

**TITLE            PLANNING PROPOSAL S55 TO PERMIT THE TEMPORARY USE OF LOT 4 DP 775631 RACECOURSE ROAD, WEST GOSFORD FOR USES UNRELATED TO HORSE RACING (IR10594041)**

Directorate:        Environment and Planning  
Business Unit:    Integrated Planning

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**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". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a '*relevant planning application*'.

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

**INTRODUCTION**

**Reason for Referral to Council:** This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) (*which, if supported would result in an LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State).

**Application Received:** 18 October 2011

**Environmental Planning Instrument – Current Zone:** Gosford Planning Scheme Ordinance 6(b) Open Space (Special Purpose)

**Area:** 31.17 hectares

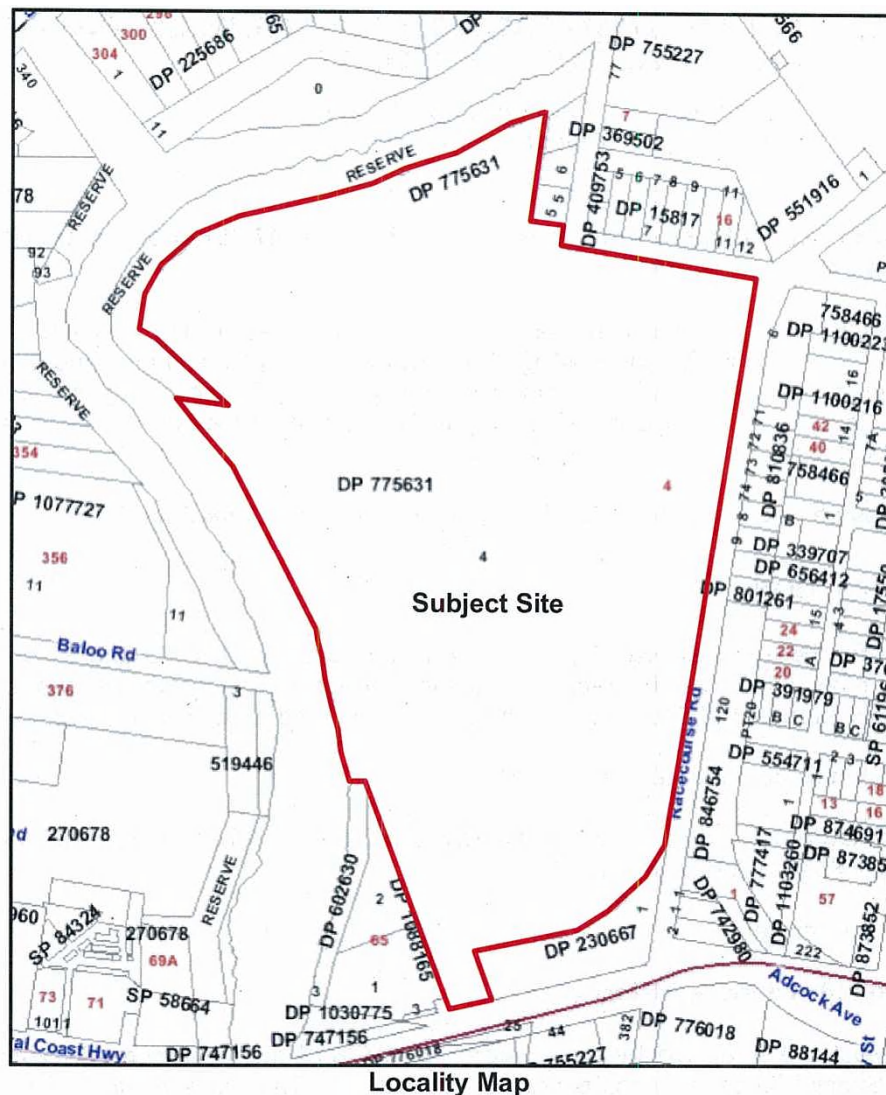
**Background / Landuse History:**

The subject site is owned by the Gosford Race Club Pty Ltd, is currently zoned 6(b) Open Space (Special Purposes) and operates as a racetrack. The site is located at the intersection of the Central Coast Highway and Racecourse Road and is bounded by Narara Creek to the west.

The Draft Gosford Local Environmental Plan 2009 (DLEP) proposes to zone the site RE2 Private Recreation. The DLEP contains a standard template LEP optional clause the wording of which has been set by the Department of Planning and Infrastructure (DoPI), clause 2.6B Temporary Use of Land. This clause permits the Temporary Use of Land in any zone, subject to development consent provided the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.

This clause could permit Temporary Uses such as festivals, concerts etc on the subject site subject to development consent.

**Map:**



**Applicant's Submission:**

The applicant's submission states that under the GPSO the land is zoned 6(b) Open Space (Special Purposes) Racecourse and that this zoning limits uses to recreation areas, racecourse, roads and utility installations. Therefore the Race Club cannot use the facility for any other purposes and has had to decline approaches to conduct temporary events such as festivals etc on the site.

The DLEP adopted by Council on the 31<sup>st</sup> May 2011 includes provisions to enable the use of any land (subject to consent) for a temporary purpose for a maximum period set by the clause. Originally the applicant submitted a maximum period of 52 days in a 12 month period which was the same as in Clause 2.6B in the exhibited DLEP. However at its meeting of 31 May 2011, Council resolved to amend this Clause to read a maximum 14 days in any 12 month period. The Applicant subsequently agreed to amend their application to 14 days, in order to be in keeping with the provisions of the DLEP submitted to DoPI.

The Race Club submits that it cannot afford to experience any extensive delay in the introduction of provisions which would enable the use of the racecourse for temporary events and states that opportunities for such uses have already been lost. Due to the uncertainty as to when the DLEP will be gazetted it is requested that the temporary use of the Gosford Racecourse be facilitated under the GPSO in the same manner as proposed by clause 2.6B of the DLEP.

The issues raised in the applicant's submission have been considered in the assessment of the proposal.

### **'Gateway' planning process**

A Local Environmental Plan (LEP) is a legal instrument that imposes standards to control development and it may reserve land for public purposes and protect trees and vegetation. The purpose of a LEP is to achieve the objects of the EP&A Act and they are a means to implement strategies.

The first step in council developing a *local environmental plan* (i.e. zones, landuses, building heights, etc) under the *gateway* process is preparing a *Planning Proposal (PP)*. The PP *explains the proposed LEP* via objectives / intended outcomes, provisions, justification of outcomes.

The 'gateway' process allows a Planning Proposal to be reviewed at an early stage by State Government Department of Planning and Infrastructure (DoP&I) to make a decision whether to proceed further, i.e. does the PP have merit to proceed to community consultation stage. The 'gateway' determination will ensure there is sufficient justification early in the process to proceed. It is a checkpoint before significant resources are committed to carrying out technical studies.

The key stages in a PP are as follows:

- Assessed by Council, and if supported is prepared & forwarded to DoPI.
- DoP&I will consider then forward a recommendation to the *LEP Review Panel*.
- LEP Review Panel will consider then forward a recommendation for 'gateway' determination to the *Minister for Planning and Infrastructure* (or delegate), together with DoP&I's advice.
- Minister will determine if it will proceed (with/without variation), be re-submitted to Council (for studies/revision), community consultation required, Government authorities consultation, need for a public hearing & timeframes for each step.
- Appendix 1 is a flowchart of the process extracted from DoPI documents.

