

TITLE Planning Proposal Report s55 in respect of Zoning Lot 4 DP740663 and Part Lot2 DP740663 Taylor Road Lisarow to R2 and Part of Lot 2 DP 740663 to E2. Applicant: Brian Fitzgerald (IR 16101481)

Department: Governance & Planning
Service Unit: Development & Compliance

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

EXECUTIVE SUMMARY

The subject land, Lots 2 and 4 DP 740663 Taylor Road, Lisarow, is currently zoned 7(c2) Conservation and Scenic Protection (Rural Small Holdings). The applicant seeks to include all of Lot 4 and part of Lot 2 in the R2 Low Density Residential zone within Gosford LEP 2014 and retain the western part of Lot 2, which is vegetated, in the 7(c2) zone.

Retaining the vegetated part of Lot 2 (approx 4,440sqm) in the 7(c2) zone is not supported as it will open up the possibility of that land being developed as a rural residential lot in the future, including associated clearing. This part of the site is heavily vegetated and connects Council's reserve to the north to vegetated land and a Council reserve to the south. It also has a slope of 24% which makes it unsuitable for further development. The landform and vegetation are consistent with the character of land zoned E2 Environmental Conservation and consequently it is recommended that it be included in this zone. In order to ensure that the vegetation is preserved it is proposed to include a cleared area of Lot 2 in the E2 zone so as to enable a future dwelling to be constructed.

The land proposed to be zoned R2 is generally cleared and located on a knoll with slopes able to accommodate the standard residential lot size of 550sqm. However the land fronting Taylor Road has a slope of 15% to 20% with an easterly aspect. Under Gosford DCP 2013 the minimum lot size for residential land with slopes between 15% and 20% is 650sqm. To ensure consistency with the DCP provisions, it is proposed to map the minimum lot size at 650sqm under Gosford LEP 2014.

The land was used as an orchard in the 1950s and 1960s and a preliminary contamination assessment is required to be undertaken, subject to a Gateway Determination. Also, subject to a Gateway Determination, is the requirement to adequately service the land by way of obtaining consent from adjoining owners to a sewer easement and drainage easement over such land.

The Planning Proposal is considered to have strategic merit because the land is located directly adjacent to the existing urban footprint, is able to be serviced, and the proposed zoning to R2 zone is consistent with the zone of adjoining residential land. The visual amenity of rural small holding lots in the vicinity will not be affected as they are screened by vegetation on the lots and within the road reserve.

BACKGROUND

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 by Department of Planning & Environment would result in an amending LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979.

Application Received: 24 June 2014 (for Lot 2 DP 740663).

Amended Application Received: 7 January 2015 (included Lot 4 DP 740663)

Environmental Planning Instrument – Current Zone: Zone 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) under Interim Development Order No 122 – Gosford (IDO 122).

Area: 2.17 ha

Map:



Recommendation: That Council support preparation of a Planning Proposal for the subject site.

Landuse History:

In 1979 the subject land was zoned 7(a) Conservation and Scenic Protection (Conservation) under IDO 122.

In 1982 the land was zoned 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under LEP 59.

In 1987 Deposited Plan (DP) 740663 was registered which created the subject Lots 2 and 4.

In 1998 a Rezoning Application (RA 1998.31) was submitted which proposed to rezone that part of Lot 2 DP 740663 fronting Taylor Road to 2(a) Residential. This would have permitted five (5) residential lots with frontage to Taylor Road with a residue 7(c2) zoned lot. Council refused this application on 22/09/98.

The owner made representations to Council and requested consideration of a compromise proposal that would provide two (2) residential lots fronting Taylor Road and a residue 7(c2) zoned lot. At the Council meeting on 3/11/98 the owner offered to dedicate the rear section of the land (approx 2000sqm) as an incentive for Council's support of the rezoning. Council resolved to defer consideration to allow consultation between the applicant and staff concerning the proposed land dedication. Council considered a report on the matter on 4/05/99 and declined to support the amended proposal.

In 2004 a further Rezoning Application (RA 2004.190) was submitted which proposed to rezone that part of the land fronting Taylor Road to 2(a) Residential. In effect it was the same as that submitted in 1998. Council refused the application on 7/06/05.

Overview of Applicant's Submission:

It is proposed to rezone the land to part DM – Deferred Matter and part R2 – Low Density Residential so as to permit residential subdivision on that part of the subject land fronting Taylors Road and retain the rear portion as DM – Deferred Matter.

The zone change would permit the approval (with the consent of Council) for the subdivision of that portion of Lot 2 fronting Taylors Road into eight (8) residential allotments which would be consistent with residential lands immediately to the north and east. Lot 4 would also then have subdivision potential.

The development has the capacity to provide residentially zoned land that:-

- (i) is consistent with adjoining residentially zoned lands; and*
- (ii) can be readily serviced through the extension of existing water and sewer services*

There is an increasing demand for high quality, accessible and fully serviced residential land in the Gosford LGA particularly in established residential suburbs such as Lisarow that have existing infrastructure.

The subject site has the following advantages:-

- (i) *is consistent with the pattern of similar residential uses in the immediate precinct;*
- (ii) *is substantially cleared of native vegetation and has been regularly maintained,*
- (iii) *is gently sloping and easily accessed;*
- (iv) *has good access off the Taylors Street; and*
- (v) *can be easily serviced by a range of public utilities by extending existing utilities*

It should be noted that “DM” is not a zone. Land in the Deferred Matter area would retain its existing zone, which in this case is 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under IDO 122. The merits of retaining a portion of Lot 2 as a “Deferred Matter” are discussed in the Assessment section of this report.

