

**TITLE PLANNING PROPOSAL S55 EP&A ACT IN RESPECT OF LOT 416 DP 755227 AND LOT 3912 DP 1143985 MARANA ROAD SPRINGFIELD
APPLICANT: HIGHLIGHT CONSULTING (IR 14433182)**

Directorate: Environment and Planning
Business Unit: Integrated Planning

The following item is defined as a planning matter pursuant to the Local Government Act, 1993 and Environmental Planning and Assessment Act, 1979.

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

“A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site”, i.e. a Planning Proposal. The object of Section 147 is to require the disclosure by a person of relevant political donations or gifts when a relevant planning application is made to Council per s147(4).

No disclosure was made by the applicant pursuant to s147 EP&A Act.

BACKGROUND

Reason for Referral to Council

On 12 March 2013 Council considered a Planning Proposal for an enabling clause to permit Lot 140 DP 1069040 Marana Road to be subdivided into four (4) lots and Lot 3912 DP 1143985 and Lot 416 DP 755227 Marana Road to be subdivided into seven (7) lots. Council resolved:

- A Council decline to support the preparation of a Planning Proposal for an enabling clause to IDO No 122 to permit, with development consent, Lot 140 DP 1069040 to be subdivided.*
- B The Planning Proposal is deferred to enable the applicant to submit an amended proposal on Lot 3912 DP1143985 and Lot 416 DP755227, following discussion with staff regarding the constraints to the potential development capacity of the land including but not limited to bushfire, access and water supply.*

In accordance with this resolution Council staff met with the applicant and owners regarding the development capacity of Lot 3912 DP 1143985 and Lot 416 DP 755227. The applicant has submitted information addressing the issues raised at the meeting and is still proposing that the two (2) existing lots are capable of being subdivided into seven (7) lots.

This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) for Lot 3912 DP 1143985 and Lot 416 DP 755227 Marana Road, Springfield (*which, if supported by Department of Planning and Infrastructure would result in an amending LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State).

Revised Application Received: 25 July 2013

Environmental Planning Instrument – Current Zone: Zone No 7(a) Conservation and Scenic Protection (Conservation) under Interim Development Order (IDO) No 122 - Gosford.

Area: 6.126 ha

Map:



Proposal: The Planning Proposal application seeks approval for an enabling clause to allow, with development consent, the two (2) existing 7(a) Conservation zoned lots to be subdivided into seven (7) lots. The proposed lot sizes are set out below.

Proposed Lot No	Proposed Lot Area	Existing Dwellings
121	1.427 ha	Yes
122	3,148 sqm	
123	1,754 sqm	
124	1,804 sqm	
125	1,445 sqm	
126	1.067 ha	Yes
127	2.907 ha	

Landuse History

Lot 3912 DP 1143985 and Lot 416 DP 755227 are located on the northern side of Marana Road and at the eastern end of the road.

In 1968 the Gosford Planning Scheme Ordinance (GPSO) zoned the subject land 1(b) Non-Urban.

In 1979 Interim Development Order (IDO) No 122 zoned the subject land 7(a) Conservation. This zoning outcome was a result of applying the principles identified in the Gosford/Wyong Rural Lands Study and Gosford/Wyong Structure Plan, both completed in 1975.

In 1981 Local Environmental Plan (LEP) No 26 zoned the alignment of the East-West bypass road between North Gosford and Springfield to 5(d) Special Uses (Road Reservation) and zoned land to the west of the proposed road alignment to Residential. This zoning outcome was a result of the findings in the Springfield Road Local Structure Plan completed in 1978.

The 5(d) zone, as it applies to the subject land, is contained in Lot 3911 DP 1143985 and bisects Lot 3912 DP 1143985 so as to create a 285m² area in the south-west corner of the lot which is zoned 2(a). This Residential zoned part of Lot 3912 does not form part of the Planning Proposal.

In 1983 Sydney Regional Environmental Plan No 6 - Gosford Coastal Areas zoned the land immediately south of Lot 140 DP 1069040 to Residential.

'Gateway' planning process

A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls.

A Planning Proposal application is the mechanism by which a LEP is amended.

The aim of the Gateway planning process is to enable early consideration by the Department of Planning and Infrastructure (DoP&I) and if supported then early public consultation. The Gateway process ensures that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. The Gateway therefore acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

Attachment A – Department of Planning and Infrastructure Planning Proposal 'Flow Chart' of processing shows the stage which this Planning Proposal has reached".

Certain plan making functions may be delegated by Department of Planning and Infrastructure to Council (see Planning Circular PS12-006).

PLANNING PROPOSAL ASSESSMENT

This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Infrastructure's *A Guide to Preparing Planning Proposals* and *Guide to Preparing Local Environmental Plans*.

A gateway determination under Section 56 of the Environmental Planning and Assessment Act is requested from the DoP&I.

Part 1 Objectives or Intended Outcomes

S55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument.

The objective/intended outcome of the Planning Proposal is to enable Lot 3912 DP 1143985 and Lot 416 DP 755227 Marana Road to be subdivided into seven (7) lots.

Part 2 Explanation of Provisions

S55(2)(b) An explanation of the provisions that are to be included in the proposed instrument.

On 31 May 2011 Council resolved to defer all privately owned 7(a) and 7(c2) zoned land east of the Freeway from the Draft Gosford LEP 2009 for a period of five (5) years. Since that time the Department of Planning and Infrastructure has not raised any objection to this approach.

The objectives/intended outcomes are to be achieved by amending IDO No 122 to include an "enabling clause" applying to Lot 3912 DP 1143985 and Lot 416 DP 755227, Marana Road, Springfield to permit the lots to be subdivided, with development consent, into seven (7) lots.

The likely wording of the site specific provisions is set out below.

1 Subject Land

This plan applies to Lot 3912 DP 1143985 and Lot 416 DP 755227, Marana Road, Springfield.

Explanation: The provision states the legal description of the land and ensures that the site to which the provisions apply can be identified.

2 Objective

The objective of the proposed planning instrument is to permit the subject land to be subdivided into seven (7) lots.

Explanation: This provision states the objective of the planning instrument as it applies to the use of the subject land.

3 Permissible Development

Despite any other provision of this Order a person may with the consent of Council subdivide the land into seven (7) lots.

Explanation: This provision allows for a 7 lot subdivision to be a permissible use on the subject land even though it is not permitted under the 7(a) zone. This use is additional to those uses already listed as permissible on the land.

The likely wording of the site specific provision to be inserted into Interim Development Order No 122 - Gosford is set out below.

Amendment to Interim Development Order No 122 - Gosford

Clause 93

Insert at the end of the table to clause 93, in Columns I and II, respectively:

Lot 3912 DP 1143985 and Lot 416 DP Subdivision of the land into 7 lots
755227, Marana Road, Springfield

S55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

Attachment B to this report contains all relevant mapping to the Planning Proposal.

Part 3 Justification for objectives & outcomes

S55(2)(c) The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

Section A Need for the Planning Proposal

1 Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is not the result of a strategic study or report.

2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is the only means by which the number of lots permitted on the subject land can be increased.

Section B Relationship to strategic planning framework

3 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Regional strategies include outcomes and specific actions for a range of different matters relevant to the region. In all cases the strategies include specific housing and employment targets also. The Central Coast Regional Strategy (CCRS) 2006 – 2031 is applicable to the subject land and the Planning Proposal.

The applicable objectives/actions of the Regional Strategy are:

- 4.3 Councils are to facilitate competitive land releases in the Region and to meet, as a minimum, the dwelling capacity targets and distribution by centres provided in this Regional Strategy, work to be done in conjunction with the Department of Planning and delivered through the timely preparation of LEPs.
- 4.5 Councils are to review their current residential development strategies, including a review of the adequacy and accuracy of existing urban boundaries and zonings in fringe areas, through the preparation of principal LEPs.
- 4.6 Land to be rezoned for housing during the life of the Strategy is to be located within existing urban areas.
- 6.4 LEPs are to appropriately zone land of high landscape value (including scenic and cultural landscapes).
- 6.5 Councils, through the preparation of LEPs, are to incorporate appropriate land use buffers around environmentally sensitive lands.