Following completion of all the above processes by Council, the Minister may make, vary, not proceed, defer certain matters or delegate making of the plan to the Director General of DoPI.

**Tabled Items:** Nil

## **PLANNING PROPOSAL GOSFORD CITY COUNCIL TO PERMIT THE TEMPORARY USE OF LOT 4 DP 775631 RACECOURSE ROAD, WEST GOSFORD FOR USES UNRELATED TO HORSE RACING**

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*.

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

## **Part 1 Objectives or Intended Outcomes**

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

The objective/intended outcome of the draft Local Environmental Plan is to permit the temporary use of Lot 4 DP 775631, being land within the Gosford Racecourse zoned 6(b) Open Space (Special Purposes) Racecourse under the Gosford Planning Scheme Ordinance, **for temporary events, festivals and the like** unrelated to horseracing.

## **Part 2 Explanation of Provisions**

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

The objectives/intended outcomes are to be achieved by amending the Gosford Planning Scheme Ordinance to enable the temporary use of land within the Gosford Racecourse (Lot 4 DP 775631) for a broad range of events unrelated to horseracing. The likely wording of such a clause is as follows:

- (1) The objective of this clause is to provide for the temporary use Lot 4 DP 775631, Racecourse Road, West Gosford if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land;
- (2) Despite any other provision of the ordinance, development consent may be granted for development on the land for a temporary purpose for a maximum period of 14 days (whether or not consecutive days) in any period of 12 months;
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) The temporary use will not prejudice the subsequent carrying out of development on the land in accordance with the ordinance and any other applicable planning instrument;
  - (b) The temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood;
  - (c) The temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land; and
  - (d) At the end of the temporary use period the site will, as far as practicable, be restored to condition in which it was before the commencement of the use.

***s.55(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***

The proposal does not require any supporting maps as the proposed amendment to the Gosford Planning Scheme Ordinance is to apply to land that can be appropriately described in the relevant clause as Lot 4, DP 775631.

## **Part 3 Justification**

***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 any strategic study or report. The Gosford Race Club seeks to conduct a range of temporary events within its Gosford Racecourse precinct in order to enhance the economic viability of the underutilised racecourse facility. Typical events would include outdoor caravan/motor shows, concerts, festivals and the like. These uses are not permitted under the current 6(b) Open Space (Special Purposes) zoning.

Under the DLEP adopted by Council on 31 May 2011 the Gosford Racecourse is to be zoned RE2 Private Recreation, which will enable a broader range of activities to be carried out on the site. More importantly, the DLEP includes provisions (Clause 2.6B) to enable temporary uses to be carried out on any land subject to development consent. These provisions would enable the Gosford Race Club to prepare a development application for the temporary use of land for a range of events unrelated to horseracing.

Due to the uncertainty surrounding the timing of the gazettal of the DLEP, the Race Club requests the “bringing forward” of the proposed controls into the GPSO related to Lot 4 DP 775631.

### **2     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 best means of achieving the objectives/intended outcomes as whilst the provisions of the DLEP permitting the temporary use of land throughout the City will address the needs of the Gosford Race Club, there is uncertainty as to when the DLEP will be gazetted.

It is therefore considered to be in the public interest for a Local Environmental Plan to be prepared as soon as possible to amend the GPSO to permit the temporary use of the Gosford Racecourse.

The proposed provisions are **consistent** with the DLEP submitted to DoPI and with Council's resolution of 31 May 2011.

### **3     Is there a net community benefit?**

The net community benefit of the Planning Proposal is to be assessed based on answers to the following questions which show that the Planning Proposal will produce a net community benefit.

***Will the LEP be compatible with agreed State and Regional strategic directions for development in the area?*** - Yes, the subject land is located within an established urban area and the Planning Proposal will not prejudice the future use of the land for its principal purpose, horseracing.

***Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?*** Yes, The subject site is located within an urban corridor identified in the Central Coast Regional Strategy 2006-2031.

***Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?*** No, the planning proposal will not create a precedent or change the expectations of other landowners, it seeks to “bring forward” intentions to provide opportunities for the temporary use of land under the provisions of the Draft Gosford Local Environmental Plan 2009.

***Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?*** The Planning Proposal is not a “spot rezoning proposal” as the zoning of the land as 6(b) Open Space (Special Purposes) Racecourse remains unchanged.

***Will the LEP generate permanent employment generating activity or result in a loss of employment lands?*** The LEP will result in temporary development that will facilitate employment generating activities such as concerts, trade shows, festivals etc.

***Will the LEP impact on the supply of residential land and therefore housing supply and affordability?*** No, the LEP does not relate to residential land.

***Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?*** The site is located on the Central Coast Highway which has good transport access for both public and private vehicles, it is also easily accessible from the bike track which runs around the Brisbane Water foreshore. The existing utilities on the site currently cater for crowds of up to 10,000 on race days which currently occur 23 times per year.

***Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of green house gas emissions, operating costs and road safety?*** The proposal is unlikely to result in an increase in green house gas emissions as many Central Coast residents currently travel to Newcastle and Sydney for events such as those proposed by the Race Club.

***Are there significant Government investments in infrastructure, or services in the area whose patronage will be affected by the proposal? If so what is the expected impact?*** There are no significant government infrastructure investments that would be affected by the proposal.

***Will the proposal impact on land that the Government has identified as needed to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?*** The land is not identified by the Government for environmental protection and whilst the land is partly affected by flooding, this does not constrain the proposed temporary use of land as the potential flooding impacts are able to be adequately addressed through the DA process and through the provision of a development control plan which addresses relevant flooding issues.

***Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?*** The LEP will result in development that is compatible/complementary to surrounding landuses and the landscape amenity offered by the racecourse. The temporary nature of the uses within the racecourse means they will not have a significant impact on the public domain.

***Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?*** The LEP does not involve the carrying out of additional retail and commercial activities traditionally undertaken in a commercial/business centre.

***If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?*** The LEP does not provide the potential for the Gosford Racecourse to develop into a centre in the future.

***What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time.*** The LEP is in the public interest as it improves the economic viability and utilisation of an existing underutilised sporting/recreation facility, encourages additional tourism opportunities and provides a new venue for temporary recreational and trade events.

If the LEP was not to proceed potential opportunities associated with the proposed temporary uses such as employment, tourism, recreation opportunities would not be able to proceed until the gazettal of the DLEP.

## **Section B      Relationship to strategic planning framework**

### **4      Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?**

The Central Coast Regional Strategy 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will permit a range of temporary uses which will create employment opportunities and encourage tourism whilst maintaining the existing recreational facility. The Planning Proposal is **consistent** with the following objectives/actions contained within the Regional Strategy for the reasons specified:

To deliver a prosperous and sustainable future for the Region's current and future residents;

Action 6.18 – Councils are to continue to maintain or improve the provision of local open space, particularly in centres along strategic bus routes and around centres where urban growth is located.

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

The Planning Proposal is **consistent** with the following aims of the *Community Strategic Plan – Continuing our journey (CSP)*

To ensure that decision making, actions and management are undertaken to meet the present needs of residents without compromising the needs of future generations; and

The local economy needs to develop a broader, more secure and sustainable foundation to provide jobs for its increasing population and to cut the number of people required to commute to work each day.

