

Planning Proposal

Draft Amendment No. 3

to

Great Lakes Local Environmental Plan 2014

(Failford Road Reduced Lot Size)

Prepared by:

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Background

This Planning Proposal has been prepared by Great Lakes Council. It proposes a change to the minimum lot size over part of the land known as Lot 1, DP 1177392, Failford Road, Failford as depicted in Figure 2.

This Planning Proposal outlines the effect of, and justification for the changes to existing planning controls.

Statutory Requirements

Draft Amendment No. 3 to *Great Lakes Local Environmental Plan 2014* (GLLEP 2014) – Lot 1 Failford Road Reduced Lot Size (Am 3 - Failford Reduced Lot Size) will give effect to this Planning Proposal.

This Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

Subject Site

The site is currently zoned R5 – Large Lot Residential under GLLEP 2014 (see Figure 1). The relevant Lot Size Map indicates a 5 000sqm minimum for subdivision.

The subject site is part Lot 1 DP 1177392, Failford Road, Failford as identified in Figure 2. That area affected by the draft plan has an area of roughly 1.8 hectares. The subject site is situated on the northern side of and has frontage to Failford Road and is located to the east of its intersection with Bullocky Way.

The site is surrounded by Large Lot Residential development to the north and west. Land to the south is zoned for Large Lot Residential but at this time is not developed. Land east is a mix of partially cleared rural land and natural bushland.

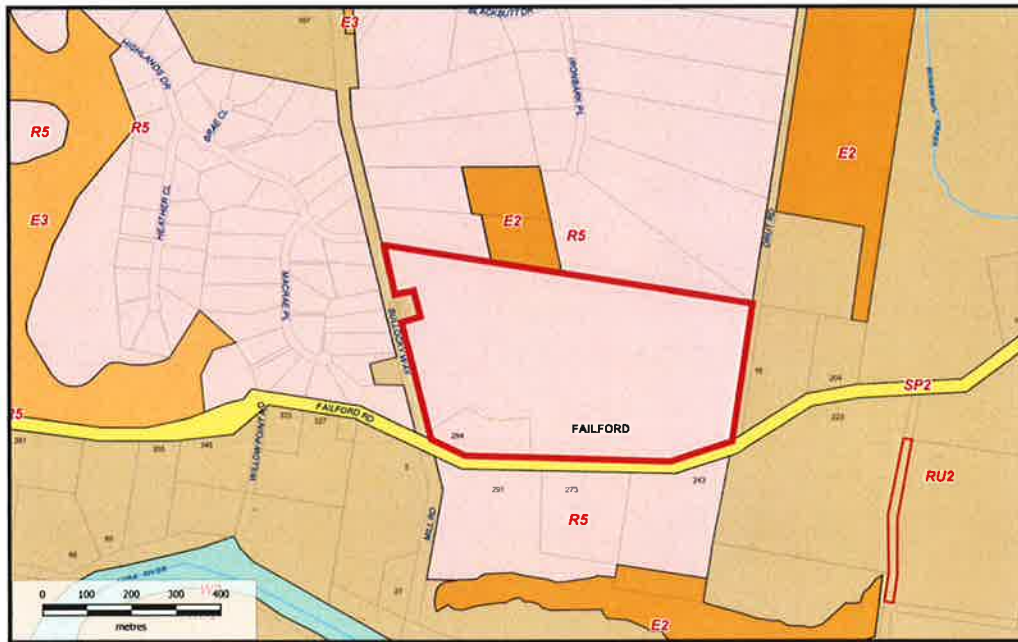


Figure 1: Land Zoning Map showing whole of Lot 1 DP 1177392 Failford Road, Failford (red outline).