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

'Gateway' planning process

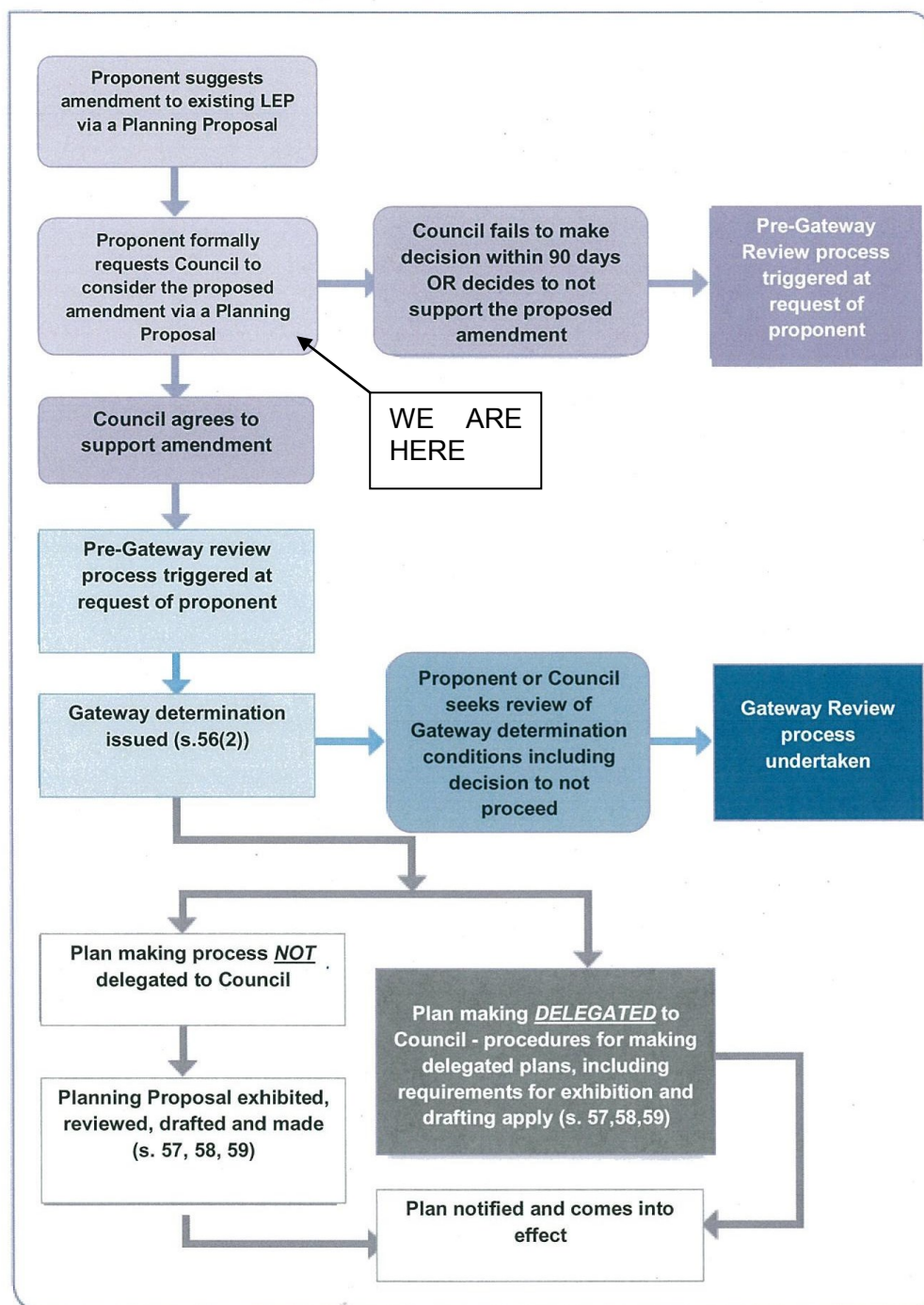
A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls.

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

The aim of the Gateway planning process is to enable early consideration by the Department of Planning & Environment (DP&E) 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.

Certain plan making functions may be delegated by the DP&E to Council. The following flow chart outlines the LEP plan making process and indicates where in the process this proposal currently sits.

LEP plan making process



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 & Environment'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 DP&E.

Part 1 Objectives or Intended Outcomes

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

The objective/intended outcome of the Planning Proposal is to zone Lot 4 DP 740663 and that part of Lot 2 DP 740663 which is generally cleared, to R2 Low Density Residential as it appropriately reflects the land's proximity to residential zoned land and physical attributes.

The western part of Lot 2 DP 740663 is vegetated and provides environmental connectivity between Council's Janine Close Reserve to the north and vegetation to the south. Appendix 2 shows the vegetated nature of part of the land. In order to preserve this vegetation it is proposed to zone this part of Lot 2 to E2 Environmental Conservation, which will remove it from the "Deferred Matter" area and into the area covered by Gosford LEP 2014. Appendix 4 indicates proposed zonings for the subject site.

Part 2 Explanation of Provisions

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

The subject land is a Deferred Matter (DM) in the Gosford LEP 2014. Consequently it retains its zone of 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under IDO 122.

The objectives/intended outcomes are to be achieved by including the subject land in the Gosford LEP 2014. This will entail amending the following maps under Gosford LEP 2014 as they relate to Lots 2 and 4 DP 740663.