Action 4.3 relates to land releases where strategic studies have identified certain land to be capable of urban development. Even though the subject Planning Proposal appears to be opportunistic in nature it will result in an additional five (5) lots adjacent to an existing urban area and thus contribute, albeit to a minor extent, in meeting the population target (30,000) for Gosford LGA identified within the CCRS.

In relation to Action 4.5, the then Department of Planning, in September 2009, advised Council that the following matters will have to be undertaken following the gazettal of the Draft Gosford LEP 2009:

- Review of urban fringe zonings in accordance with CCRS
- Address consistency with the E zone practice note (PN 09-002) and amend zones and other planning provisions as required.

The consideration of the subject land separate to these strategic review processes required by the Department is premature, however as the Planning Proposal has been submitted there is no impediment to Council considering it on its merits.

Even though the subject land is not within an existing urban area, and thus contrary to Action 4.6, the land directly abuts an existing residential area.

The 7(a) Conservation zone of land under IDO No 122 was an outcome of applying the principles of the Gosford/Wyong Rural Lands Study, 1975 and the Gosford/Wyong Structure Plan, 1975. As such the 7(a) zone applying to the site was considered appropriate at the time and the land was excluded from nearby land which was rezoned to Residential under LEP 26. This Planning Proposal seeks to refine the current 7(a) zone boundary to better distinguish between that part of the site with high landscape value and that part that could be used for more intensive residential development. Hence it attempts to satisfy Action 6.4.

The Planning Proposal to retain the 7(a) zone applying to the subject land and including an enabling clause to permit additional lots will result in only those uses permitted in the 7(a) zone allowed on the smaller lots. However there is no long term

buffer around, or protection of, the environmentally sensitive land on the rear portion of this site. Thus Action 6.5 is not satisfied.

3a Does the proposal have strategic merit and is it consistent with the Regional Strategy and Metropolitan Plan, or can it otherwise demonstrate strategic merit in light of s117 Directions?

The CCRS has been addressed in Question 3 and Section 117 Directions are addressed in Question 6.

3b Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following: the natural environment (including known significant environmental values, resources or hazards) and the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The Planning Proposal is compatible with the adjoining standard residential subdivision to the south and west of the site. However, it is not compatible with adjoining natural environment which contains Endangered Ecological Communities (EECs). The inclusion of an enabling clause whilst retaining the 7(a) zone not by itself ensure that future uses of the land will not adversely affect the environmentally significant land on the more elevated parts of the subject land.

Marana Road and surrounding road network is capable of servicing the additional lots. Public transport, in the form of buses, is available on a regular basis with the nearest part of the route being 150m away. There is inadequate pedestrian access in the immediate proximity of the subject site. Water and sewer is currently available to the subject lots via mains located within Marana Road.

4 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Community Strategic Plan - Gosford 2025

The Community Strategic Plan has the following strategies applicable to the subject Planning Proposal:

- B5.3 Increase involvement in actively protecting the natural environment
- B6.1 Protect the regions ridgelines (Coastal Open Space System) from urban development
- B6.2 Improve the region's ridgelines (Coastal Open Space System)
- B6.3 Plan for population growth within existing developed footprint.
- D1.2 Consider social, environmental and economic sustainability in all planning and decision making

The land owners are proposing to subdivide two 7(a) lots into seven lots which is an economic benefit to them, although the proposal is contrary to the objectives of the 7(a) zone. By retaining all the land in private ownership results in no social or environmental benefit and is contrary to D1.2.

The proposed additional lots are located outside the existing developed footprint and thus strictly speaking are inconsistent with strategy B6.3; however it should be noted that they do directly adjoin an existing residential area.

The COSS land immediately to the north of the subject land is comparatively narrow in this section when compared to other parts of Rumbalara Reserve. Widening the area of Council's reserve in this locality would assist in protecting and improving the COSS and would also comply with B5.3 in actively protecting the natural environment.

Coastal Open Space System (COSS) Strategy

None of the subject land has been identified as future COSS land in this Strategy.

However the subject land is adjacent to Rumbalara Reserve, which is one of the main COSS reserves, and there would be no objection to the owners dedicating the undeveloped land to Council as it would add to the contiguous area of vegetation under Council's management.

Biodiversity Strategy

To protect and promote biodiversity, there are a number of strategies mentioned, one of which is "protect and conserve biodiversity and maintain ecological processes." To achieve this, the following actions are applicable to this Planning Proposal:

- 3 Environmental zoned lands need to be retained with current minimum lot area standards to enable the lot sizes to allow sufficient space for land uses to occur without loss of biodiversity.
- 7 Focus development around existing urban centres to maintain the urban development in the existing urban footprint to protect agricultural and environmentally sensitive land.

The Planning Proposal seeks to permit lot sizes much less than the minimum permitted under the 7(a) zone i.e. 40 ha which is contrary to Action 3. The Planning Proposal and a site specific DCP will ensure the proposed dwelling houses are located on generally cleared land however there is no guarantee that biodiversity will not diminish over time. The significant vegetated areas of the site need to be protected so as to ensure no loss of biodiversity.

Residential Strategy

The Residential Strategy contains the following relevant Actions:

Rural Conservation [7(a)] and Scenic Protection [7(c2)] areas are an acknowledged important element in the natural characteristics of Gosford and should not be seen as "future" residential land.

Acknowledge importance of Scenic Protection and Conservation zoned areas in providing vegetation links to Council reserve system.

The Planning Proposal seeks to conserve most of the existing natural vegetation characteristics of the 7(a) zoned site and hence the wildlife and visual linkage that such vegetation provides. However this linkage will be enhanced if the land was permanently set aside for such a purpose.

Policy D6.49 - Rainforest Policy

Council's land immediately to the west of the subject land proposed to be subdivided accommodates Coastal Warm Temperate Rainforest which means that Council's Rainforest Policy is applicable. This Policy specifies:

a minimum of a 50 metre development exclusion zone (ie. fringe buffer zone) surrounding any rainforest area.

The existing dwelling house on Lot 3912 DP 1143985 is approximately 50 metres from the rainforest on Council's land. The proposed subdivision shows there to be two building envelopes located between this house and the rainforest meaning that they are within 50 metres of the rainforest and thus contrary to Council's Rainforest Policy.

Policy D2.02 - Rezoning of Land Zoned Rural Conservation 7(a)

As the subject land is zoned 7(a), this Policy applies. The Policy objectives are:

- 1 To define objectives for the Conservation 7(a) / E2 zone to ensure the long term preservation of the scenic and environmental qualities of the region and to ensure Planning Proposals (ie LEPs) are consistent with the prescribed objectives.
- 2 To establish criteria to be used by Council to assess requirements to prepare a Planning Proposal. (ie local environmental plan) primarily for the purpose of providing dedication of strategically environmentally/scenically important land for the community benefit in exchange for additional development rights having regard to the land's attributes pertaining to the zone boundary of the 7(a) conservation zone / Environmental Conservation E2, but also for the purpose to alter the zone, uses, subdivision or other provisions.

The objectives of the 7(a) zone are:

- a The conservation and rehabilitation of areas of high environmental value.
- b The preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape.
- c The provision and retention of suitable habitats for native flora and fauna.
- d The prohibition of development on or within proximity to significant ecosystems, including rainforests, estuarine wetlands etc.
- e The provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by retention to the ridgelines in their natural state.
- f The provision of opportunities for informal recreation pursuits, such as bushwalking, picnic areas, environmental education, etc in appropriate locations.
- g The minimisation or prohibition of development so that the environmental and visual qualities of the natural areas are not eroded by the cumulative impact of incremental individually minor developments.
- h The minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.