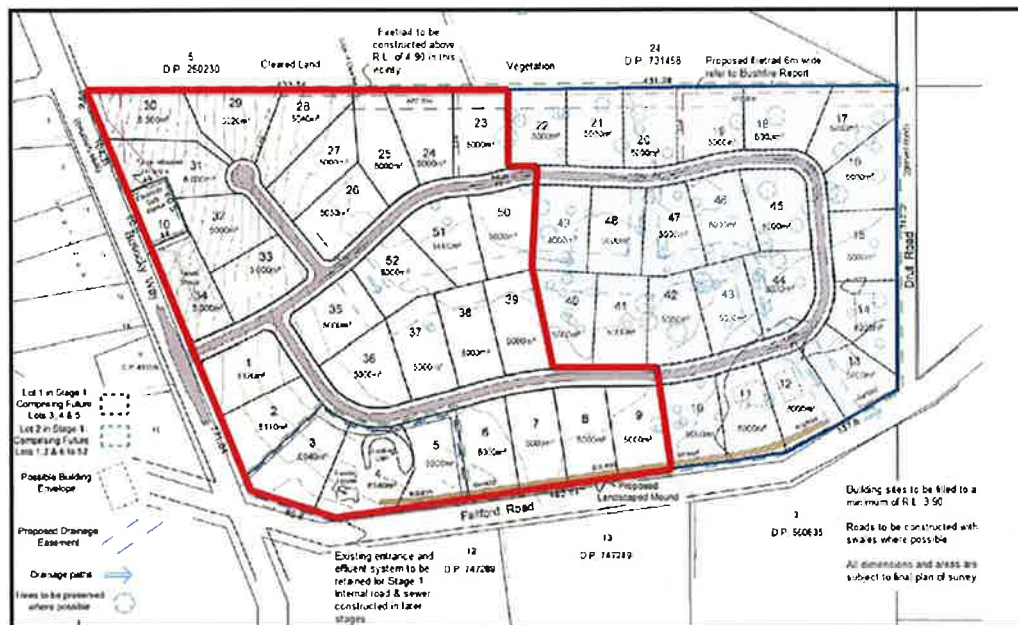


Figure 2: Area of Lot 1 DP 1177392 to which the plan applies (area of reduced lot size shown in red outline).

Planning Considerations

There is an existing approval to subdivide the land for Large Lot Residential development. An application is also before Council for the development of a convenience store on the land which has not yet been determined.

The resolution to prepare the draft amendment was made on 13th May 2014 at the Strategic Committee Meeting of the Great Lakes Council.

Council requests a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* for the draft amendment

Part 1 – Objectives and Intended Outcomes

(s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument)

The following are the objectives and intended outcomes of the Planning Proposal.

- To provide for a suitable lot size for Large Lot Residential development in an area capable of accommodating such low-impact development.
- To enable low intensity residential development to occur which is economically viable, contributes to the local economy and provides for a different form of living opportunity.
- To ensure land with high environmental value is protected through facilitating local wildlife movement corridors and maintaining local native vegetation.

Part 2 – Explanation of Provisions

(s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument)

The proposed outcome of the draft plan will be achieved by amending the relevant Lot Size Map in Great Lakes LEP 2014 over the land known as part Lot 1 DP 1177392, Failford Road, Failford.

The whole of the site is currently zoned R5 – Large Lot Residential under GLLEP 2014 (see Figure 1). The relevant Lot Size Map indicates a 5 000sqm minimum for subdivision.

The effect of the draft amendment will be to reduce the minimum lot size required for subdivision from 5 000sqm to 4 000sqm over that part of the site where a Property Vegetation Plan, executed under the Native Vegetation Conservation Act requires a lesser density of trees to be retained (see Figure 2).

Summary of Provisions

The provisions to be included in proposed draft Amendment No. 3 to Great Lakes LEP 2014 can be detailed as follows:

1 Name of plan

This plan is Great Lakes Local Environmental Plan 2014 (Amendment No. 3)

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which this Plan applies

This plan applies to land at Failford being part Lot 1 DP1177392.

4 Maps

The maps adopted by Great Lakes Local Environmental Plan 2014 are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

Part 3 – Justification

This section of the Planning Proposal provides the reasons for making the draft amendment. It also provides background information about the site which was rezoned in 2009 for rural residential development and includes details of the social and economic impacts associated with the proposal.

Background

The land in question was identified in Council's Rural Living Strategy (2004) as an area with potential for future rural residential development. At this time the land was zoned 1(a) Rural under provisions of *Great Lakes Local Environmental Plan 1996* (GLLEP 1996). Under the 1(a) Rural Zone the land had a 40 hectare minimum for subdivision.