The planning proposal is **consistent** with the following strategies:

- A1 Our community is a safe place
- A1.1 Promote opportunities to increase safety in public spaces
- A1.3 Build connections and relationships in the community
- A.3 Everyone has fair access and opportunity to participate in community life
- A3.2 Provide services and activities to support a balanced lifestyle
- A3.3 Improve access to community services and facilities.

The planning proposal will retain the racecourse for recreation purposes whilst expanding the range of uses available to the community and thereby increasing the range of community members accessing this facility.

## 6 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: SEPPs are only discussed where applicable.

- (i) **SEPP 14 – Coastal Wetlands** – A small section of the site along the banks of Narara Creek is mapped as being SEPP14 Coastal Wetlands (see Attachment B Appendix 5) and as such the provisions of SEPP 14 apply to the site. The Planning Proposal is not considered to be **inconsistent** with the aims and objectives of this policy, as it is to permit temporary uses on land that has already been cleared for the racetrack.
- (ii) **SEPP 55 – Remediation of Land**- Clause 6 of this instrument requires contamination and remediation to be considered in a proposal. In this case, the issues raised in Clause 6 of SEPP 55 do not arise as the subject land has not previously been used for a purpose referred to in "Table 1 Some Activities that may Cause Contamination".
- (iii) **SEPP 71 – Coastal Protection**- The lot has been mapped as being in a sensitive coastal location. Clause 8 lists a series of Matters for Consideration in the preparation of draft local environmental plans. Relevant matters for consideration are;
  - d) the suitability of development given its type, location and design and its relationship with the surrounding area
  - e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore
  - o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities

Although the site adjoins the lower sections of Narara Creek, it is physically separated from Brisbane Water estuary by the Central Coast Highway, an adjoining lot recently zoned for commercial development and commercial/residential development and recreation areas to the south of the

road. The planning proposal is to permit uses of a temporary nature and it is not considered that these will have an adverse affect on the coastal zone. It is considered the planning proposal is in **conformity** with the relevant matters of consideration in clause 8 of SEPP 71.

- (iv) **Other SEPPs:** No other SEPP has application to this planning proposal, although any future development application on the land will be required to consider a number of SEPPs, including SEPP (State and Regional Development) 2011; SEPP (Infrastructure) 2007 and SEPP 71 – Coastal Protection.

## 7 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 2.2 Coastal Protection

The planning proposal will apply to Lot 4 DP 775631 which is located within the Coastal Zone. It must therefore include provisions that give effect to and are **consistent** with:-

- (i) The NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997,
- (ii) The Coastal Design Guidelines 2003, and
- (iii) The manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the NSW Coastline Management Manual 1990)

The Planning Proposal gives effect to the Direction, being **consistent** with the strategic actions contained in the NSW Coastal Policy relevant to the preparation of LEPs (Table 1) and **consistent** with the principles of coastal settlement structure contained within the Coastal Design Guidelines. The NSW Coastline Management Manual has no practical application to this Planning Proposal as the subject land is not located within a coastal environment to which the manual principally relates.

### (ii) Direction 2.3 – Heritage Conservation

- (i) This direction applies when a relevant planning authority prepares a planning proposal. A planning proposal must contain provisions that facilitate the conservation of:-
- (ii) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area;
- (iii) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- (iv) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of

an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Having regard to the cleared and disturbed nature of the site due to its long term usage for horse racing purposes, it is unlikely that there are any remaining aboriginal relics if they existed in the first place. Council records do not indicate the presence of Aboriginal relics on the land.

**(iii) Direction 3.4 - Integrating Land Use and Transport**

Clause 4 of the Direction requires a planning proposal to locate zones for urban purposes and include provisions that give effect to and are **consistent** with the aims, objectives and principles of *Improving Transport Choice – Guidelines for Planning and Development 2001* and *The Right Place for Business and Services – Planning Policy 2001*.

The planning proposal is **consistent** with the objective to locate economic activities which generate transport demand in locations that offer a choice of transport and increase opportunities for people to make fewer and shorter trips.

As the subject land is located within a major road corridor along which a diverse range of business premises are located the planning proposal is **consistent** with objectives to integrate land use and transport. The corridor is well served by public transport connecting with other activity centres within the LGA and the major Gosford rail interchange. It is also in proximity to the Gosford cycle track.

**(iv) Direction 4.1 – Acid Sulfate Soils**

The Direction requires the following to be addressed.

- (4) *The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.*
- (5) *When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be **consistent** with:*
  - (a) *the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or*
  - (b) *such other provisions provided by the Director-General of the Department of Planning that are **consistent** with the Acid Sulfate Soils Planning Guidelines.*
- (6) *A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General*

*prior to undertaking community consultation in satisfaction of section 57 of the Act.*

- (7) *Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions **consistent** with paragraph (5).*

The Acid Sulphate Soil Manual (NSW Government, 1998) advises that once an area containing acid sulphate soils is rezoned, it can be expected that development proposals will follow with the potential for ecologically unsustainable impacts on water systems and biodiversity. As such it is preferable that only landuses be permitted that will minimise or avoid the likelihood of disturbances of the soil and groundwater in acid sulphate soil (ASS) areas of the site.

With this in mind it is noted that the majority the subject land been classified as being Class 2 (see Attachment B, Appendix 7). Works below the natural ground surface and works by which the watertable is likely to be lowered have the potential to detrimentally impact upon the surrounding environment.

The Planning Proposal is considered to be **consistent** with this direction as the provisions of the planning proposal relate to uses of a temporary nature which are considered to be of a minor significance.

#### (vi) **Direction 4.3– Flood Prone Land**

The Direction requires the following to be addressed.

- (4) *A planning proposal must include provisions that give effect to and are **consistent** with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).*
- (5) *A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.*
- (6) *A planning proposal must not contain provisions that apply to the flood planning areas which:*
- (a) *permit development in floodway areas,*
  - (b) *permit development that will result in significant flood impacts to other properties,*
  - (c) *permit a significant increase in the development of that land,*
  - (d) *are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or*
  - (e) *permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.*
- (8) *For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is **inconsistent** with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant*

*planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).*

The Gosford Race Club Track precinct is located in the Narara Creek floodway and is defined in the 1991 Lower Narara Creek Floodplain Management Plan (adopted by council) as the "Race Course and Golf Course Flood Storage Area". Until superseded this plan remains the guiding document for any development of the floodplain.

Currently a Floodplain Risk Management Plan is being prepared with respect to the 2005 State Government Floodplain Development Manual and Council Policy relating to sea level rise predictions, this may change the flood extents and hazards of Narara Creek. The anticipated completion date is late 2012.

A recent Overland Flow Study (Cardno 2011) in the West Gosford Catchment indicates that flooding would not have the same effect as mainstream flooding due to the shorter duration. However during extreme events (1% and above) the depth of water is sufficient for vehicles to float in the southern section of the race track.