Land Zoning Map (LZN_014C)

- include subject site in R2 Low Density Residential zone and E2 Environmental Conservation zone (Refer to Appendix 4)

Floor Space Ratio Map (FSR_014C)

- include R2 zoned land in area D (i.e FSR of 0.5:1)(Refer to Appendix 5)

Height of Building Map (HOB_014C)

- include R2 zoned land and E2 zoned land in area I (i.e height of 8.5m) (Refer to Appendix 6)

Lot Size Map (LSZ_014C)

- include R2 zoned land fronting Taylor Road in area O (i.e. lot size of 650 sqm) and the remainder in area K (i.e. lot size of 550 sqm).
- Include E2 zoned land in area AB2 (i.e. 40 ha) (Refer to Appendix 7)

Currently there is no classification O (650sqm) in the minimum lot size mapping layer of Gosford LEP 2014. It is considered that such a classification is required because the land fronting Taylor Road has a slope of 15% to 20% which, under Chapter 3.5 Residential Subdivision of Gosford DCP 2013, is required to have a minimum lot size of 650sqm. Hence to ensure consistency between the LEP and DCP it is reasonable to map the minimum lot size as 650sqm.

Acid Sulfate Soils Map (ASS_014C)

- include subject site in Class 5

By only including the vegetated portion of Lot 2 DP 740663 as E2, it is very likely that a dwelling and associated clearing would be sought, thus negating the imposition of the E2 zone. In order to preserve the vegetation, a cleared section should be included in any future lot. It is preferable to create lots that are not split-zoned so the cleared area of this lot should also be zoned E2. (Refer to Appendices 2 and 4 for further explanation of this.)

The applicant has proposed that eight (8) residential lots could be accommodated on Lot 2 DP 740663. The Planning Proposal, which includes an E2 zoned lot with building area and R2 land fronting Taylor Road with a minimum lot size of 650 sqm, will not alter this subdivision potential. The applicant has not indicated a potential lot yield for Lot 4 DP 740663. As the Planning Proposal has not proposed any changes to the zone of Lot 4, as submitted, the development potential will not be affected. This is summarised in the table below.

Subdivision Potential	Lot 2 DP 740663	Lot 4 DP 740663
Applicant's Submission	8 lots	Not stated
Planning Proposal	8 lots	No change proposed to zone as submitted

Section 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 A to this report contains all relevant mapping supporting the Planning Proposal.

Part 3 Justification for objectives & outcomes

Section 55(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, however the proposal has merit, as outlined in this report.

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 only means of achieving the objectives/intended outcomes of rezoning the land.

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 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of housing. This Planning Proposal is consistent with the following objectives/actions contained within the Regional Strategy:

- 4.2 Councils are to provide for a mix of housing types, including housing that will accommodate an aging population and smaller household sizes through the preparation of LEPs and strategies.
- 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 this Strategy is to be located within existing urban areas, existing MDP (Metropolitan Development Program) areas, areas identified through the preparation of LEPs and Greenfield areas nominated in the North Wyong Shire Structure Plan.

Overall Council is providing a mix of housing types in the R1 and R2 zones in accordance with Action 4.2. This Planning Proposal seeks to contribute to the stock of single detached dwellings characteristic of the R2 zone. The proposed residential zoning of the subject land is an amendment to the urban boundary and therefore satisfies Action 4.5. The subject land is located directly adjacent to an existing Residential zone, thus is considered to be within an urban area in accordance with Action 4.6.

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 Section 117 Directions?

The Planning Proposal has strategic merit in that it will ensure the zoning of the land is consistent with that of adjoining properties and the physical characteristics of the land. The proposal is consistent with the Central Coast Regional Strategy (see Question 3 above) and Section 117 Directions (as addressed below).

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 proposed residential zoning is compatible with the adjoining residential subdivision to the north. There are no significant environmental values on the cleared part of the site that would preclude it from being used for residential land. The western part of Lot 2 DP 740663 is heavily vegetated and has a gradient of 24% which precludes it from further development. Zoning this part of the site E2 is consistent with the physical character of the land. The existing road system is able to accommodate the additional traffic generated by this planning proposal and the utility services are able to be augmented to handle the increased demand.

Taylor Road is a rural road with a sealed centre strip and dirt shoulders. Even though it adjoins residential subdivision to the north, it is not kerb and guttered, as the residential lots do not gain access from Taylor road but via internal streets. Taylor Road is able to accommodate the additional traffic generated by the future subdivision of the subject land.

The amenity of the location will not be adversely affected as adjoining land to the north and east is already developed for low density residential subdivision. This Planning Proposal is unlikely to create a precedent for similar proposals being submitted for adjoining 7(c2) land to the south and on the eastern side of Taylor Road. Even though the lot on the eastern side of Taylor Road is generally cleared most of the land has slopes of over 20%. The two lots to the south of the subject land are also unsuitable for more intensive development due to slopes greater than 20% and/or because they are heavily vegetated. The only land with gentle slopes already accommodates a new substantial dwelling which is unlikely to be redeveloped in the short term.

In accordance with the instructions from the Department of Planning and Environment, Council is undertaking a review of the Environmental zones and urban fringe land. This review, when completed, will provide a strategic basis for retaining or changing the Environmental zones. Any land in the vicinity that may be suitable for residential zoning can be identified in this process.

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 – Gosford 2025* applies to the subject land. The following strategies outlined in the Community Strategic Plan are applicable to this Planning Proposal:

A3.4 Increase the availability of appropriate housing

B6.3 Plan for population growth within existing developed footprint

The Planning Proposal is consistent with these strategies as the proposed R2 zone increases the availability of housing and as it directly adjoins the existing urban area can be considered to be generally located within the existing developed footprint.

Biodiversity Strategy

The Biodiversity Strategy applies to the subject land. The following Action is applicable to the Planning Proposal:

- 7 Focus development around existing urban centres to maintain the urban development in the existing urban footprint to protect agricultural and environmentally sensitive lands.

The Planning Proposal is consistent with this Action in that it proposes to zone land for residential purposes generally within the existing urban footprint. Also it proposes to appropriately zone the vegetated part of the site for future protection.