In 2009, in line with recommendations from the Rural Living Strategy, the land was rezoned 1(d1) – Rural Residential under GLLEP 1996 with a corresponding minimum lot size of 5 000sqm. During the rezoning process a number of development constraints were identified. One of the issues was an area of native vegetation over the north eastern section of the land. In order to address this and other issues a Development Control Plan (DCP) and Property Vegetation Plan (PVP) were prepared. The purpose of the PVP was to identify those areas of the subject site which were environmentally constrained. The PVP gave effect to an environmental offset lot provided to compensate for vegetation loss in association with future rural residential development.

In 2014, with the introduction of Council's Standard Local Environmental Plan (GLLEP 2104) the land was zoned to the corresponding zone under the Standard Instrument: R5 – Large Lot Residential Zone with a corresponding minimum lot size of 5 000sqm.

For the purposes of this Planning Proposal, that area deemed to be most environmentally constrained by the PVP, is not subject to the draft amendment.

Development Applications

There is an existing approval to subdivide the whole of existing Lot 1 DP 1177392 into 52 individual allotments as well as a pending development application for the establishment of a number of small convenience stores that has not yet been determined.

Of the 52 approved allotments, twenty-three are significantly affected by the PVP and require the retention of identified trees. These allotments are located on the north eastern portion of the site and are identified as Lots 10-22 and 40-49 on the plan provided in Appendix 1, Figure 4.

Council's decision to prepare a Planning Proposal for the site has come about after a request from the land owner and is primarily associated with the unexpected cost of providing infrastructure to the land in accordance with the existing subdivision approval.

A reduction from 5 000sqm to 4 000sqm over those areas of the site not subject to the provisions of the PVP could increase the potential yield of the site from the approved 52 lots, to approximately 59 allotments. Council considers that this minor increase in development yield would not

significantly change the character of the existing subdivision as approved, and would offset the cost of providing essential infrastructure in association with the subdivision approval.

1.1 SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The Planning Proposal is not considered to be linked directly to any study or report. However, it is consistent with the PVP prepared for the site, the *Forster/Tuncurry Conservation & Development Strategy* for the protection and conservation of biodiversity and the growth management principles contained within the *Rural Living Strategy*.

Property Vegetation Plan (2008)

The provisions in the Planning Proposal are directly linked to the recommendations in the PVP. The proposal only applies to that area of the site where a lesser density of trees is required to be maintained (see Figure 2).

Forster/Tuncurry Conservation and Development Strategy (2003)

The Forster/Tuncurry Conservation & Development Strategy (FTCDS) was prepared to ensure a sustainable approach to land use planning and management within the localities of Forster/Tuncurry. The strategy also has a strong focus on the consideration of environmental, economic and social factors as part of any future development opportunities. The Planning Proposal is supported by the provisions of the FTCDS namely for the protection and conservation of biodiversity in the Wallis and Smiths Lake Catchments.

Rural Living Strategy (2009)

The Rural Living Strategy (RLS) provides future direction for the settlements and land within the rural areas of the Great Lakes local government area. While the Planning Proposal is not a direct result of the RLS it is consistent with the principles of the strategy namely for efficient growth which embodies the concepts of ecologically sustainable management and total catchment management.

Council considers that a minor reduction over the western section of the land which is not subject to the environmental constraints identified within the PVP does not require any further studies or investigation.

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

An amendment to GLLEP 2014 is considered to be the best means of achieving the intended outcomes as described in Part 1.

A minor decrease to the minimum lot size requirements over that section of the land, not subject to the provisions of the PVP, will enable the orderly provision of Large Lot Residential development which is environmentally robust and economically viable.

1.2 SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

1.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The subject land is located within the area covered by the Mid North Coast Regional Strategy (MNCRS) (2009). The MNCRS was released by the DP&I in 2009. The strategy aims to manage coastal growth and housing demands while still protecting coastal values. The strategy states that rural residential development should be provided in appropriate locations which do not have value as future urban expansion areas, are away from the coast, do not require significant vegetation clearing and where current or potential future primary production will not be affected (MNCRS p. 18).