The subject land has been identified as having characteristics of environmental value, scenic quality and habitat for native flora and fauna. The increased density

through subdivision outlined in the Planning Proposal will occur on land that is already generally cleared of vegetation. The existing vegetated hillside that has characteristics of environmental value, scenic quality and habitat for native flora and fauna will need to be conserved for the community benefit. Consideration has to be given to the cumulative impact of similar development of other 7(a) zoned land in the vicinity. Should this development proceed it is likely to be argued that a precedent has been set for the incremental development of 7(a) without reciprocal benefit to the community.

Besides being assessed on environmental, statutory and strategic grounds any Planning Proposal pertaining to 7(a) zoned land must include the following:

- Land capability assessment
- Vegetation analysis
- Faunal analysis
- Visual assessment
- Bushfire hazard analysis
- SEPP 19 - Bushland in Urban Areas
- Strategic basis
- Preparation of DCP
- Dedication of land to COSS

Since the preparation of this Policy, the matters relating to land capability, vegetation, fauna and bushfire have become statutory matters which have to be addressed in any Planning Proposal assessment, and have been addressed separately to this Policy later in the report. SEPP 19 is a statutory matter and has been addressed later in the report. The matters relating to visual quality and COSS are the subject of Council's DCPs or strategies which have also been addressed separately in the report. The applicant has not proposed to dedicate any land to Council at no cost for the additional development rights that will result.

5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following assessment is provided of the relationship of the planning proposal to relevant State Environmental Planning Policies.

(i) *SEPP No 19 - Bushland in Urban Areas*

When preparing a draft local environmental plan for any land to which SEPP No 19 applies, the council shall:

- (a) have regard to the general and specific aims of the Policy, and
- (b) give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.

Furthermore, the SEPP requires that where land adjoins bushland zoned or reserved for public open space purposes, the public authority shall not carry out that development or grant the approval unless it has taken into account:

- (a) the need to retain any bushland on the land
- (b) the effect of the proposed development on bushland zoned or reserved for public open space purposes and in particular on the erosion of soils,

- the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and
- (c) any other matters which in the opinion of the consent authority, are relevant to the protection and preservation of bushland.

The objectives of the SEPP relate to protecting rare and endangered flora and fauna, protecting habitat, protecting vegetation links and retaining the unique visual identity of the landscape.

The part of the site proposed to be subdivided adjoins Council-owned land to the west which forms part of Rumbalara Reserve. The vegetation on this reserve adjoining the subject land accommodates an Endangered Ecological Community (EEC) which, if the proposed subdivision occurs, will likely be adversely affected by the edge effects of more intensive settlement such as the spread of weeds and exotic plants.

The potential for edge effects to occur is highlighted by the fact that two of the proposed lots are within 50 metres of the EEC which is identified as a Coastal Warm Temperate Rainforest. As mentioned earlier in the report Council's Rainforest Policy specifies a 50 metre development exclusion zone around any rainforest area.

The other vegetation on the site provides habitat for a range of threatened and non threatened fauna species. No intensification in development is proposed on the heavily vegetated part of the site, however, should this development proceed there is the potential for edge effects to impact on the vegetated part of the land over time. Such effects would be reduced if the vegetated area of the land were in public ownership.

(ii) SEPP No 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. The feed tree species listed in Schedule 2 of the SEPP are not present on the subject land, thus the land is considered not to be a potential koala habitat.

(iii) SEPP No 55 – Remediation of Land

SEPP 55 lists some activities that may cause contamination, one of which is agricultural or horticultural activities. Council's aerial photographs show that the southern part of what is now Lot 3912 DP 1143985 had been cleared for orchards up to 1964. By 1983 the orchard had been abandoned and the land returned to natural vegetation. The photographs taken since 1983 indicate that no agricultural or horticultural activities have taken place on the site. The nearby land that is now developed as residential subdivision was also used for orchards so it is unlikely that the subject land is contaminated. Even so a preliminary contamination assessment should be undertaken should the Gateway approve the Planning Proposal.

(iv) SEPP No 71 - Coastal Protection

The "coastal zone" is generally 1km landward of any coastal water, bay, estuary, coastal lake or lagoon and the boundary is to be shown to the nearest cadastral boundary. The subject land is not identified on the maps accompanying the SEPP thus it is not applicable in this instance.

(v) Other SEPPs:

No other SEPP has application to this planning proposal.

6 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to planning proposals lodged after 1st September 2009. S117 Directions are only discussed where applicable. The Planning Proposal is consistent, with all other S117s Directions or they are not applicable.

(i) Direction 2.1 Environmental Protection Zones

Clause (4) of the Direction requires the Planning Proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas. A Planning Proposal that applies to land within an environmental protection zone or land otherwise identified for environmental protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land).

The minimum lot area for the current 7(a) zone is 40 ha. The planning proposal is for an enabling clause which will permit the subdivision of the site into five (5) additional allotments and subsequent development. The northern and eastern parts of the site are covered by large mature forest scale trees that exhibit an open forest structure. This vegetation would provide habitat for a range of threatened and non threatened fauna species.

The subdivision and subsequent intensification of dwelling yields is to be located in the cleared southern part of the site which would not result in extensive tree and habitat loss. However this area adjoins 7(a) zoned land to the west which accommodates an EEC i.e. Coastal Warm Temperate Rainforest. Such a modification of current development standards in close proximity to the western boundary would reduce the protection currently afforded the EEC.

(ii) Direction 4.4 Planning for Bushfire Protection

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination.

The subject land is classified as Rural Fire Service Bushfire Category 1 and Category 2, and Vegetation Buffer. Should Council and the Gateway support the Planning Proposal, then the gateway determination would require consultation with the Rural Fire Service.

(iii) Direction 5.1 Implementation of Regional Strategies

Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure.

See response to Question 4.

(iv) Direction 6.1 – Approval and Referral Requirements

Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development.

This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.

(v) Direction 6.3 – Site Specific Provisions

This Direction applies to the Planning Proposal as the Planning Proposal seeks to allow a particular development to be carried out on the land.

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The proposed site specific planning controls re number of lots permitted are not "unnecessarily restrictive" as they exist in the current planning instrument (IDO 122). The proposal does not contain or refer to drawings/concept plans that show details of the proposed development.

Section C Environmental, social and economic impact**7 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?**

Council's vegetation mapping shows that there are Ecologically Endangered Communities (EECs) on Lot 3912 DP 1143985. This EEC comprises Coastal Warm Temperate Rainforest and is shown as occurring in the north-western corner of the lot and on the mid-western boundary of the lot.

An ecological report, accompanying the application indicates that the EEC on the mid-western boundary does not exist. "At this location, where coastal warm temperate/sub-tropical rainforest is mapped the property is grassed with only a few eucalypt trees. In fact there is no coastal warm temperate/sub-tropical rainforest on the hillslopes. It is only confined to the gullies and that principle applies to most of the Gosford LGA."

The 2005 aerial photograph shows the western part of the site, which is now cleared, as being vegetated. Hence in the years prior to this when the vegetation mapping was undertaken, such mapping can assumed to have been correct.

Even so, the impact of the proposed subdivision on the vegetation that does exist on-site and on adjoining land has to be considered. The northern and eastern parts of the site are covered by mature forest scale trees that exhibit an open forest structure. This vegetation would provide habitat for a range of threatened and non threatened fauna species.

Even though the proposed subdivision and subsequent intensification of dwelling yields is to occur on the cleared southern section of the site it is adjacent to an EEC on Council's land to the west. Consideration should therefore be given to investigating means to ensure there is no extensive tree and habitat loss or other adverse impacts on biodiversity.

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

Flooding and Drainage

The new Erina Creek Flood Study indicates that properties located below these sites are affected by flooding. By increasing the density on the subject sites without on-site detention of stormwater will create the potential for an increase in stormwater runoff from the upper slopes to the lots downstream. Stormwater management would have to be addressed at the development application stage via the Gosford DCP 2013 chapter on Water Cycle Management.

Development Control Plan No 89 - Scenic Quality

The subject site is located in the Gosford Central Geographic Unit and more specifically within the East Gosford Landscape Unit. Within this landscape unit few remnants of natural vegetation remain within the urban areas, although open space areas such as Rumbalara Reserve provide some degree of visual enclosure. The full development of the area appears to generally secure the scenic character.