Residential Strategy

The Residential Strategy has the following Action applicable to this Planning Proposal which is to zone the subject site to R2 Low Density Residential:

- Proposed rezoning for low density residential land will be preferred where the result is the consolidation of existing residential zoned areas, rather than the extension of these zones as ribbon development or as incremental extensions into adjoining areas.

The Planning Proposal is an example of urban consolidation as it seeks to rezone cleared land to the residential zone which applies to adjoining lots. It is physically constrained on the western side by a public reserve and steeply sloped land to the east, thereby not incrementally extending into adjacent 7(c2) zoned areas.

Draft Residential Strategy

Under the draft Residential Strategy, the applicable Objectives, Goals and Actions are:

Objective – ensure adequate supply of land and sites for residential development
Goal – locating housing supply to minimise impact on physical characteristics and infrastructure

Action - Council ensure all rezoning applications involving a residential component maintain the existing urban footprint.

Objective – plan for a mix of housing near jobs, transport and services
Goal – concentrating new housing near major transport and service hubs

The Planning Proposal provides additional residential land, hence housing supply, to the market. The future use of the site will not change the physical characteristics of the locality and is able to be serviced by existing utilities and infrastructure. The Planning Proposal applies to land generally within the existing urban footprint.

The site is not serviced by a bus route. The closest bus stop is on the Pacific Highway, near the Lisarow train station, approximately 1.2 km away. It is likely that most future residents will have a private vehicle.

Section 65 Certificate for Draft Gosford LEP

On 25 September 2009 the Department of Planning and Infrastructure advised Council through the Section 65 Certificate relating to the Draft Gosford LEP, to undertake the following matters after the Plan is gazetted:

- 2.4 Review of urban fringe zonings in accordance with CCRS (Central Coast Regional Strategy).
- 2.5 Address consistency with 'E' zone practice note (PN09-002) and amend zones and other planning provisions as required.

The 'E' zone review was held pending gazettal of Gosford LEP 2014 and any new State planning legislation. Also the Council resolution of 31 May 2011 to defer all privately owned 7(a) and 7(c2) zoned land east of the Freeway has further delayed this 'E' zone review. The urban fringe review is envisaged to comprise the last stage of this 'E' zone review.

When the Draft Gosford LEP was placed on public exhibition in 2010, the applicant made a submission relating to Lot 2 DP 740663. Council's response, which was included in the Report considered by Council on 31 May 2011, is set out below:

As the land immediately adjoins land zoned for residential purposes fronting Taylors Road, it can be included in the review of fringe lands as required by DOP&I.

There is nothing to prevent a Planning Proposal being submitted and assessed prior to the review of urban fringe zones, with any such proposal being considered on individual merit.

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.

SEPP No 19 - Bushland in Urban Areas

The general aims of this Policy are to protect and preserve bushland within urban areas because of its value to the community as part of the natural heritage, its aesthetic value, and its value as a recreational, educational and scientific resource. When preparing draft local environmental plans for land, other than rural land, the council shall have regard to the aims of the Policy, and 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.

The majority of the subject land that is proposed for R2 has been historically cleared of native vegetation for agricultural and rural purposes, although scattered native trees remain. The residual land is densely vegetated and has been mapped as Coastal Narrabeen Moist Forest. This vegetation connects to larger areas of native vegetation and reserve areas. The zoning to E2 and subsequent management of this land for conservation purposes will ensure connectivity between bushland reserves is maintained and satisfy the aims and objectives of SEPP 19.

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:

- a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- b) by encouraging the identification of areas of core koala habitat, and
- c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

As the Planning Proposal seeks to protect the existing bushland and not remove any feed tree species it complies with the objectives of SEPP 44.

SEPP 55 - Remediation of Land

The SEPP requires council to consider whether the land is contaminated, if it is suitable in its contaminated state or whether remediation is required from previous land uses as identified in Table 1 of the Contaminated Land Planning Guidelines. Consideration has to be given as to whether or not the land is contaminated and if so that Council is satisfied that the land is suitable in its contaminated state for the future use or requires remediation.

SEPP 55 lists some activities that may cause contamination, one of which is agricultural or horticultural activities. Council's historical aerial photographs indicate that the subject land (except the vegetated area to the west) was already being used for orchard purposes in 1954. The orchard was still in existence in 1964 but by 1975 the orchard, like most in the area, had been removed, leaving a grassed area. By 1995 the residential development on land to the north and east was being constructed. As the land has been used for agricultural and horticultural activities a contamination assessment is to be undertaken, should the Gateway Determination support the Planning Proposal.

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

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

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 Planning Proposal proposes to zone generally cleared land to R2 and zone heavily vegetated land to E2. This proposed zoning will facilitate the protection and conservation of environmentally sensitive land which is consistent with this Direction. In order to ensure the ongoing management of the vegetated E2 land a Bushland Management Plan should be submitted as part of any future subdivision application. This requirement can be inserted into Gosford DCP 2013.

Direction 2.3 – Heritage Conservation

This direction applies when a Planning Proposal is prepared. A planning proposal must contain provisions that facilitate the conservation of 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. This includes items, areas, objects and places of indigenous heritage significance.

The Direction has no practical application to this Planning Proposal as there are no items of European Heritage on the site and given the historically disturbed nature of the site it is unlikely that there are any remaining aboriginal relics, if they originally existed.

Direction 3.1 - Residential Zones

This Direction applies when a planning proposal affects land within an existing or proposed residential zone. The draft LEP shall include provisions that will broaden the choice of building types, make more efficient use of existing infrastructure and services, reduce the consumption of land for housing on the urban fringe and be of good design. The Direction also requires that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The proposed R2 zone is consistent with the zoning of residential land in the locality and will make efficient use of existing infrastructure and services in the locality. The low density residential zone will not permit the broad range of housing types as is permitted in the medium density residential zones. However, such housing is considered unsuitable for this site as it is not located close to centres as specified in the Central Coast Regional Strategy.

