZ while Figure 8 details the extent of the proposed VRC within proposed Stage 3.

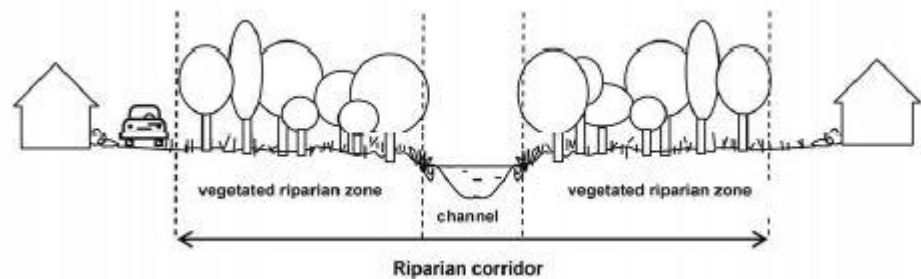


Plate 1: Typical VRZ Configuration

Following discussions with NSW DPI – Water staff it is intended that the necessary VRZ be included within each lot and be implement, managed and protected via suitable covenants prepared and registered on each lot pursuant to section 88B of the Conveyancing Act 1919.

It is considered that this is the most appropriate management method as it places the ongoing maintenance of the zone on future landholders opposed to Tamworth Regional Council.

It is proposed that a vegetation management plan prepared by a suitable qualified person will be prepared and submitted for approval as part of any future development application.



8.0 Project Timelines

In accordance with the NSW Planning & Infrastructure 'A Guide to Preparing Planning Proposals' a Part 6 Project timeline has been developed. The proposed project timeline is detailed in the table below:

Table 4: Proposed Project Timeline

PLANNING PROPOSAL COMPONENT	PROPOSED TIME PERIOD*
Submission to Council	November 2017
Gateway Determination	28 February 2018
Public exhibition period and agency consultation	June 2018
Consideration of submissions post exhibition	July 2018
Consideration and determination of Planning Proposal	December 2019
Revised Gateway Determination issued by Department	March 2020
Anticipated date of making the plan (under delegation)	May 2020

* Timeframes take into account closure for Christmas / New Year period

It should be noted that the above timeframes are estimates only and are subject to change in accordance with any unforeseen developments.



9.0 Conclusion

This submission has been prepared to request amendment to the Tamworth Regional LEP for a reduction of the minimum lot sizes on Stage 3 to be reduced from the current 2 ha minimum to 1.5 ha.

The reasons for the proposed change to the planning instrument are:

- Compliance with the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*;
- Compliance with the Matters of National Environmental Significance (MNES) for the Critically Endangered Ecological Community (CEEC) White Box - Yellow Box – Blakely's Red Gum Grassy Woodland;
- Supply of sufficient lot yield to offset the costs associated with the ongoing maintenance and management of the CEEC conservation area; and
- To increase the efficient use of infrastructure (in particular water supply infrastructure) to the site.

Overall the development is considered to have positive environmental and social outcomes. The proposal will result in the ongoing protection, management and improvement of a critically endangered ecological community.

The development will allow for the continued expansion of an identified future growth zone for the Tamworth Local Government Area. This will help ensure that future services are provided and maintained within the Nemingha locality through enhanced use of public commercial infrastructure and services.

The proposal is also considered to have a positive impact on the surrounding locality as the proposed development will generally be marketed to 'second' and 'third' home buyers whom generally have young children. As such, it is anticipated the increased in lot yield will potentially result in an increase in children attending Nemingha Public School.

It is also noted that the proposal is not expected to have a negative impact to property values within the surrounding area.



10.0 Limitations

This planning proposal is submitted on behalf of Tamworth Regional Council.

The original limitations as detailed below were specified by the applicant concerning their client and the use of the report.

This report has been prepared for use by the client (Nunworth Pty Ltd) who has commissioned the works in accordance with the project brief only.

The report only relates to the identified site referred to in the scope of works being the proposed development area within Lot 18 in DP 11991663, Oaklands Estate, Oaklands Drive, Nemingha NSW 2340 ('the site').

This report may not be relied upon by any third party not named in this report for any purpose, except with the prior written consent of Mitchel Hanlon Consulting Pty Ltd or Nunworth Pty Ltd (which consent may or may not be given at the discretion of Mitchel Hanlon Consulting Pty Ltd or Nunworth Pty Ltd).

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This report comprises the formal report, documentation sections, tables, figures and appendices as referred to in the index to this report and must not be released to any third party or copied in part without all the material included in this report for any reason.



11.0 References

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Tamworth Regional Council, *Tamworth Regional Local Environmental Plan 2010*.

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Appendix A Previous Conditions of Consent

Oaklands Stage 3
(DA0193/2010)



Appendix B Biodiversity Constraints Assessment

Niche Environment and
Heritage, 2015



Appendix C Flora and Fauna Assessment

Eco Logical Australia, 2016



Appendix D Market Value Impact Study

Taylor Byrne Pty Ltd, 2017



Appendix E Servicing Strategy

Mitchel Hanlon Consulting Pty



Appendix F Traffic Assessment

Seca Solutions Pty Ltd



Appendix G Correspondence

Community Meeting Invitation
– Mitchel Hanlon Consulting
Pty Ltd; and

Draft Planning Proposal
Comments – Tamworth
Regional Council.