The development objectives relevant to the subject site are:

- Restrict zoning density of development to current levels on higher slopes,
- Opportunities for increases in densities and scale are available in areas not subject to visibility constraints or other physical constraints. Visually constrained land includes waterfront lands and lands on higher slopes.

The higher slopes on the subject land are not proposed to be developed thus retaining them as a vegetated backdrop to the surrounding residential areas. As the area to be developed is generally cleared it is not visually constrained and thus is consistent with the objectives of DCP No 89.

Development Control Plan No 159 - Character

The site is located within Springfield Character Precinct 7 - Rural Hamlets. The existing character of the precinct is generally described as:

Situated on gentle to moderate slopes that are concealed from residential areas and major roads, rural-residential properties ranging from one to two hectares are clustered along cul-de-sacs, contributing to the extent and the scenic quality of nonurban lands that separate neighbouring residential suburbs.

Supporting very low density residential development, these properties accommodate a range of buildings that do not dominate their landscape settings. The majority of gentler slopes have been cleared substantially, but bushland remnants survive as substantial copses and corridors across the steeper slopes and along street frontages as well as alongside rear boundaries, often next to bushland reserves or properties that are a significant bushfire hazard.

The strategic components of the desired character statement for Precinct 7 are:

These should remain rural-residential buffers between surrounding urban areas, where the scenically-distinctive qualities and amenity of existing

secluded settings are preserved by very-low density residential development plus low-impact rural activities or businesses that are associated with a dwelling.

Retain natural slopes and prevent further fragmentation of the tree canopy in order to maintain habitat values and informal scenic characters of hillside or valley properties, plus meandering roads with unformed verges. Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants that provide scenically-prominent backdrops visible from any road or nearby property.

That part of the subject land to be more intensively subdivided is located on the cleared part of the site as will be reflected in the proposed DCP. This will result in the steeper, vegetated land remaining untouched and continuing to be a vegetated backdrop to the urban areas. Measures should be put in place to ensure that the existing buffer between surrounding urban areas will not be eroded over time and thus continue to satisfy DCP 159.

9 How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will provide social benefits to the community in the form of additional low density housing in an accessible location. Employment will be provided during the construction phase which will benefit the local economy.

Section D State and Commonwealth interests

10 Is there adequate public infrastructure for the Planning Proposal?

Water and Sewer

The provision of a reticulated water supply to service all lots within the proposed subdivision would require an extension of Council's existing 150mm main within Marana Road. Due to the topography of the land and demands on the existing system in this vicinity, Council may not be able to provide water to all proposed lots at its accepted minimum level of service; being 12 metres head at the property boundary. If Council's minimum level of service cannot be achieved at the property boundary then Council will not permit connection to the water supply. Furthermore, those properties which can achieve Council's minimum level of service at the property boundary may still be required to install private pressure pump unit(s) to service new development.

Sewer became available to Lots 3912 DP1143985 (No.61) Marana Road and Lot 416 DP75522 (No.67) Marana Road due to the extension of Council's main by the owner of No.67 Marana Road late in 2006. The topography of the proposed lots and their proximity to Council's existing sewer mains may enable the applicant to provide a gravity sewer connection. It is the responsibility of the applicant to determine feasibility of the connection of the lots to Council's sewer. Connection is subject to separate application and approval by Council's Water and Sewer directorate with connection limited to one (1) ET (equivalent tenement) per proposed lot.

It is not expected the demands or loads generated by the servicing of the additional five (5) properties would adversely impact capacities within the water and sewer systems.

Should a Gateway Determination be issued, the applicant is required to provide a water and sewer capability report to indicate whether water and sewer can be provided to the site in compliance with Council's requirements.

Transport

The feasibility of alternative options for strategic traffic needs, such as an east-west bypass in the longer term, remains part of Council's strategic position. The corridor integrity of the proposed long term East-West bypass around Gosford needs to be preserved to ensure that alternative options are maintained in line with the overarching objectives for the City Centre and other Central Coast strategic locations such as Erina, Terrigal and The Entrance.

11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?

No consultations have yet been undertaken with State and Commonwealth agencies as the gateway determination has not yet been issued. However should the Gateway Determination be issued, consultation should occur with:

- Office of Environment and Heritage
- Rural Fire Service

Part 4 Mapping

S55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land - a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

Attachment B to this report contains all relevant mapping to the Planning Proposal.

Part 5 Community Consultation

S55(2)(e) Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Subject to Gateway support community consultation will involve an exhibition period of 28 days. The community will be notified of the commencement of the exhibition period via a notice in the local newspaper and on the web-site of Gosford City Council. A letter will also be sent to the adjoining landowners (see map at Attachment D).

The written notice will:

- give a brief description of the objectives or intended outcomes of the planning proposal;
- indicate the land affected by the planning proposal;
- state where and when the planning proposal can be inspected;
- give the name and address of Gosford City Council for receipt of submissions; and
- indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- the planning proposal, in the form approved for community consultation by the Director-General of Planning;

- the gateway determination; and
- any studies relied upon by the planning proposal.

Attachment A outlines the planning proposal process.

Conclusion

The Planning Proposal seeks approval for an enabling clause to be inserted in the planning instrument (ie IDO No 122) to permit, with consent, two 7(a) zoned lots; i.e. Lot 416 DP 755227 and Lot 3912 DP 1143985, Marana Road Springfield; to be subdivided into seven (7) lots. Two of the proposed lots will accommodate the existing dwelling-houses.

After the comprehensive Gosford/Wyong Rural Lands Study and Gosford/Wyong Structure Plan were completed in the 1970s, the subject site was considered to have the characteristics of Zone 7(a) Conservation and was zoned accordingly under IDO No 122. Nothing in the intervening 33 years has altered this strategic direction which was evidenced by the Draft Gosford LEP 2009 being exhibited in 2010 showing the subject land as zoned E2 Environmental Management, which is the equivalent zone of the current 7(a) zone.

From a strategic planning viewpoint the Planning Proposal seeks to allow a rural residential development in addition to those areas already identified, which is contrary to the CCRS and several Council strategies. Consequently, the Planning Proposal lacks a strategic basis.

However, under Council's Policy 2.02 - Rezoning of Land Zoned Rural Conservation 7(a) Council is able to consider additional development rights on 7(a) land, having regard to the land's attributes, provided there is a benefit to the community. The proposal before Council does not indicate that there will be any community benefit should this Planning Proposal proceed.

The report outlines the environmental constraints to more intensive land use on the site and the environmental impacts that would occur should the Planning Proposal be approved in its current form. The proposed intensification of subdivision is proposed to occur on that part of the site which is generally cleared of vegetation however has the potential to adversely affect an EEC on adjoining Council reserve which is contrary to SEPP 19 and Council's Rainforest Policy.

Other environmental constraints apply to the steep, vegetated parts of the land and consultation should occur with the land owners regarding an outcome that would benefit the whole community. This consultation should occur prior to referral of the Planning Proposal to the Gateway.

Should Council wish to reconsider the matter after public exhibition where no submissions objecting to the matter have been received, Part C of the recommendation should be amended to include the words: "After public exhibition of the Planning Proposal a report is referred to Council on the matter."