The Planning Proposal to rezone the land will permit the range of housing permitted in the R2 zone such as dwelling houses, seniors housing (under LEP 2014 and SEPP Housing for Seniors or People with a Disability) and secondary dwellings (under LEP 2014 and SEPP Affordable Rental Housing).

Both lots are serviced by water. Lot 4 DP 740663 is serviced by sewer. In terms of stormwater, the developer of Lot 4 shall be responsible for obtaining an easement through a property at the northern end to drain to the existing drainage system in Taylor Road. The applicant will have to demonstrate how this easement is to be obtained should the Gateway Determination be positive.

Lot 2 DP 740663 is not serviced by sewer and will require an easement over adjoining land to access the sewer. The applicant will have to demonstrate how such an easement is to be obtained should the Gateway Determination be positive.

Direction 3.4 - Integrating Land Use and Transport

This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) *Improving Transport Choice – Guidelines for planning and development* (DUAP 2001), and
- (b) *The Right Place for Business and Services – Planning Policy* (DUAP 2001).

These documents have objectives to:

- locate trip-generating development which provides important services in places that:
 - help reduce reliance on cars and moderate the demand for car travel
 - encourage multi-purpose trips
 - encourage people to travel on public transport, walk or cycle
 - provide people with equitable and efficient access
- minimise dispersed trip-generating development that can only be accessed by cars

The site is located 1.2 km from a rail and bus service located near the intersection of Chamberlain Road and Pacific Highway, Lisarow. The site is therefore not considered to be within easy walking distance of public transport. The majority of the existing residential development in the immediate vicinity of the subject land is similarly remote from public transport. It is noted that private car ownership rates are high in this locality.

Direction 4.1 Acid Sulfate Soils

This Direction applies when a Council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

The Acid Sulfate Soils Planning Maps indicate that the subject land is within Class 5. The Acid Sulfate Soil map layer in the Gosford LEP 2014 is to be updated accordingly as part of this Planning Proposal.

Direction 4.2 Mine Subsidence and Unstable Land

This Direction applies when a Council prepares a Planning Proposal that permits development on land that has been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of Council.

Council has undertaken a study which identifies Landslip Hazard. The subject land is identified as being in a Medium Hazard Area. This area is characterised by:

Land areas of potential landslip hazard and possible soil creep or a moderately steep soil covered slope. Instability may occur during and after extreme climatic conditions. Represented by relatively steeper topography in stratified rocks and low slope profiles in alluvial deposits.

Even though the slopes are not steep a geotechnical report will be required to ensure the site is capable of accommodating further urban development.

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 Vegetation Buffer. Should Council and the Gateway support the Planning Proposal, then the gateway determination would require consultation with the Rural Fire Service. To assist in this assessment by the RFS a Bushfire Hazard Assessment shall be required to be undertaken by the applicant.

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 Question 3 above.

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.

Direction 6.3 – Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The Planning Proposal must use an existing zone already applying in an environmental planning instrument and not impose any development standards in addition to those already contained in the environmental planning instrument. The proposal shall not contain or refer to drawings/concept plans that show details of the proposed development.

The Planning Proposal uses existing zones, floor space ratio, height of building and lot size requirements set out in the Standard Instrument LEP. It is therefore consistent with this Direction

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?

Bells vegetation mapping identifies the vegetation on the western part of the site as Coastal Narrabeen Moist Forest. This is consistent with Council's historical aerial photographs which indicate this vegetation existing in 1954. This vegetation connects to larger areas of native vegetation and reserve areas. The zoning to E2 and

management of this land for conservation purposes will ensure connectivity between bushland reserves is maintained.

It should be noted that future lot layout and subsequent development of this land for residential purposes will be subject to a merit based development assessment that will include the requirement to address *Section 5A* under Part 4 of the *EP&A Act 1979*.

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

Character

Chapter 2.1 Character of Gosford DCP 2013 identifies the subject land in Character Precinct 13 – Scenic Buffer. The existing character is:

Mostly the subdivision of original valley farms to create broad bands of one-to-two hectare rural-residential properties, plus a few small bushland reserves located in urban areas, providing bushland and semi-rural backdrops to residential areas and major local roads.

Situated on gentle to moderate slopes, these areas are predominantly elevated and they contribute to the scenically-distinctive buffers that separate neighbouring valley suburbs

On the rural properties, although original forest has been cleared substantially from the majority of gentler slopes, bushland remnants survive as substantial copses on the steeper slopes, with corridors and isolated trees along street frontages, side and rear boundaries. Providing scenically-distinctive local landmarks as well as habitat, bushland is often associated with an understorey of noxious or environmental weeds. Generally supporting very low density residential development, these landscape settings are not dominated by buildings.

The desired character of the area is:

These should remain rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City's major roads and tourist routes are preserved by appropriate very-low density residential developments associated with low-impact rural activities, and by small-scale businesses or community and educational facilities that have a modest impact.

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. Limit intrusion of structures upon their landscape setting by concentrating new buildings and pavements in existing clearings. Use low-impact construction such as suspended floors and decks rather than extensive cut-and-fill, particularly on elevated slopes or near bushland.

Even though the subject land is included in the Scenic Buffer character precinct, the site is not secluded as it is generally cleared and can be viewed from Taylor Road and from the residential dwellings in the adjoining subdivision.

The dwellings on the neighbouring rural small holding lots are well screened from the subject land by vegetation and/or separated by elevation. Consequently any future residential scale development on the subject land will not be visually intrusive for the residents on these lots.