#### **Flooding and Drainage Comments:**

*Council's Integrated Planning Flooding experts advise that any development on the floodplain in this area requires careful consideration; this is identified by the following statements within the 1991 Lower Narara Creek Floodplain Management Plan (Plan);*

- *Significant water interchange occurs between the Narara Creek Floodway and the Flood Storage Areas; this is not to be impeded*
- *No filling should be permitted to reduce the volume in the storage area*
- *All development should be flood compatible*

*The above statements reflect the tenuous nature of the floodplain. Existing flooding problems have a direct relationship to inappropriate development within the floodplain. The purpose of management plans is to reflect the flood extents and the potential impact on property and risk to life.*

*The current land use (horse racing) of this area is appropriate and deemed flood compatible, as in times of heavy rainfall the race track would not be used and therefore the flood liable area would be vacant. This is similar to neighbouring outdoor soccer and other playing fields. However the proposal to allow temporary development (eg markets, field days, home shows, etc) could be considered not flood compatible, unless prescriptive controls are applied to the use of the site to ensure that the key recommendations of the Plan are adhered to and no lives are placed in danger evacuating the site; no damage occurs to property being inundated and washed away in floodwaters; and there are no resultant pollution problems as a result of floodwaters inundating the temporary development site. No development should be approved that requires additional demand of resources from the SES.*

Council's flooding experts have advised that it would be preferred that the Planning Proposal be **deferred** until Council completes the review of the 1991 Narara Creek Floodplain Management Plan and the adoption of Narara Creek Flood Risk Management Plan. It should be considered however that as the DLEP contains a "Temporary Use of Land" clause which applies to all land across the city, upon gazettal of the DLEP any flooding issues related to temporary uses on the subject site would be considered at the DA stage. As the DLEP represents Council's adopted direction with regard to planning matters it seems unreasonable to defer progressing the Planning Proposal based on flooding matters which will in the future be required to be considered as part of the assessment of a development application.

In order to address the concerns of the Flooding and Drainage section and ensure that any differences between the 1991 Lower Narara Creek Floodplain Management Plan and the Floodplain Risk Management Plan currently being prepared are taken into consideration it is suggested that a **Development Control Plan be prepared for the site**. This DCP should address the following flooding matters:

- Interchange between the floodway and the flood storage area is not to be impeded and no increase in flood affection elsewhere in the floodplain
- No filling would be permitted that would affect the net storage volume of the floodplain
- No cumulative impacts from development in this reach of the creek would be permitted that would affect the conveyance of flood water
- No environmental damage including pollution as a consequence of inundation of floodwaters
- No additional impact on services from Emergency Management Authorities
- Temporary development should be able to be removed from the site prior to the inundation by floodwaters or be flood compatible and be able to withstand the forces of floodwater, debris and buoyancy up to the flood planning level.
- Evacuation of transient occupants and transport of possessions from the site are to have effective warning times
- Car parking on the site should be located in low hazard risk areas of the floodplain
- Access routes from the site should have the capacity to allow safe rising egress to a public road or a safe refuge
- Consideration should be given to the type of activities proposed for the site
- Extent of use of the development site should be clearly defined

(vi) **Direction 4.4 – Planning for Bushfire Protection**

This direction applies where a planning proposal will affect, or is in proximity to, land mapped as bushfire prone land. It applies to this proposal as the edge of the site along Narara Creek is mapped either Category 2 or buffer. This Direction requires that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and also requires certain design considerations are considered, that would be assessed as part of a future development application. Consultation with RFS will occur if required by DOPI as part of the gateway determination.

- (vii) **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.

The Planning Proposal is considered to be **consistent** with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031 as indicated in the response to B4 above.

- (viii) **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.

- (ix) **Direction 6.2 – Reserving Land for Public Purposes**

Clause (4) of this Direction requires that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority or the Director General.

The planning proposal does not involve the creation or reduction of existing zonings of the land for public purposes.

- (x) **Direction 6.3 – Site Specific Provisions:** The objective of this direction is to discourage unnecessarily restrictive site specific planning controls and applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. The Planning Proposal is **consistent** with this Direction as it is not intended to restrict development to a particular development proposal.

## **Section C Environmental, social and economic impact**

- 8 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?**

An inspection of the site confirmed that the vegetation is **consistent** with Bells mapping adopted by Council' which indicates regionally Significant Vegetation (Estuarine Mangrove Scrub) and the Endangered Ecological Community (Estuarine Swamp Oak Forest) around the very edge of the site along the banks of Narara Creek.

The majority of the site has however been cleared in the past for racecourse activities and any temporary use could be located in existing cleared areas so as not to impact on the vegetation along the creekline.

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

The subject site is located in the Narara Creek Floodway, matters associated with flooding have been discussed in detail in the above response to the s117 Direction 4.3 Flood Prone Land.

Apart from this flooding matter the Planning Proposal will not result in any other likely environmental effects. Council's assessment of any future development application will ensure that any proposal for the temporary use of the racecourse precinct will have **no significant environmental effects**.

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

The Planning Proposal will not have any adverse social and economic effects. It will

- Provide for the more efficient use of an underutilised recreation resource which is currently being used for horse racing only 23 days per year and will significantly improve the economic viability of the Gosford Race Club;
- Not result in any reduction in the availability of land to the community for sporting and recreation facilities;
- Not impose any operational constraints on the conduct of race meetings by the Gosford Race Club;
- Will permit the use of existing facilities and infrastructure at the racecourse for a broader range of events/festivals providing for community entertainment.

The proposal was forwarded to Council's Social Planner who raised **no objections** to the proposal.

Council's Economic Advisor considered that the proposal would lead to increased economic activity within the LGA because of the limited availability of similar parcels of land with existing visitor facilities, transport options, parking etc. It was not considered that the uses would not compete with the Gosford City Centre activities where there is more limited open space for events such as caravan exhibitions etc.

**Section D State and Commonwealth interests**

**11 Is there adequate public infrastructure for the Planning Proposal?**

Conventional urban services are available to the land.

Council's Integrated Planning Transport Planners raised **no objections** to the proposal subject to safe vehicular, pedestrian and public transport access to the site being considered as part of the any development application for temporary use on the site. From a transport perspective the site is considered favourable due to its location adjacent to a major road and bus corridor along the Central Coast Highway and is close to the Gosford Cycletrack. Access to events could also be made possible by the Gosford free shuttle bus services around the Gosford CBD.

Water and Sewer are available at the site. Council's Water and Sewer section have advised that any further development of the land may require Council to review the capacity of the existing vacuum sewer and water reticulation systems. Of particular concern is the fact that current sewerage discharge rates on major race days exceed that which the sewerage vacuum system was designed to accommodate. The Water and Sewer section have noted that this matter can be addressed at the Development Application stage once the nature of the temporary use and likely numbers of patrons has been determined.

The existing Golf Driving Range which operates in the centre of the racetrack has been approved with an on-site sewage management system with surface spray irrigation of treated effluent. In the event of any Temporary Use of the site Council's

Waste Services section have advised that for health and safety reasons this area would be required to be set aside with suitable barriers to prevent access by the public. As such Waste Services recommend the connection of the Office of the Golf Driving Range to the sewer to eliminate any restrictions that would be imposed on the site by the effluent disposal area and the potential public and environmental health risks presented by retaining the existing on site sewerage management system.

**12 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.

**Part 4 Community Consultation that is to be undertaken**

***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.

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.

**Other Matters for Consideration**

No other matters need to be considered for the Planning Proposal.

**Conclusion**

The planning proposal is intending to implement the provisions of the draft Gosford LEP 2009 as they would apply to the subject site by “bringing forward” the DLEP provisions to allow for the temporary use of the land for purposes not related to horse racing. The applicant has indicated that completion of the Planning Proposal will enable the land to be used for temporary uses

such as festivals, concerts etc and this will provide economic and recreational benefits for the local community.

Issues raised in relation to flooding can be addressed in a Development Control Plan prepared for the site, and Water and Sewer and Waste Services issues are able to be dealt with at the development application stage.