FINANCIAL IMPACT STATEMENT

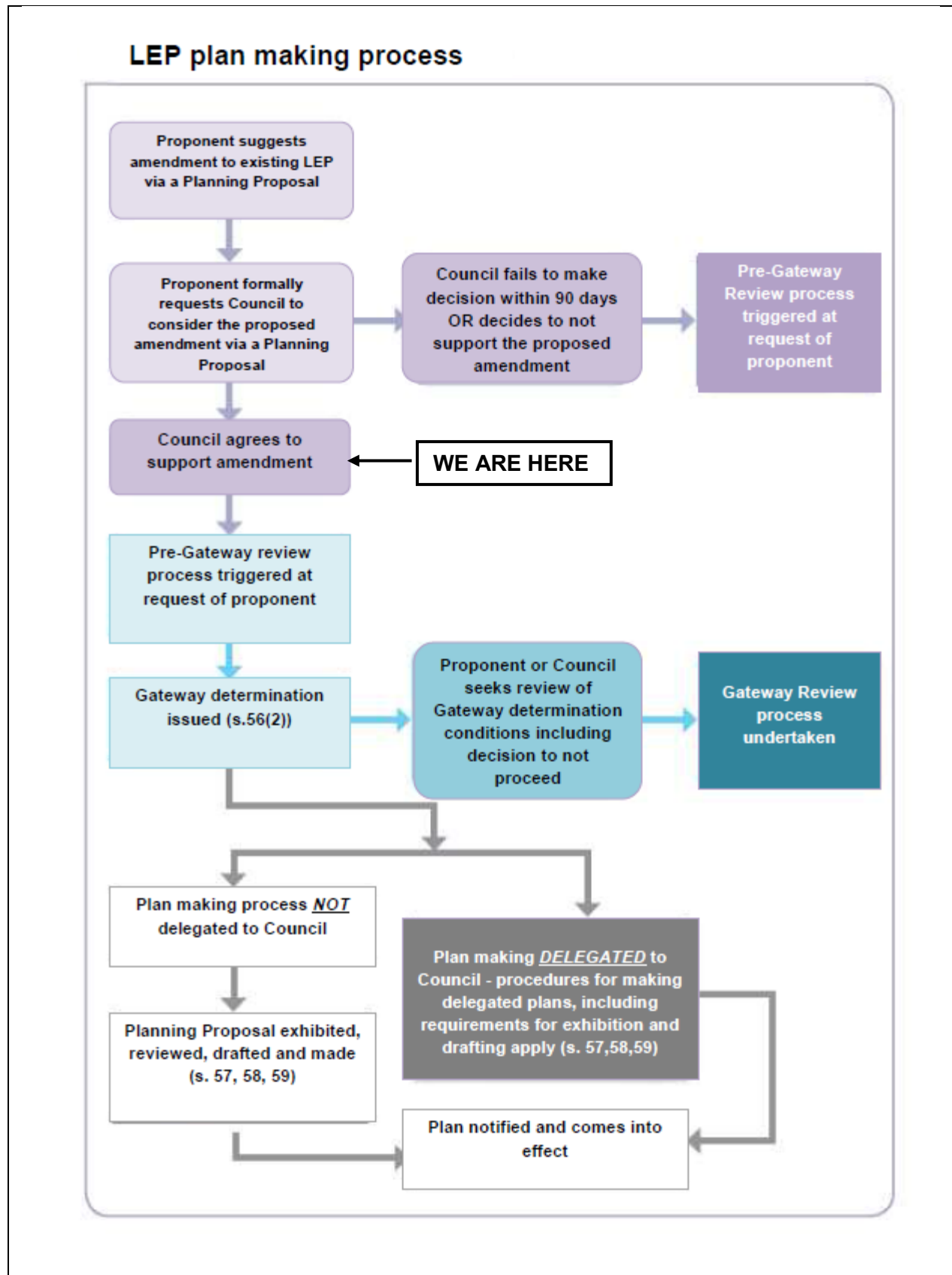
The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

Attachments: Attachment A - Planning Proposal Process
Attachment B - Planning Proposal Mapping
Attachment C - Proposed Subdivision Concept
Attachment D - Adjoining Owners

Tabled Items: Nil

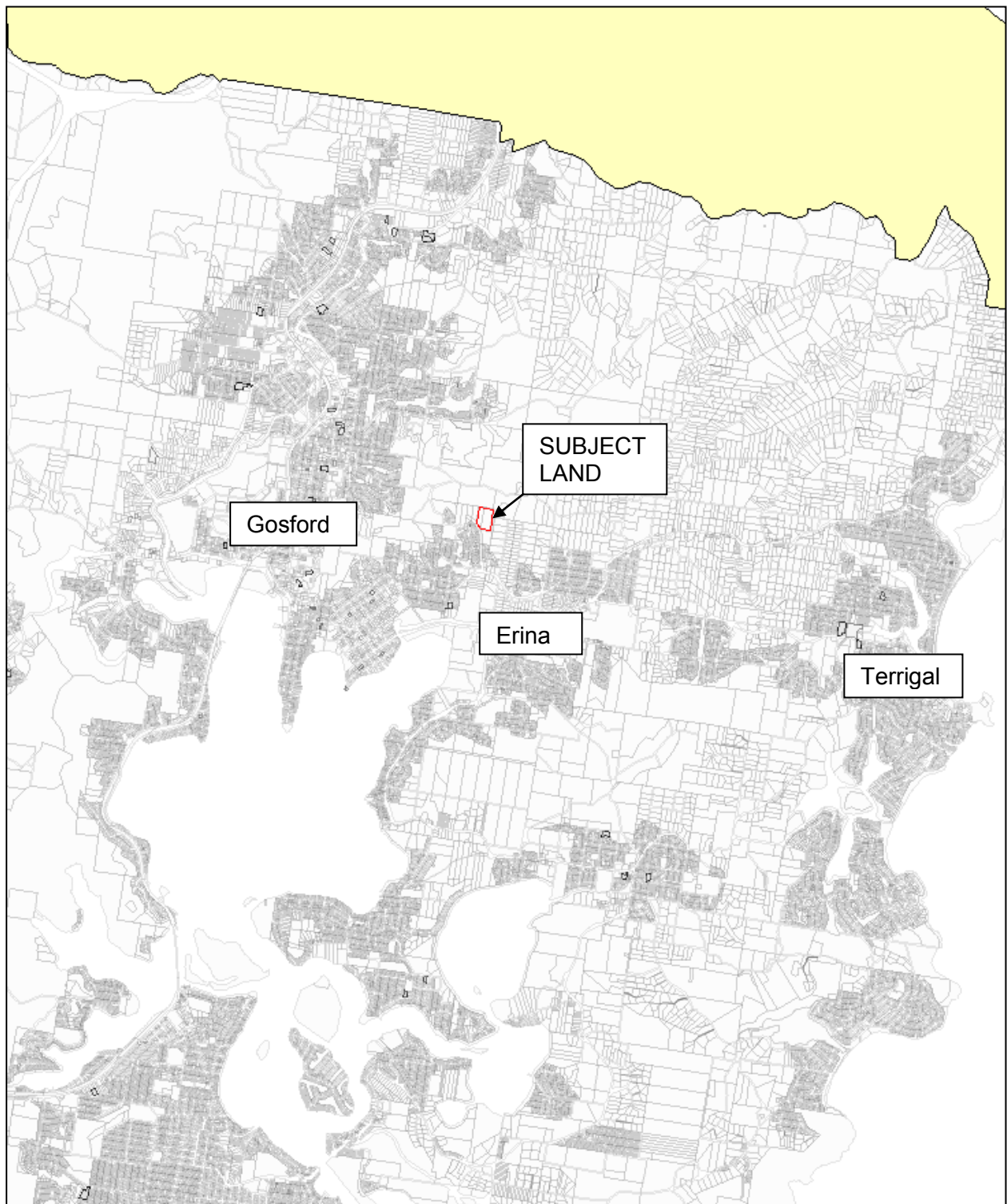
RECOMMENDATION

- A Council support the Planning Proposal in principle pursuant to consultation with the land owners and applicant to seek their advice in regards to bringing the uncleared land on Lot 3912 DP 1143985 and Lot 416 DP 755227, Marana Road, Springfield into public ownership at no cost to Council.
- B Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal as outlined in this report for the insertion of a clause in IDO No 122 to enable Lot 3912 DP 1143985 and Lot 416 DP 755227, Marana Road, Springfield to be subdivided into a total of seven (7) lots.
- C Council notify the Department of Planning and Infrastructure of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- D After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, if no submissions objecting to the planning proposal are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.
- E The applicant be advised of Council's resolution.
- F Council seeks delegations from the Department of Planning and Infrastructure for this Planning Proposal.
- G Council prepare a draft Development Control Plan for the subject land to be exhibited with the Planning Proposal.
- H Should a Gateway Determination be received the following reports are to be undertaken:
 - a preliminary contamination assessment
 - a water and sewer capability report