Should the Planning Proposal be successful and the zoning of the land altered to Residential, Gosford DCP 2013 will have to be amended to align the Character Precinct boundary with the new zone boundary. The land proposed to be zoned R2 would be included in Lisarow Character Precinct 2 – New Estates and the land proposed to be zoned E2 would be retained in the Lisarow Character Precinct 13 – Scenic Buffer.

Scenic Quality

Chapter 2.2 Scenic Quality of Gosford DCP 2013 identifies the subject land as being within the Narara Valley Geographic Unit and in the Narara Creek Landscape Unit. The Narara Creek Landscape Unit is of Local Significance. The valleys accommodate extensive suburban development bounded by naturally vegetated slopes. The absorption capacity is moderate to high for residential and rural-residential uses on lower slopes and mid-slopes, and low for development on prominent slopes and ridges.

The development objectives applicable to this Planning Proposal are:

- *Opportunities for increases in densities and scale are available in areas not subject to visibility constraints or other physical constraints. Visually constrained areas include lands on higher slopes.*
- *Maintain broad patterns of land use within area to ensure protection of landscape diversity and in particular Environmental/Conservation and Scenic Protection zoned areas.*
- *Retain current subdivision standards in Environmental/Conservation and Scenic Protection zoned areas to ensure continuing dominance of landscape features over built environment.*

Even though the subject land is in an area zoned Conservation and Scenic Protection there is an opportunity for an increase in density and scale as the site abuts a residential subdivision on two sides which compromises the amenity of the conservation and scenic protection zoned site. As the land is generally cleared it has the appearance of a vacant residential lot and hence the Planning Proposal represents a rationalisation of the residential boundary rather than an incremental extension into an adjoining area.

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

The Central Coast Regional Strategy sets a target of 2000 dwellings to be provided on infill development sites within Gosford LGA. The Planning Proposal will contribute to the supply of residential land and therefore satisfying this target.

The implication of not proceeding at this time is to wait for the 'E' zone review and the urban fringe review required by the Department of Planning and Environment to be undertaken by Council. There is considered to be merit in progressing this Planning Proposal ahead of these reviews, as outlined in this report.

Section D State and Commonwealth interests

10 Is there adequate public infrastructure for the Planning Proposal?

Traffic

The Taylor Road road reserve is not required for the development of a collector or local road. Potential through traffic in the area is considered to be best catered for via the State Road Network and a connection to The Ridgeway. The fact that Chamberlain Road and Pacific Highway intersection now has traffic signals and Chamberlain Road extends via Taylor Road and Timber Drive to The Ridgeway supports this planning proposal.

The impact of the traffic to be generated by the development could be accommodated in the local road network and within the existing road hierarchy.

Water and Sewer

Water is available to the land. The property is located within Council's defined water service area and a water supply main is located adjacent to the property in Taylor Road.

Lot 4 DP 740663 is connected to the sewer. Sewer is not available to Lot 2 DP 740663 as it is located outside Council's defined sewer service area. Council's sewer reticulation system is located within existing developed residentially zoned properties approximately 30m to the north and 45m to the east of Lot 2 DP 740663. A requirement of rezoning is connection to Council's sewer reticulation system and the developer shall therefore be responsible for obtaining consent from owners of properties required to be entered upon to construct new sewer infrastructure prior to Council approving the Planning Proposal.

Drainage

The site is located in the upper part of the Cutrock Creek catchment. This catchment was recently studied under the Ourimbah Creek Catchment Flood Study 2013 and the affected site is not identified as being within a flood plain or the flood planning area for the main creek or a tributary. Therefore the site is not subject to flood related development controls.

The proposed rezoning of the site will result in a residential subdivision of the land and additional impervious areas that normally would not occur under the 7(c2) zoning. The land to be rezoned is located on a ridge where a section of the land falls to the east towards Taylor Road and the other section falls to the west towards a Council reserve. The existing stormwater drainage systems downstream of the site including the retarding basin in Chamberlain Road would not have been designed to cater for an increase in stormwater run-off from this land. In addition, there are existing flooding problems downstream of this site, particularly in Tuggerah Street, so any increase in stormwater runoff has the potential to increase the flood hazard to these properties.

Therefore any increase in stormwater flows as a result of the rezoning should be contained on the site by applying water cycle management techniques including onsite detention and retention.

All development is to be undertaken in accordance with Council's DCP 2013, particularly Section 6.7 Water Cycle Management with an allowance for onsite detention and retention in accordance with Council's design standards.

Depending upon the subdivision layout, the developer of Lot 4 shall be responsible for obtaining an easement through a property at the northern end to drain to the existing drainage system in Taylor Road.

Open Space

Retaining the vegetated link between Chamberlain Road Bush Reserve (R0035) and Janine Close Reserve (R0037) is important for connectivity across the larger area of native vegetation that occurs on both private and public land in this part of Lisarow. The vegetated land at the western end of Lot 2 DP 740663 is part of that larger area of native vegetation. If this vegetation can be protected by retaining it in private ownership then that would be an acceptable outcome.

It is proposed to zone this vegetation E2 Environmental Conservation which is the appropriate zone for conserving important vegetation.

Development Control Plan

Taylor Road is a rural road with unformed verges (ie no kerb and gutter). This character is retained even in those areas with an adjoining residential subdivision as the dwellings do not have direct access to Taylor Road. In order to retain this streetscape any future development should not gain access directly to Taylor Road. Gosford DCP 2013, Chapter 5.14 is to be amended to stipulate this requirement.

To ensure ongoing management of the vegetated E2 zoned part of the site Chapter 5.14 is also to be amended to contain a requirement for a Bushland Management Plan to be submitted with any future subdivision application pertaining to the E2 portion of the subject land.

Contributions Plan

The subject land adjoins the area subject to Lisarow Contributions Plans (CPs) 8A - Drainage, 8B - Roadworks and Traffic Management and 8C - Community and Recreation Facilities. The area covered by these CPs is fully developed and all the CP works have been funded and completed. Therefore there is no requirement to include the subject land in the CPs.