The Proposal is consistent with the objectives and action as contained within the MNCRS as detailed below:

Table 1: Consistency with Mid North Coast Regional Strategy

ACTION	CONSISTENCY
Local environmental plans will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.	The Planning Proposal protects land with high environmental value by only applying to that area of Lot 1 DP 1177392 which does not contain the regionally significant Scribbly Gum Woodland vegetation community.
Subdivision and dwelling standards in local environmental plans will reflect the Rural Lands SEPP, the Regional Strategy and the objectives of the relevant zones.	The Planning Proposal applies to land in the R5 – Rural Residential Zone so SEPP Rural Lands does not apply. The Planning Proposal is consistent with the objectives of R5 zone namely for the provision of residential housing which minimises the impact on environmentally sensitive locations and scenic quality, does not hinder the development of urban areas in the future and does not unreasonably increase the demand for public services or facilities.

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

Council's Community Strategic Plan 2010-2030 (Great Lakes 2030). Great Lakes 2030 is the community's plan for the future, representing the long term aspirations for the area and encompasses an overarching vision developed by the community and objectives and strategies to achieve community goals.

The Planning Proposal is consistent with the following Key Directions contained within Great Lakes 2030:

Key Direction 1: Our Environment

The objectives of this direction are to protect and maintain the natural environment so that it is healthy, diverse and to ensure that development is sensitive to this environment.

The Planning Proposal is consistent with Key Direction 1 as it does not apply to the sensitive environment areas of the site.

Key Direction 3: Vibrant and Connected Communities

Objective 9 of Key Direction 3 states that growth should be managed to reflect current and future needs.

The Planning Proposal is consistent with Key Direction 3 as it provides additional development opportunities in a Large Lot Residential location in response to market demand.

1.2.3 Is the Planning Proposal consistent with applicable state environmental planning policies?

One State Environmental Planning Policies (SEPPs) apply and are relevant to this Planning Proposal. They are addressed below. The Proposal is consistent with the objectives and provision of these SEPPs.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat areas in order to maintain the viability of koala populations. Land must be included in an environmental protection zone if it is core koala habitat.

The Scribbly Gum Woodland vegetation located over the eastern part of Lot 1, DP 1177392 could constitute potential koala habitat under the SEPP. The Planning Proposal does not apply this area of significant vegetation.

The Planning Proposal is consistent with SEPP44 – Koala Habitat Protection.

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

The Planning Proposal is consistent with the applicable 117 Directions. The Directions relevant to this Proposal are addressed below.

Table 2 – Section 117 Directions

SUMMARY OF S.117 DIRECTION	CONSISTENCY
<u>2.1 Environmental Protection Zones</u> The objective of this Direction is to protect and conserve environmentally sensitive areas.	A DCP and a PVP have been prepared for the land subject to the Planning Proposal. These documents facilitate the protection and conservation of a regionally significant Scribbly Gum Woodland vegetation community located over the north eastern part of the site. The Planning Proposal will not apply to that part of the land identified as Scribbly Gum Woodland. Other environmental provisions as contained within the DCP will apply to that part of the land

SUMMARY OF S.117 DIRECTION	CONSISTENCY
	subject to the Planning Proposal (including water quality, habitat and buffer management). Therefore the Planning Proposal is consistent with this Direction.
<u>2.3 Heritage Conservation</u> This Direction aims to conserve items and places of heritage and indigenous heritage significance.	Two items of heritage significance are located in close proximity to the subject land. The impact of a rural residential subdivision on these heritage items were considered as part of the original rezoning process in 2009. It is not considered that a minor reduction over that part of the land subject to this Planning Proposal will have any additional impact on these two heritage items. A detailed Archaeological Investigation undertaken in 2007 concluded that there were no items of indigenous heritage significance located on the site. Accordingly, the Planning Proposal is consistent with this Direction.
<u>3.1 Residential Zones</u> This Direction aims to encourage a range of housing that makes use of existing infrastructure and services that do not impact on environment and resource lands.	The Planning Proposal is consistent with this Direction as it facilitates rural residential housing in an area capable of accommodating such low-impact development. Infrastructure and services exist in the locality and service upgrades in association with the approved 52 lot subdivision for the site will adequately service that part of the land subject to the Planning Proposal. The proposal will not impact on any environmental or resource lands. The Planning Proposal is consistent with this Direction.
<u>3.4 Integrating Land Use and Transport</u> The purpose of this Direction is to ensure that development achieves objectives with regard to the improvement of access by walking, public transport and other means that reduce dependence on private car travel.	It is considered that a minor increase in the development yield over the area covered by the Planning Proposal would not result in inconsistencies with this Direction.
<u>4.1 Acid Sulphate Soils</u> The purpose of the Direction is to avoid significant adverse environmental impact	Council's Acid Sulfate Map indicates that the land subject to the Planning Proposal has the