**Should Council wish to reconsider the matter after public exhibition where no submissions have been received, the following resolution should be adopted. “After public exhibition of the Planning Proposal a report be referred to Council on the matter.”**

## **FINANCIAL IMPACT STATEMENT**

The recommendation does not impact on Council's financial position.

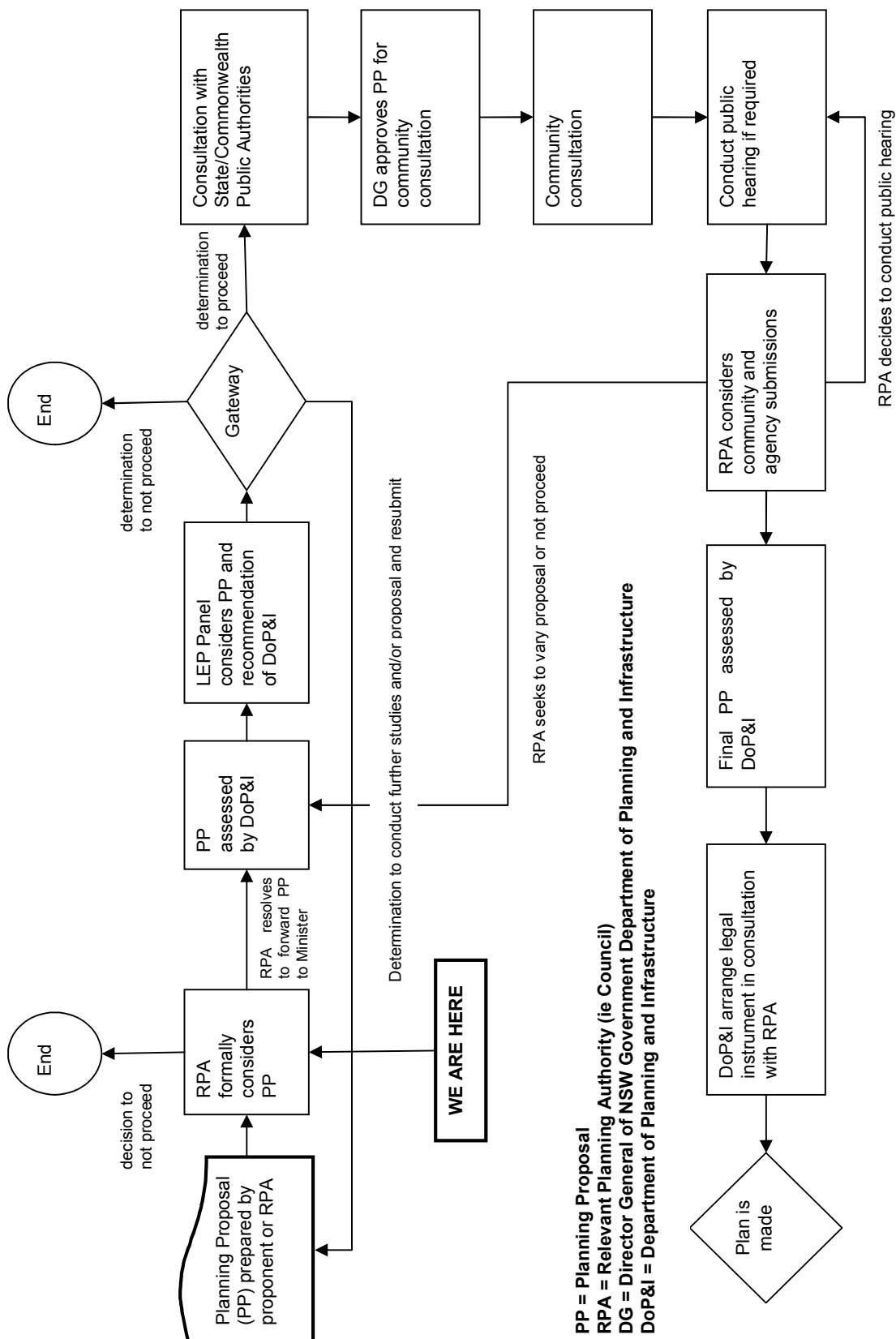
## **RECOMMENDATION**

- A 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 (Attachment A) to permit the temporary use for a maximum of 14 days in any period of 12 months of Lot 4 DP 775631 Racecourse Road, West Gosford for events, festivals and the like, unrelated to horseracing and forwarding it to the Department of Planning and Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and that Council staff prepare all necessary documentation and process the matter according to the Department of Planning and Infrastructure directives and this report.
- B After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, if no submissions are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.
- C The applicant be advised of Council's resolution.
- D Council resolve to prepare a Development Control Plan for Lot 4 DP 775631 Racecourse Road West Gosford to address issues raised in respect to flooding and this plan be placed on exhibition with any draft LEP prepared for this land.

**ATTACHMENT A** – Planning Proposal process - extract from, DoP&I documents (RPA = Relevant Planning Authority, i.e. Council)

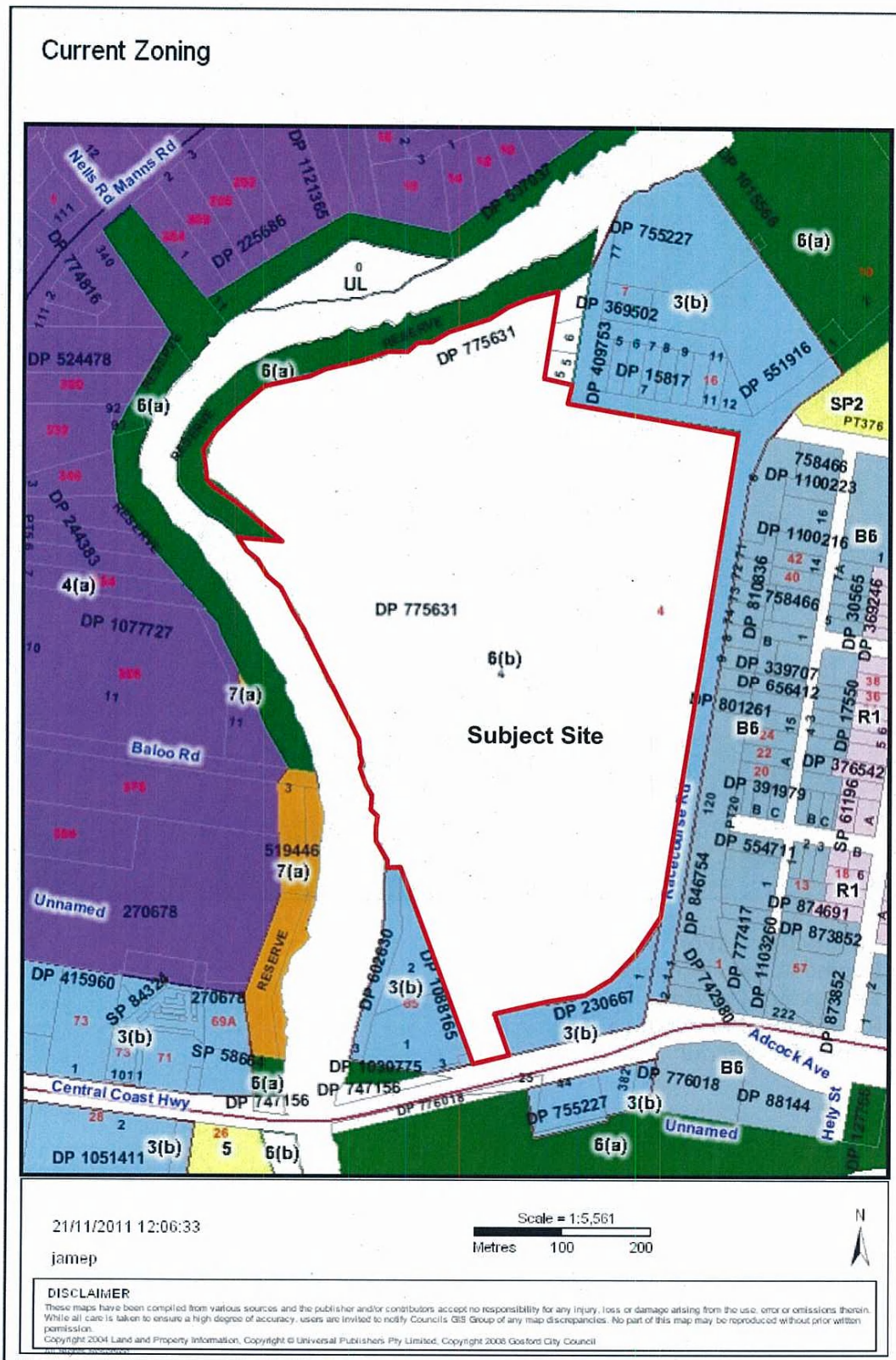
**Extract from “A Guide to Preparing Local Environmental Plans”,  
Department of Planning and Infrastructure**