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.

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 A to this report contains all relevant mapping to the Planning Proposal.

Part 5 Community Consultation

Section 55(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 Council's web-site. A letter will also be sent to 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.

Conclusion

The subject land, Lots 2 and 4 DP 740663 Taylor Road, Lisarow, is currently zoned 7(c2) Conservation and Scenic Protection (Rural Small Holdings). The Planning Proposal seeks to include the land in Gosford LEP 2014 by zoning it to R2 Low Density Residential and E2 Environmental Conservation. This will entail making corresponding amendments to Height of Building Map, Floor Space Ratio Map, Lot Size Map and Acid Sulfate Soil Map.

The land proposed to be zoned R2 is generally cleared of vegetation and the land fronting Taylor Road has a slope of 15% to 20% with an easterly aspect. In order to ensure the vegetation on the western part of Lot 2 DP 740663 is retained it is proposed to be zoned E2 together with an existing cleared area to accommodate a future dwelling house.

The Planning Proposal has strategic merit as the land is located directly adjacent to the existing urban footprint, is able to be serviced and the proposed zoning to R2 zone is consistent with the zone of adjoining residential land. The visual amenity of rural small holding lots in the vicinity will not be adversely affected as they are screened by vegetation on the lots and within the road reserve and/or separated by elevation. The proposal is

unlikely to set a precedent for further rezonings to the south and east due to physical constraints of those lands.

Should Council wish to reconsider the matter after public exhibition where no submissions objecting to the matter have been received, Part D 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 by the applicant.

Attachment: Planning Proposal Mapping

Tabled Items: Nil

RECOMMENDATION

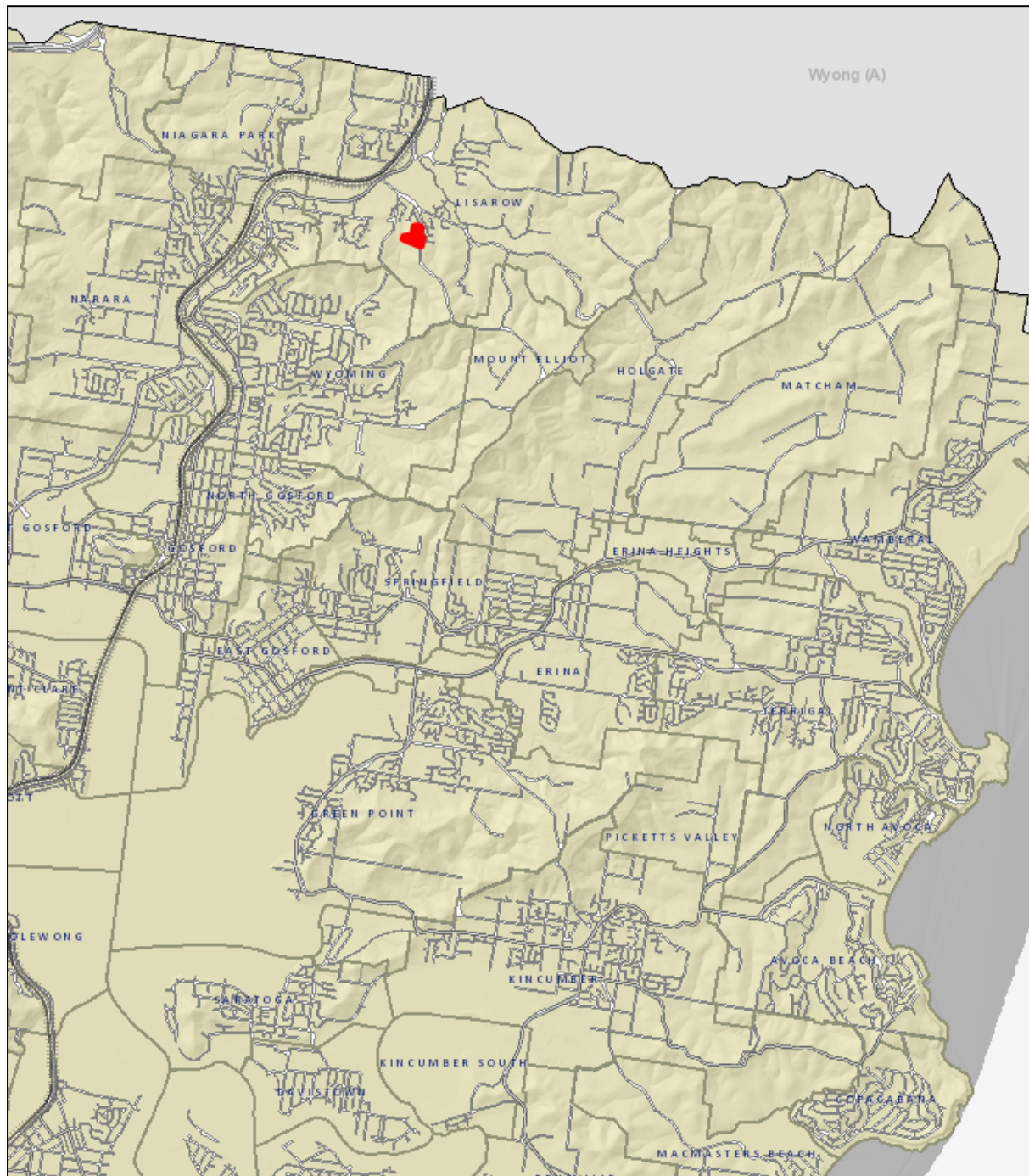
- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 of the Environmental Planning and Assessment Act, 1979 by endorsing the preparation of a Planning Proposal as outlined in this report for zoning Lot 4 DP 740663 and part of Lot 2 DP 740663 Taylor Road, Lisarow to R2 Low Density Residential and part of Lot 2 DP 740633 Taylor Road, Lisarow to E2 Environmental Conservation.
- B Council notify the Department of Planning & Environment of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) of the Environmental Planning and Assessment Act, 1979 and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- C Council requests that the Gateway determination include a requirement to undertake the following studies prior to exhibition, which will be required to be carried out by the applicant:
 - Bushfire Hazard Assessment
 - Preliminary Contamination Assessment
 - Geotechnical Report
 - Consent of relevant adjoining owners for the provision of drainage and sewerage easements.
- D After public exhibition of the Planning Proposal, should the Minister for Planning support it, if no submissions objecting to the Planning Proposal are received, the Planning Proposal is to be processed in order to make the plan.
- E The applicant be advised of Council's resolution.
- F Council seek delegations from the Department of Planning & Environment for this Planning Proposal.