ATTACHMENT A – Planning Proposal process - extract from, DoP&I documents

ATTACHMENT B – Planning Proposal Mapping

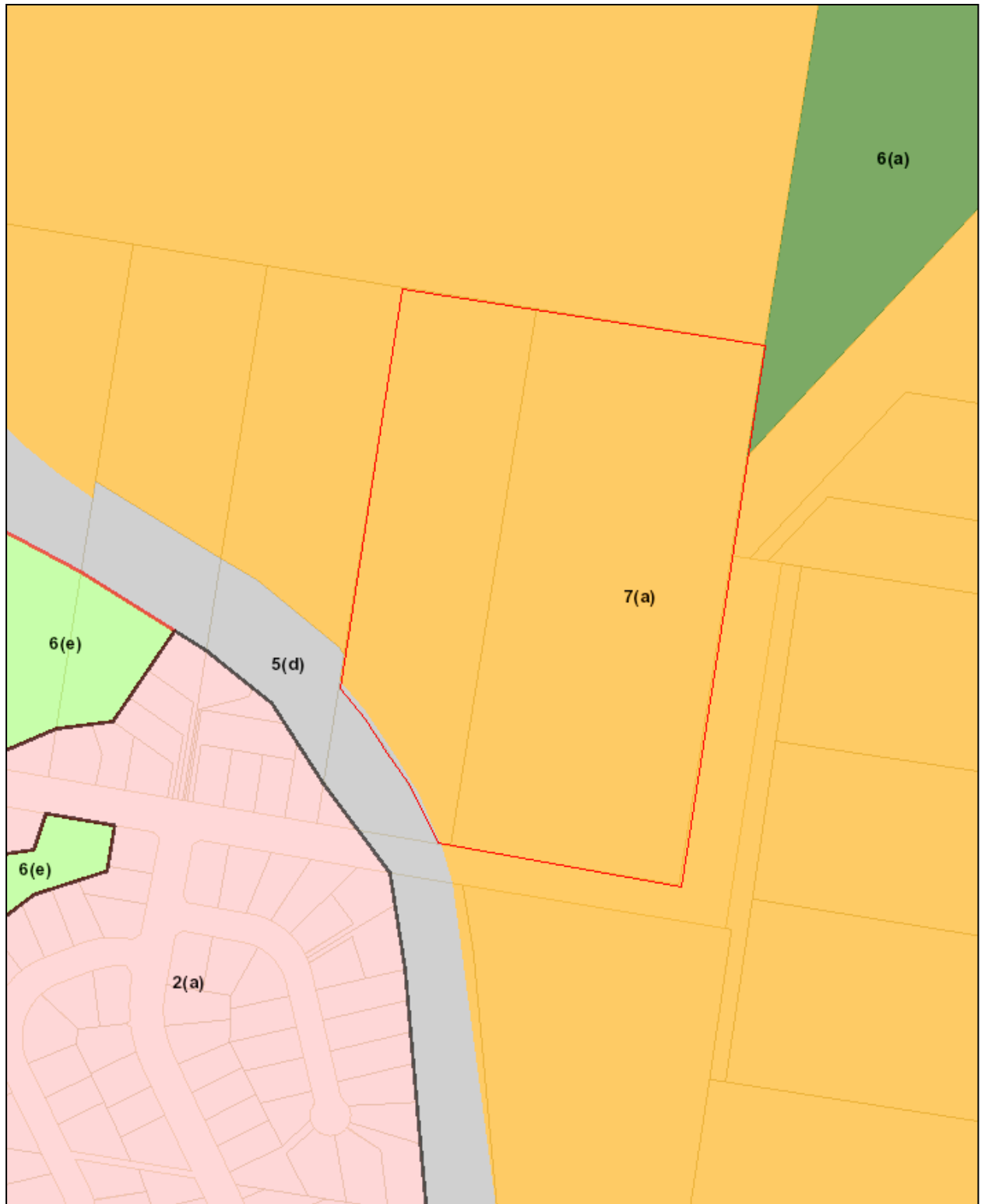
APPENDIX 1 - Locality Map

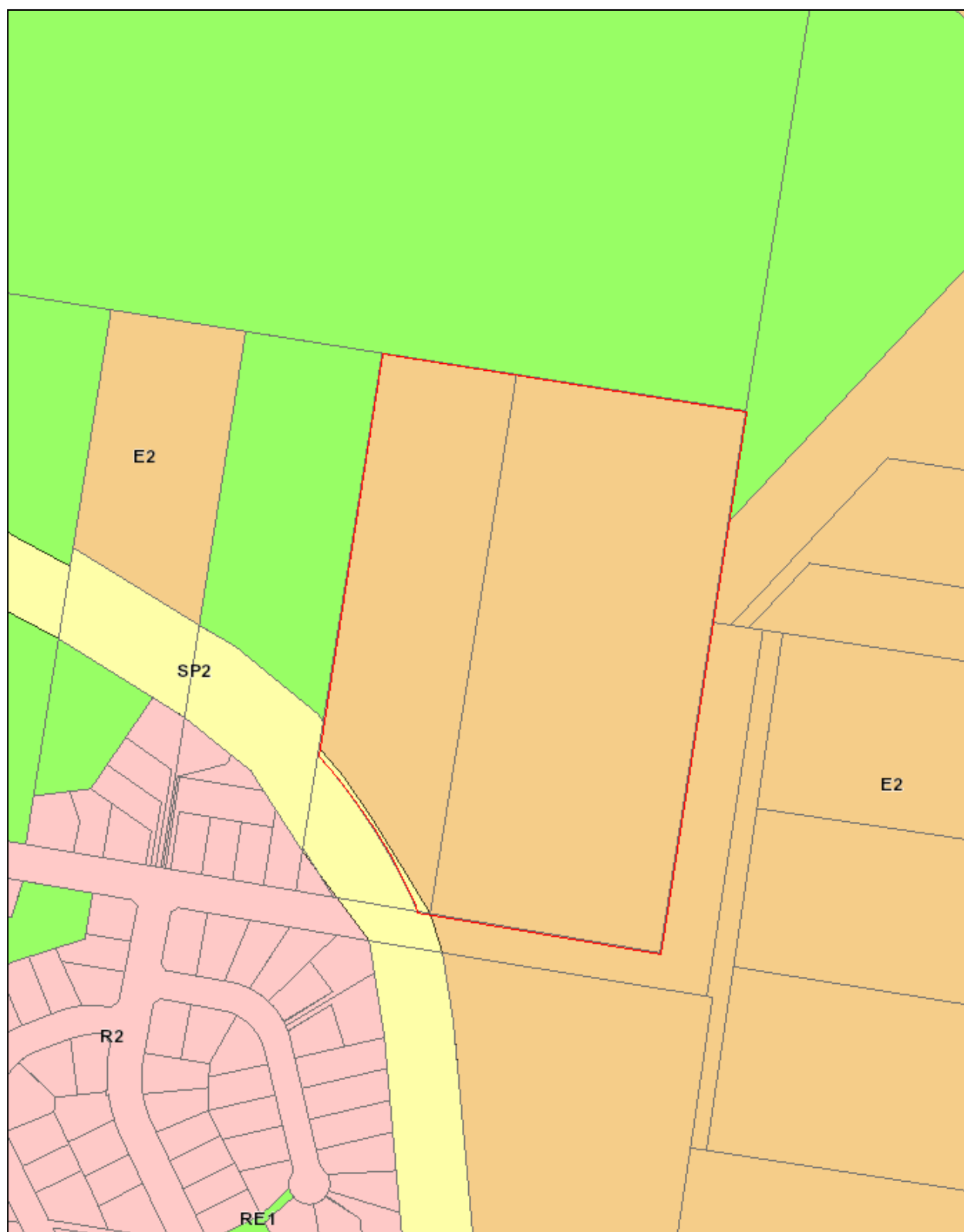