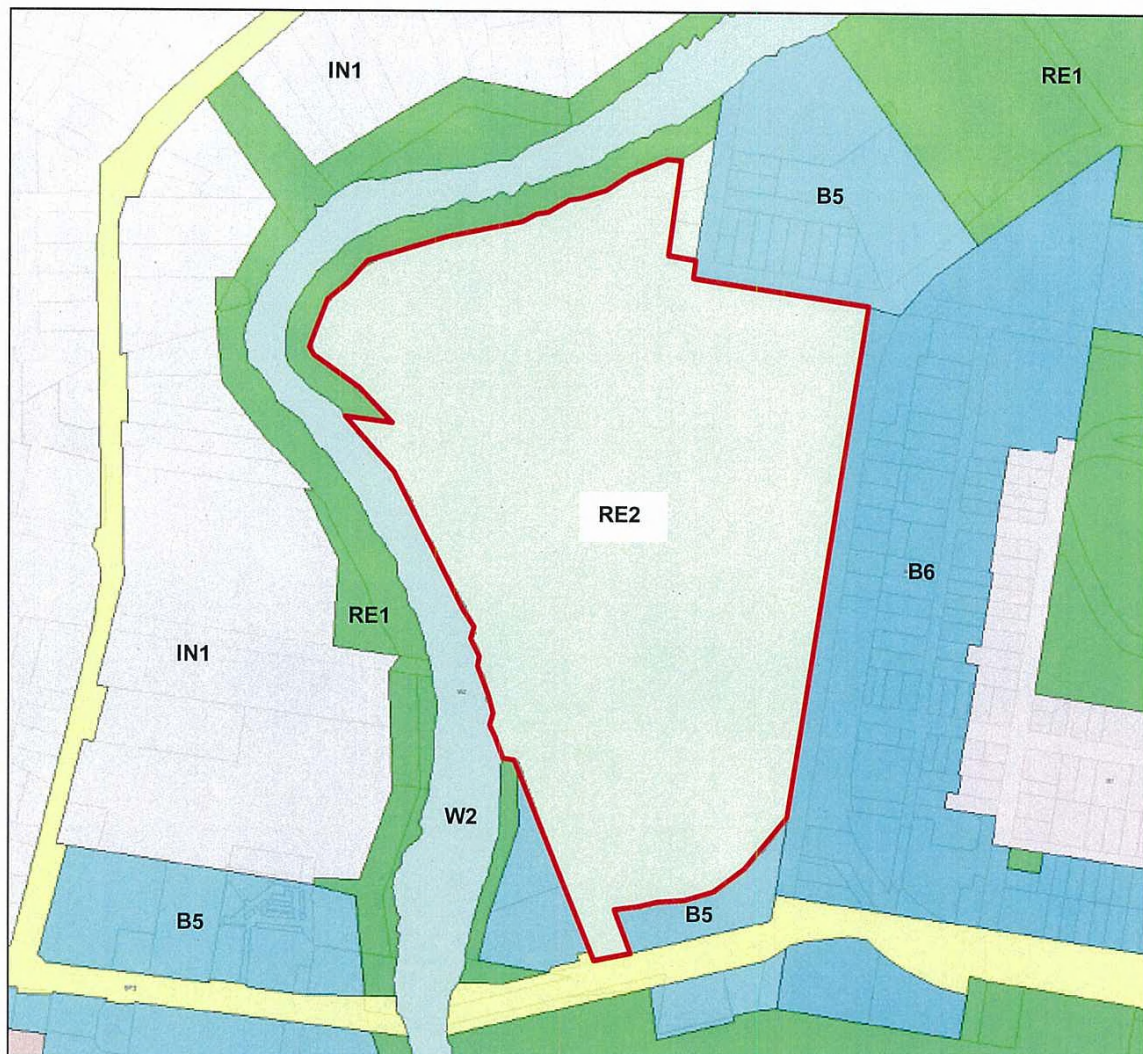
**Process to make a local environmental plan**



## ATTACHMENT B – Planning Proposal Mapping

## APPENDIX 1 - Existing Zoning Map



**APPENDIX 2 - Proposed Zoning under Draft Gosford LEP**

|            |                               |
|------------|-------------------------------|
| <b>RE2</b> | <b>Private Recreation</b>     |
| <b>B5</b>  | <b>Business Development</b>   |
| <b>B6</b>  | <b>Enterprise Corridor</b>    |
| <b>W2</b>  | <b>Recreational Waterways</b> |
| <b>IN1</b> | <b>General Industrial</b>     |