SUMMARY OF S.117 DIRECTION	CONSISTENCY
from the use of land that has a probability of containing acid sulphate soils.	probability of containing acid sulphate soils. Consideration was given to the impact of acid sulphate soils as part of the original rezoning process in 2009, and also as part of the Development Application process for the existing (52 lot) subdivision approval. It is considered that a minor reduction in the minimum lot size over that part of the land subject to this Planning Proposal will not result in any significant environmental impacts from acid sulphate soils.
<u>4.3 Flood Prone Land</u> The purpose of this Direction is to ensure the provisions of the LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential of the flood impacts both on and off the subject land.	A small section of Lot 1, DP 1177392 is identified as Flood Planning Area under GLLEP 2014 (see Appendix 3).* However, that part of the land subject to the Planning Proposal is not considered to be flood prone. *It should be noted that a draft amendment to GLLEP 2014 has been proposed which will amend Flood Mapping under the GLLEP 2014. Under the proposal Lot 1, DP 1177392 will longer not be considered flood prone land.
<u>4.4 Planning for Bushfire Protection</u> The objectives of this Direction are to encourage the sound management of bushfire prone areas, and to protect life, property and the environment from bushfire hazards.	There are some small sections of Lot 1, DP 1177392 which are identified as 'Category 1 and Category 2' Bushfire Prone Land (see Appendix 2). The remaining part of the land including that area subject to the Planning Proposal is identified as either 'Buffer' or Not Bushfire Affected. Provisions for bushfire protection are included in the DCP which applies to the land. It is considered that a minor reduction in lot size over that part of the land subject to this Planning Proposal will not result in any increased risk to life, property or vegetation from bushfire.
<u>5.1 Implementation of Regional Strategies</u> This Direction provides that a draft LEP should be consistent with the Mid North Coast Regional Strategy.	The proposal is consistent with the provisions of the MNCRS, as discussed throughout this Planning Proposal and is therefore consistent with this Direction.

1.3 SECTION C – ENVIRONMENTAL, SOCIAL & ECONOMIC IMPACT

1.3.1 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 effects on critical habitat, threatened species, populations, ecological communities and their habitats were considered as part of the original rezoning process in 2009.

The PVP was developed at this time to put appropriate measures in place to mitigate environmental impacts associated with the future development of the land.

Council considers that a minor reduction in the lot size over that part of the land which is not subject to the PVP will not result any adverse effects on critical habitat, threatened species, populations, ecological communities or their habitats.

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

Again, the environmental effects of developing the land for rural residential development were considered as part of the original rezoning in 2009. The management of these impacts were detailed in the PVP and DCP for the site.

Council considers that a minor reduction in the lot size over that part of the land which is not subject to the PVP will not result any additional environmental impacts.

1.3.3 Has the Planning Proposal adequately addressed any social and economic effects?

Given the minor nature of the Planning Proposal Council considers that it will not have any negative social effects.

From an economic perspective, a minor reduction in the minimum lot size from 5000sqm to 4000sqm over those areas of the site not greatly restricted by the PVP, will offset the unexpected cost of providing essential services in association with the development of the land. It is estimated that this minor reduction will only equate to approximately 7 additional lots over the 52 lot subdivision already approved for the site bringing the total development yield to approximately 59 allotments.