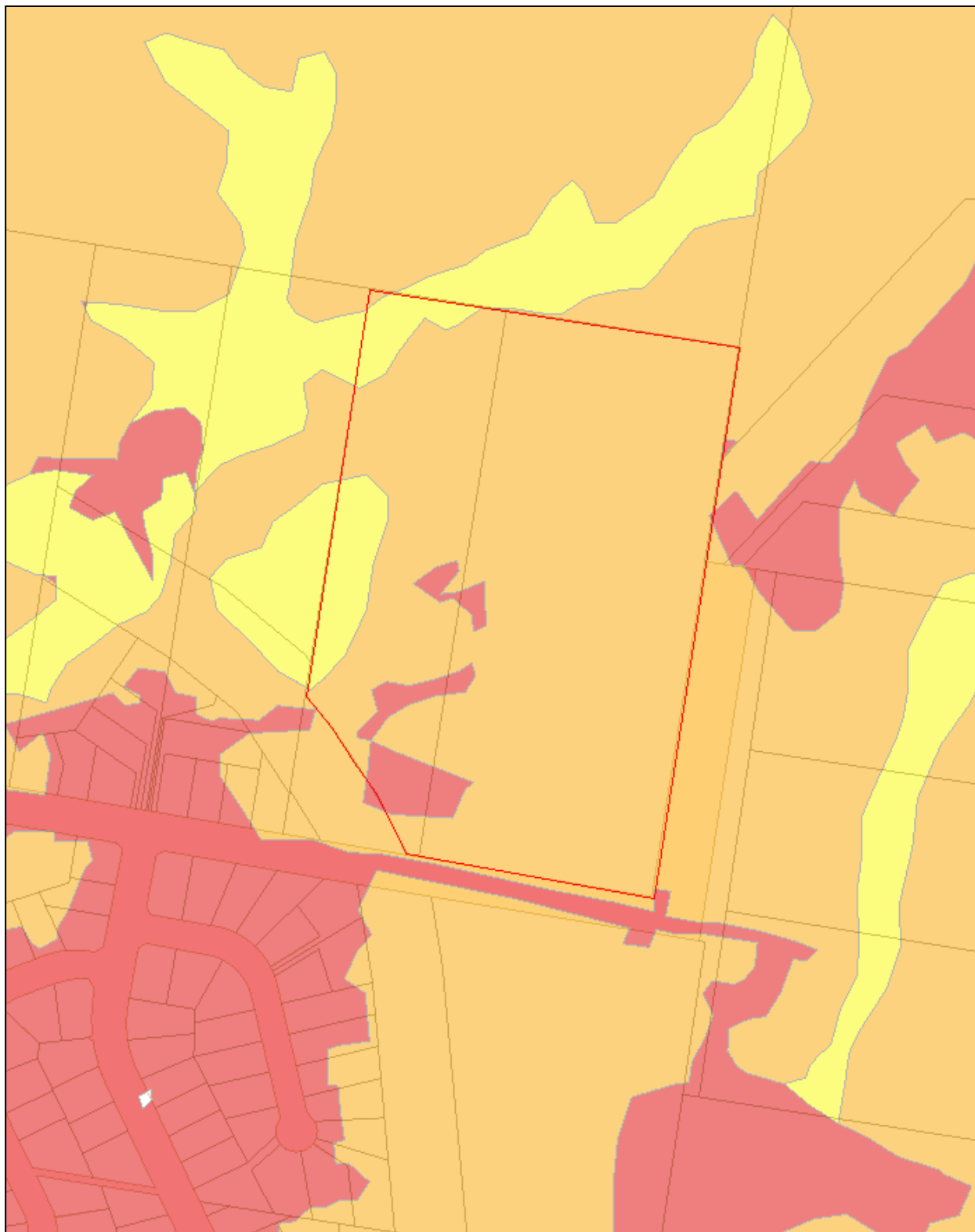
APPENDIX 2 - Aerial Photograph

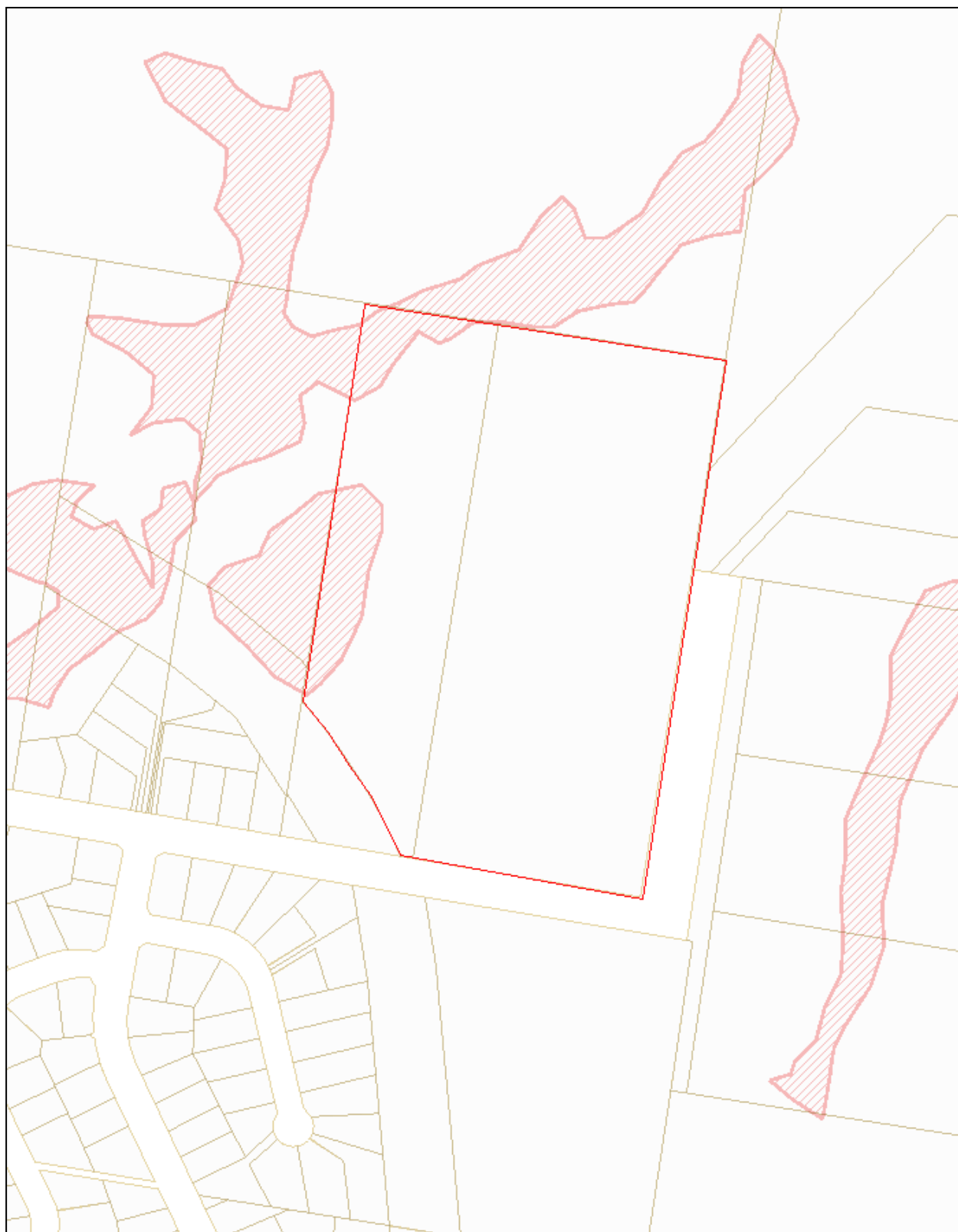


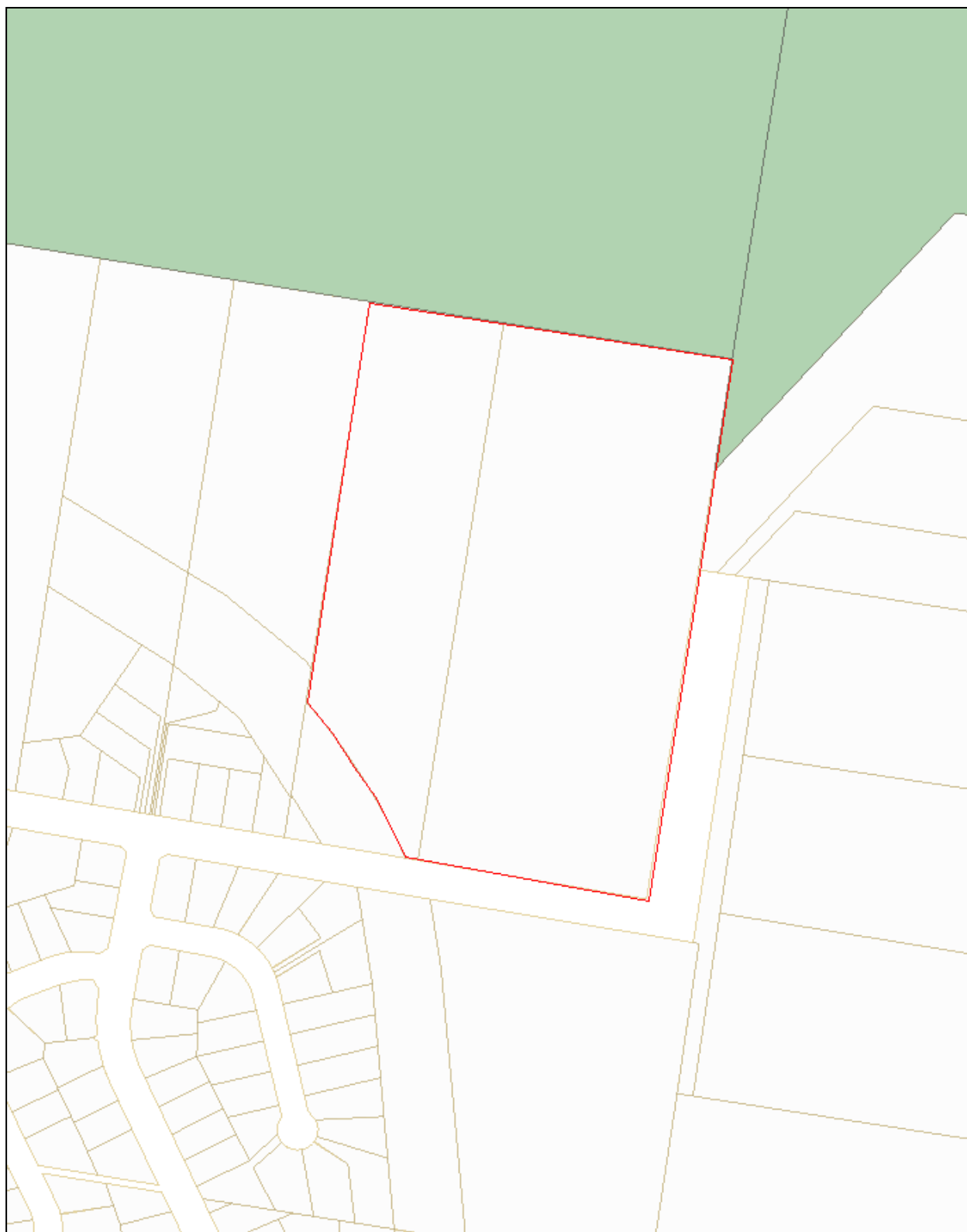
APPENDIX 3 - Existing Zoning Map

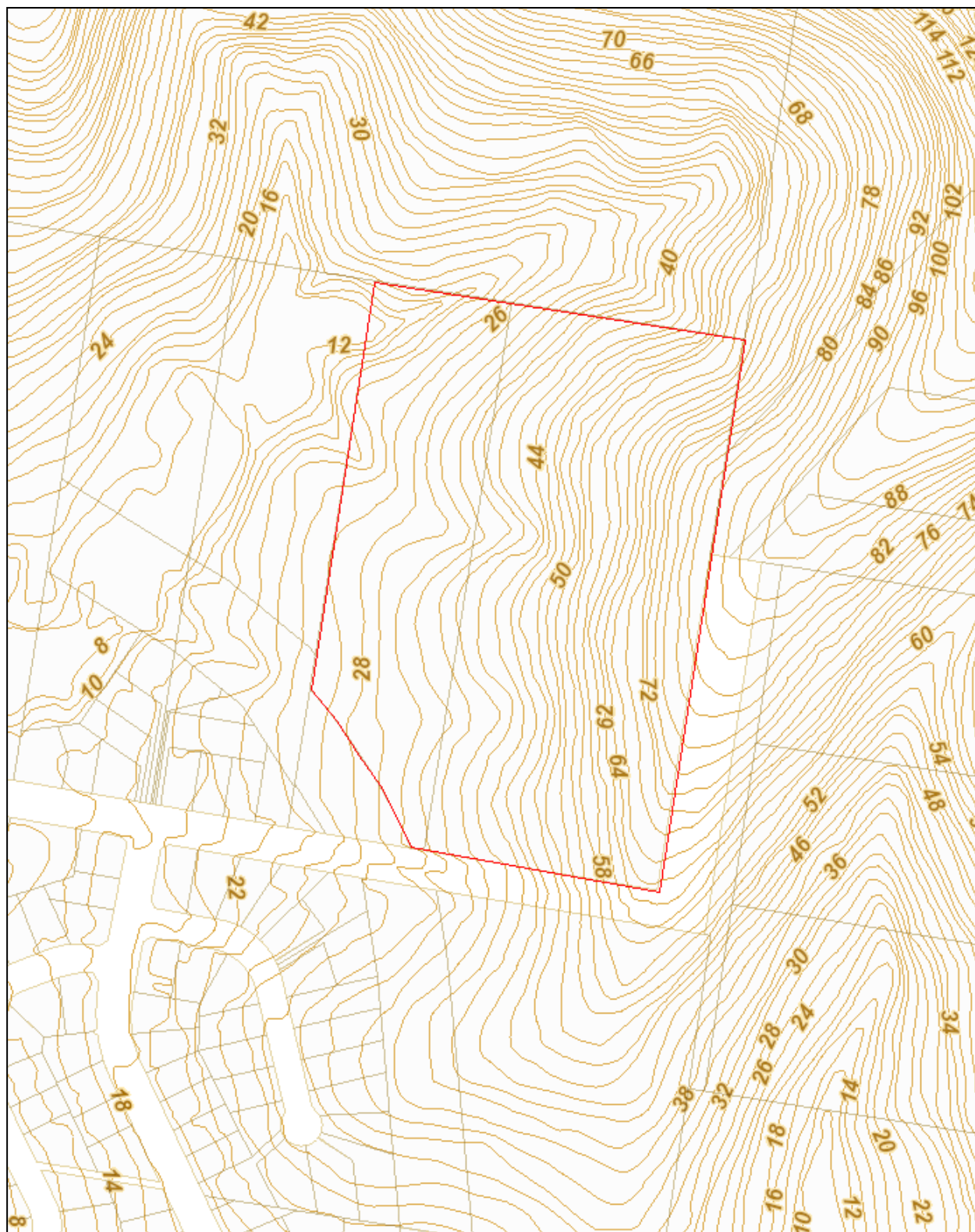


APPENDIX 4 - Proposed Zoning under Exhibited Draft Gosford LEP

APPENDIX 5 - Bushfire Prone Land

APPENDIX 6 - Ecologically Endangered Communities

APPENDIX 7 - COSS

APPENDIX 8 - Topography

ATTACHMENT C - Proposed Subdivision Concept



ATTACHMENT D - Adjoining owners