## APPENDIX 3 - Aerial Photograph

## Aerial Photograph



21/11/2011 11:38:41

jamep

Scale = 1:4,353

Metres 100 200

**DISCLAIMER**

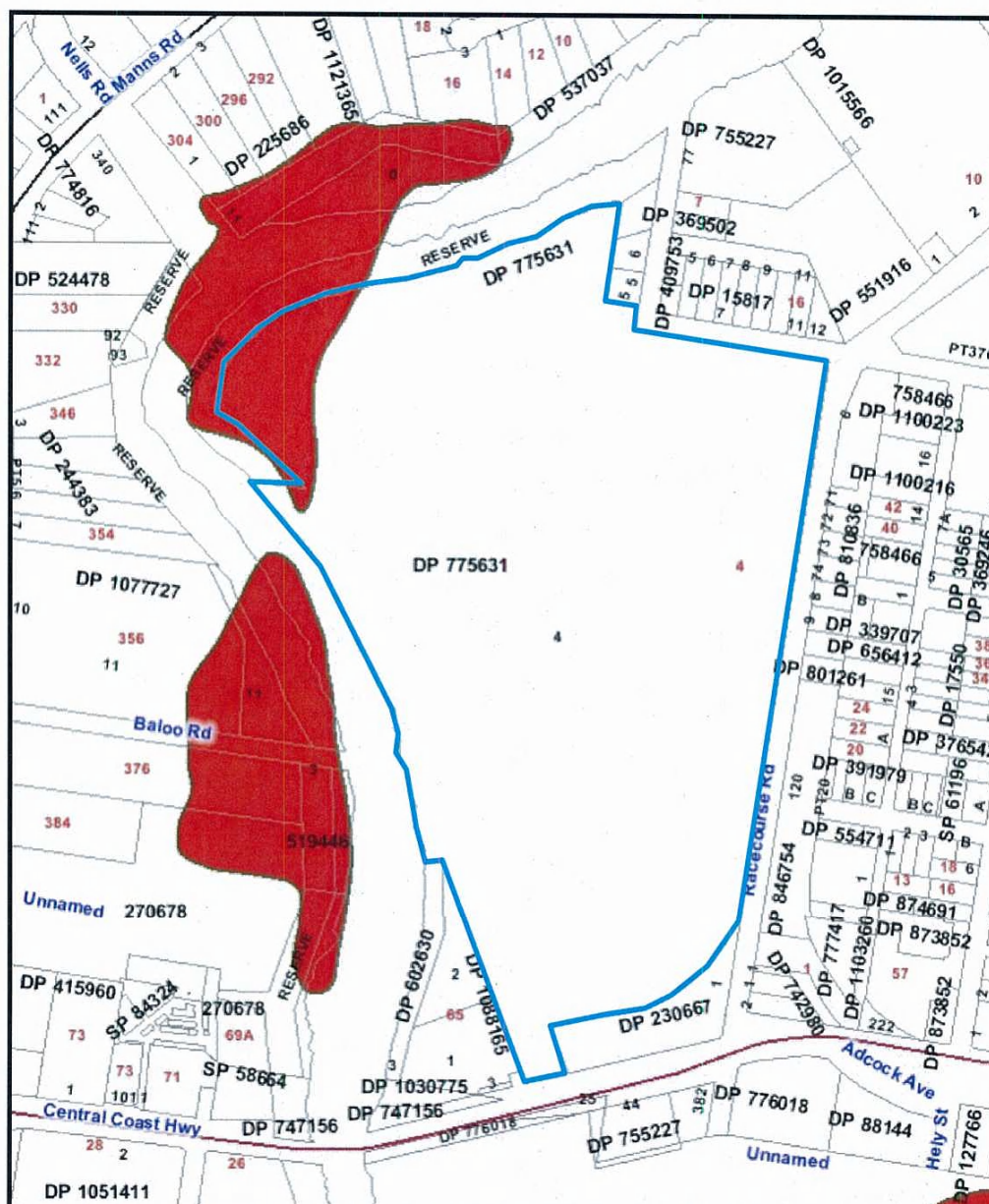
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## APPENDIX 5 - SEPP 14 - Coastal Wetlands