1.4 SECTION D – STATE AND COMMONWEALTH INTERESTS

1.4.1 Is there adequate public infrastructure for the planning proposal?

As indicated in *DP&E Guide to Planning Proposals* this question typically applies to larger scale Planning Proposals where the following is proposed: urban renewal, infill development or subdivisions of over 150 lots. Accordingly, the Planning Proposal is not captured by this question.

Council believes that this Planning Proposal will not result in an unreasonable demand for infrastructure within the locality over and above what has already been proposed as part of the existing 52 lot subdivision approval.

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

All relevant public authorities were consulted when the land was originally rezoned. As the planning proposal is only for a minor reduction in the permissible lot size over a part of the land Council believes that no further consultation is required.

Part 4 - Mapping

Council will prepare the required maps associated with the proposed amendment to GLLEP 2014, consistent with the requirements of DP&E's Standard Technical Requirements for LEP Maps.

As outlined in Part 2, amendments are proposed by amending the applicable Lot Size Map over that part of Lot 1 DP 1177392 not subject to the PVP.

Other maps are included in this Planning Proposal to assist in interpretation and understanding.

Part 5 – Community Consultation

In accordance with Section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979*, this Planning Proposal will be made publically available for a minimum of 28 days.

In accordance with Council's adopted consultation protocols the following will also be undertaken:

- Notice in the local newspaper;
- Exhibition material and all relevant documents to be made available at Council's Administration Building at Forster;
- Consultation documents to be made available on Council's website; and
- Letters advising of the proposed rezoning and how to submit comments will be sent to adjoining landowners and other stakeholders that Council deem relevant to this planning proposal.

Any further consultation requirements in accordance with the Gateway determination will be undertaken.

Part 6 – Project Timeline

In accordance with DP&E guidelines the following timeline is provided which includes the tasks deemed necessary for the making of this local environmental plan.

Table 3: Estimated project timeline

TASK	RESPONSIBILITY	TIMEFRAME	DATE (approximate)
Lodgement of PP for Gateway Determination	Great Lakes Council	-	September 2014
Gateway Determination	Minister for Planning and Infrastructure	4 weeks	October 2014
Public exhibition of amended PP	Great Lakes Council	Minimum 28 days	November - December 2014
Making of local environmental plan	Minister for Planning and Infrastructure	6 – 8 weeks	January/February 2015