## SEPP 14



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jamep

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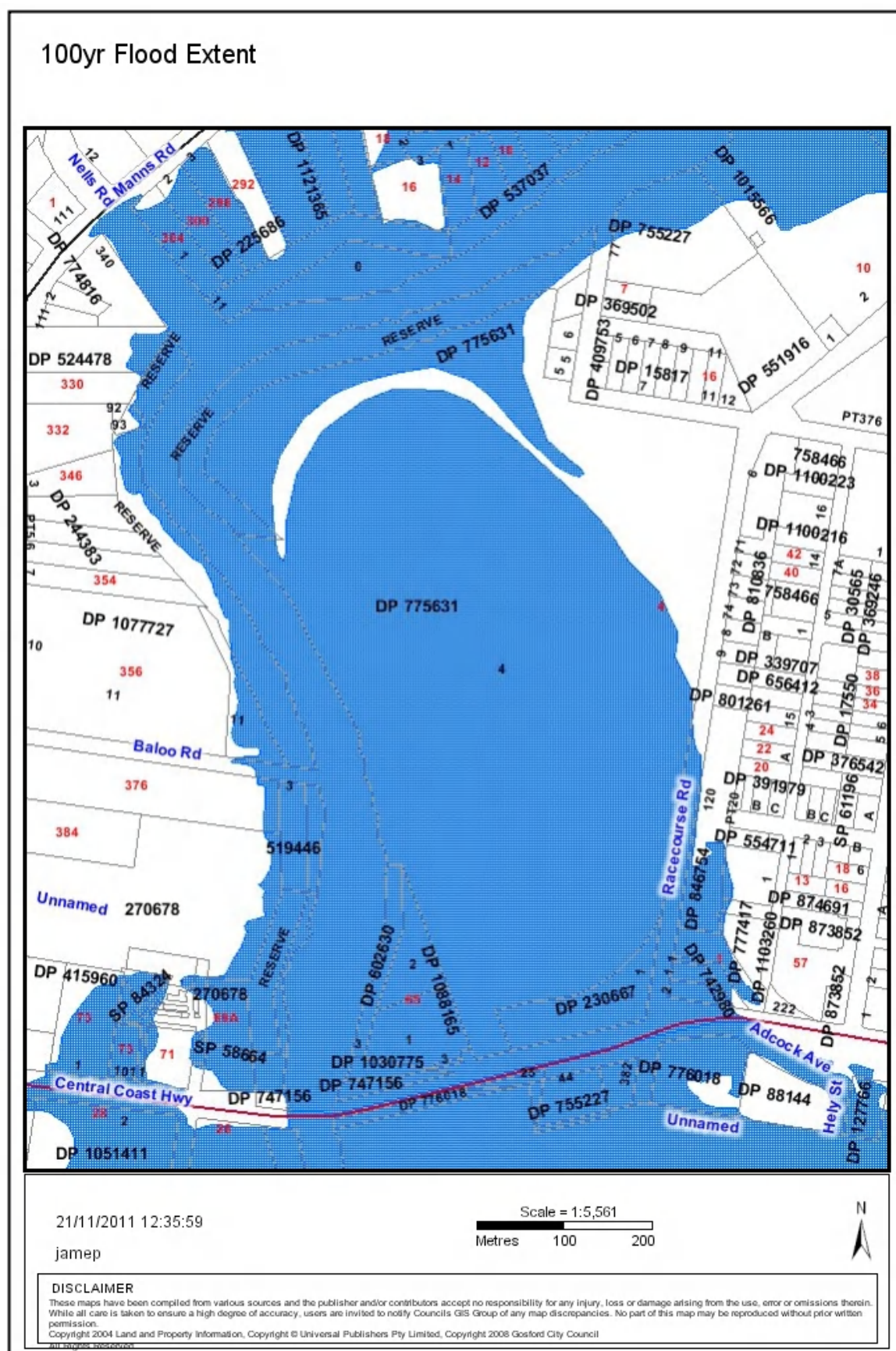
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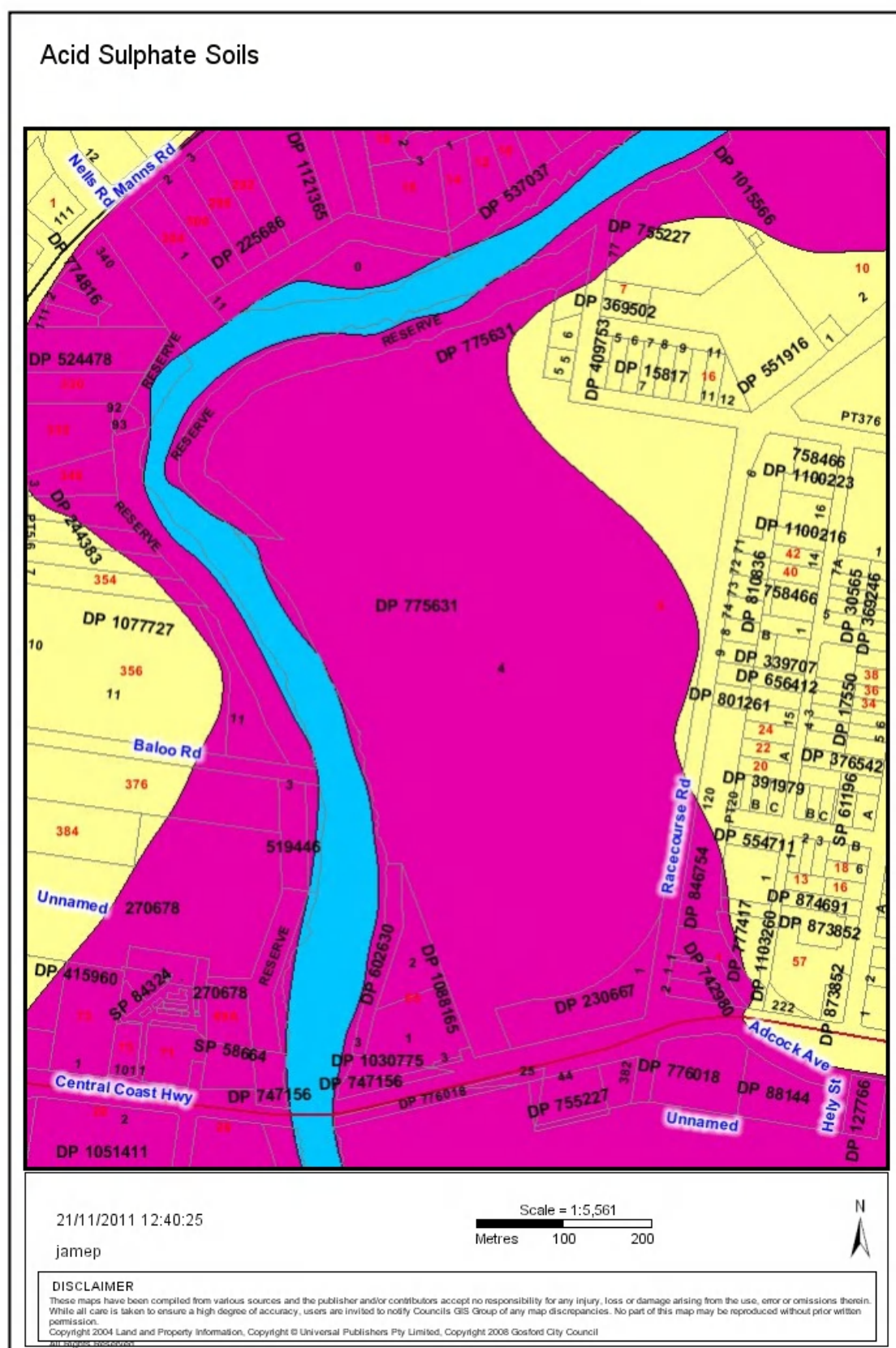
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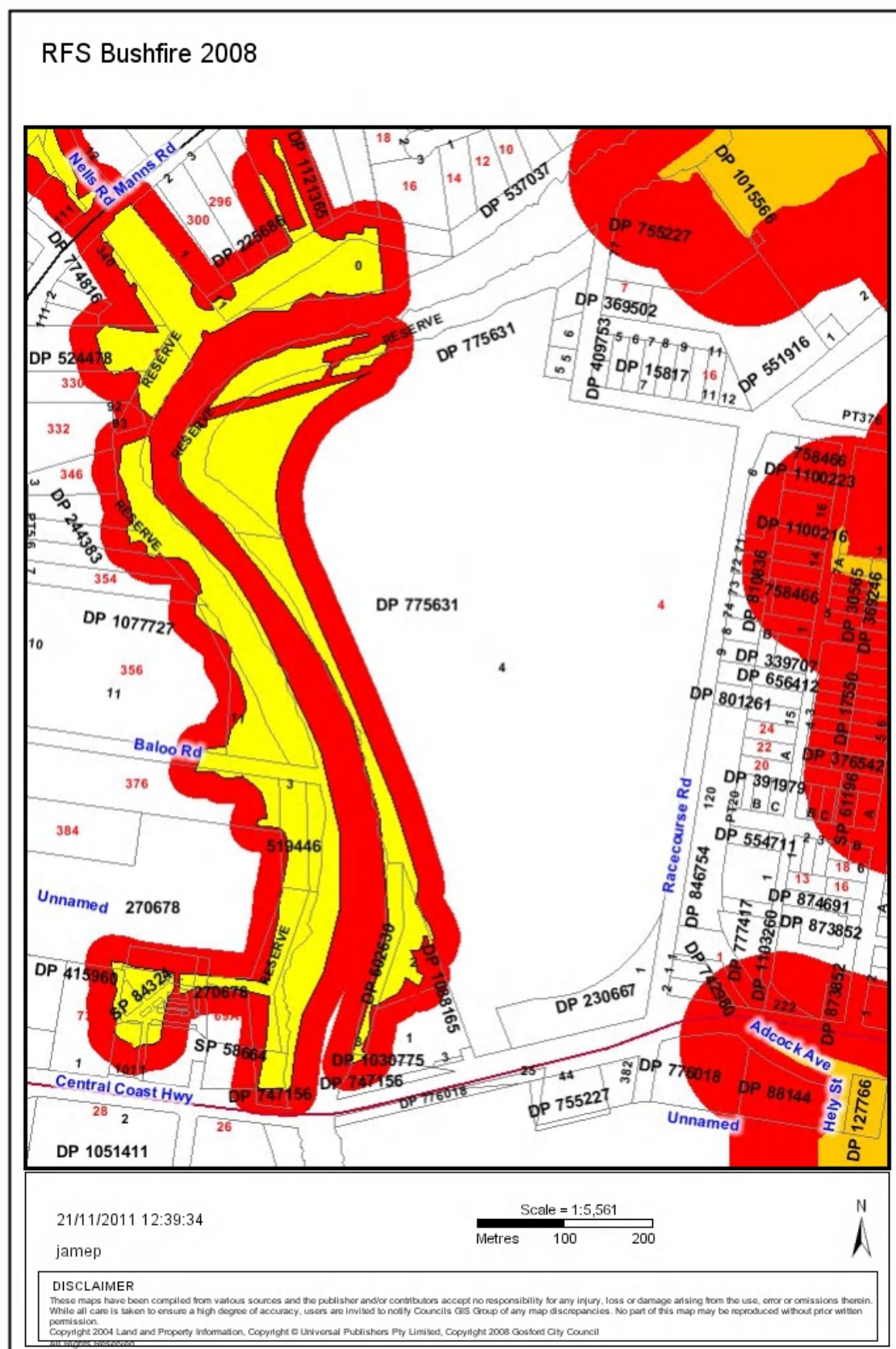
## APPENDIX 6 – 100yr Flood Extent



## APPENDIX 7 – Acid Sulfate Soils



## APPENDIX 8 – Bushfire Mapping



## APPENDIX 9 – Significant Vegetation