Appendix 1

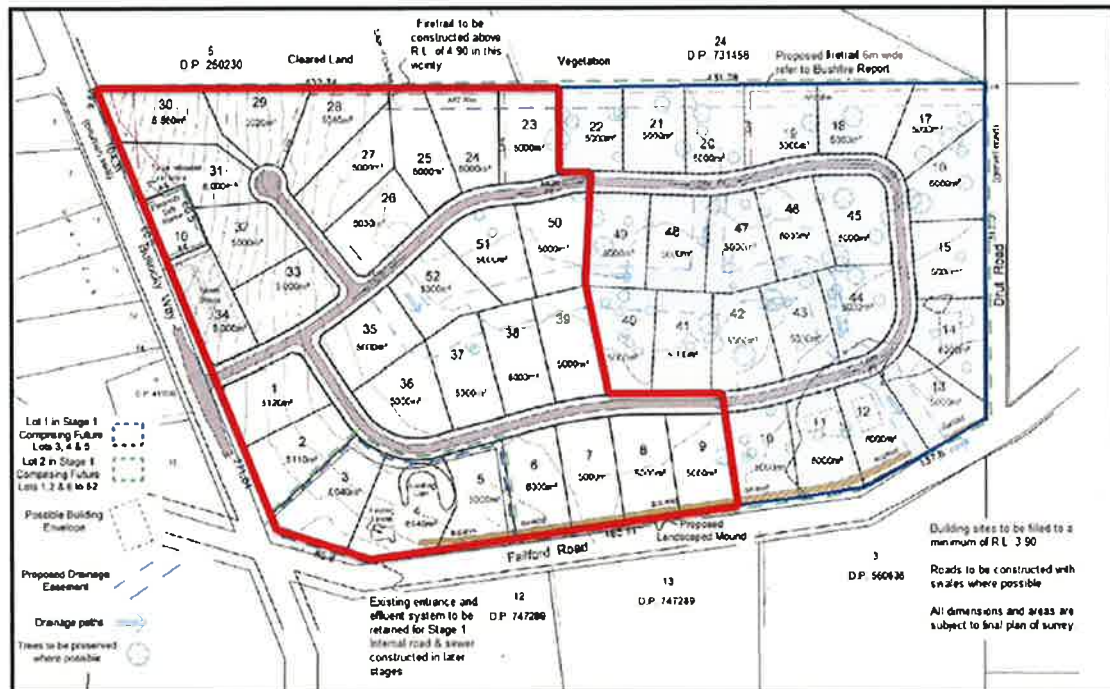


Figure 3 – Indicative map of Lot 1, DP 1177392 showing that part of the lot subject to the Planning Proposal (red outline). Lot layout is based on existing 52 lot subdivision approval.

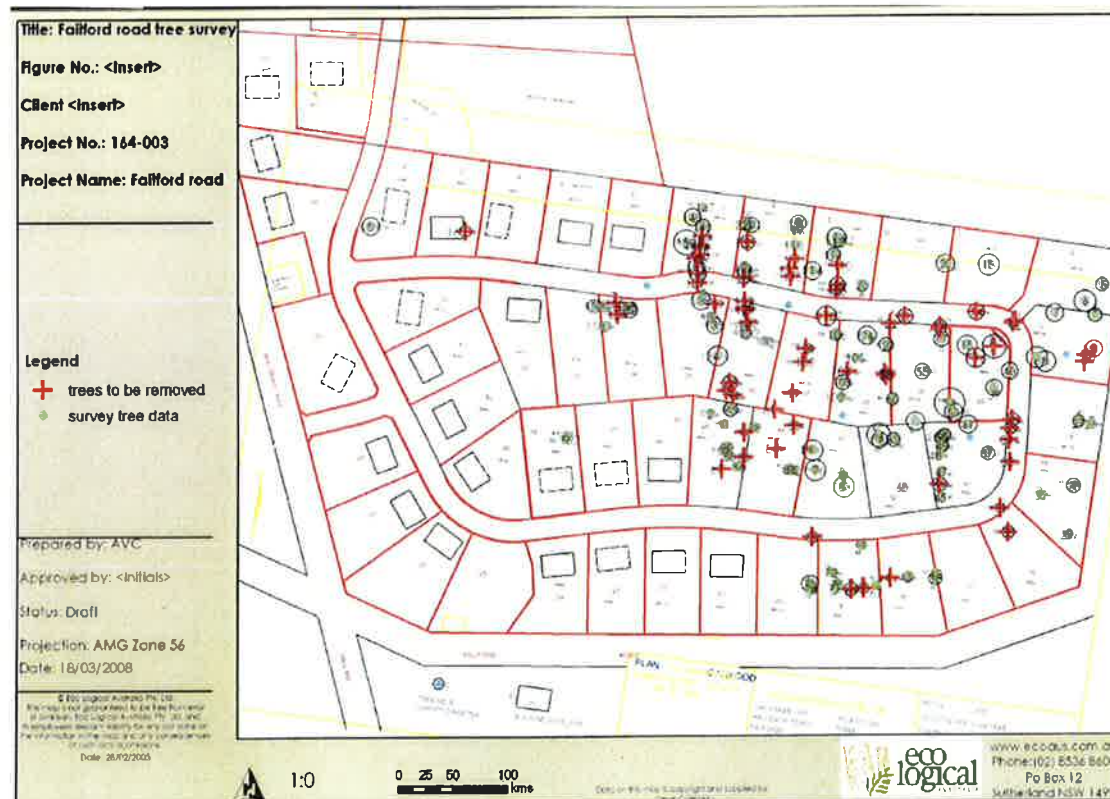


Figure 4 – Property Vegetation Plan (PVP) map used to define the area subject to the Planning Proposal. PVP indicates the location of mature trees and trees for removal over Lot 1, DP 1177392.

Appendix 2



Figure 5 – Bushfire Prone Land Map

Appendix 3



Figure 6 – Flood Planning Area Map