Any delegation to Council is to be delegated to the Chief Executive Officer, per s381 of the *Local Government Act 1993*, who will complete the "Authorisation" on behalf of Council and submit to the Department of Planning & Environment.

G Gosford Development Control Plan 2013 be amended in the following manner:

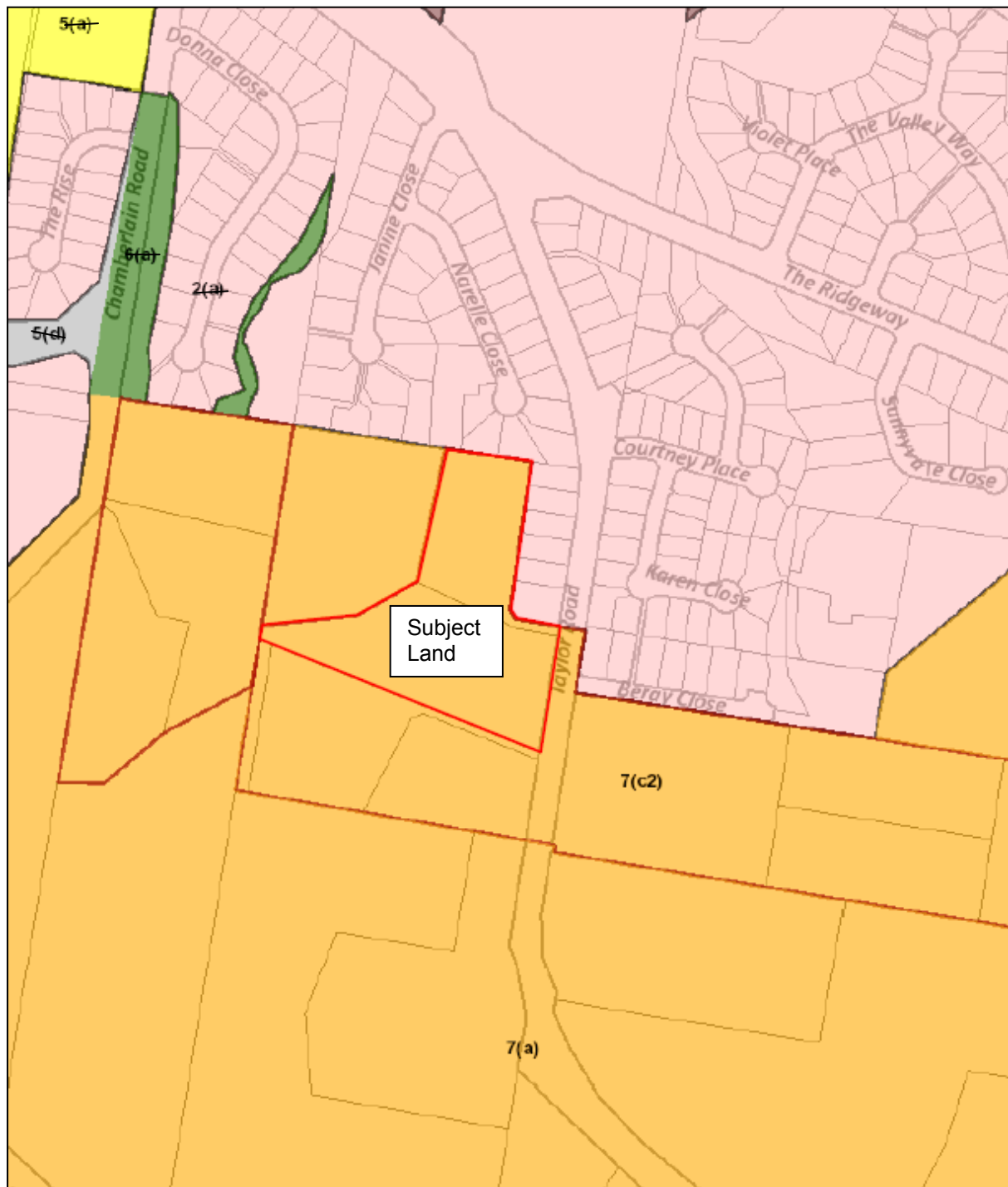
- the boundary of the Character Precincts within Chapter 2.1 be amended to reflect the proposed R2 Low Density Residential zone;
- the subject land be incorporated into the map of Lisarow-Niagara Park in Chapter 5.14 and notations added to indicate no vehicular access to Taylor Road;
- Chapter 5.14 be amended to contain a requirement for a Bushland Management Plan to be submitted with any future subdivision application pertaining to the E2 portion of the subject land.

The proposed amendments to Gosford DCP 2013 are to be exhibited with the Planning Proposal.

ATTACHMENT – Planning Proposal Mapping**APPENDIX 1 – Locality Map**

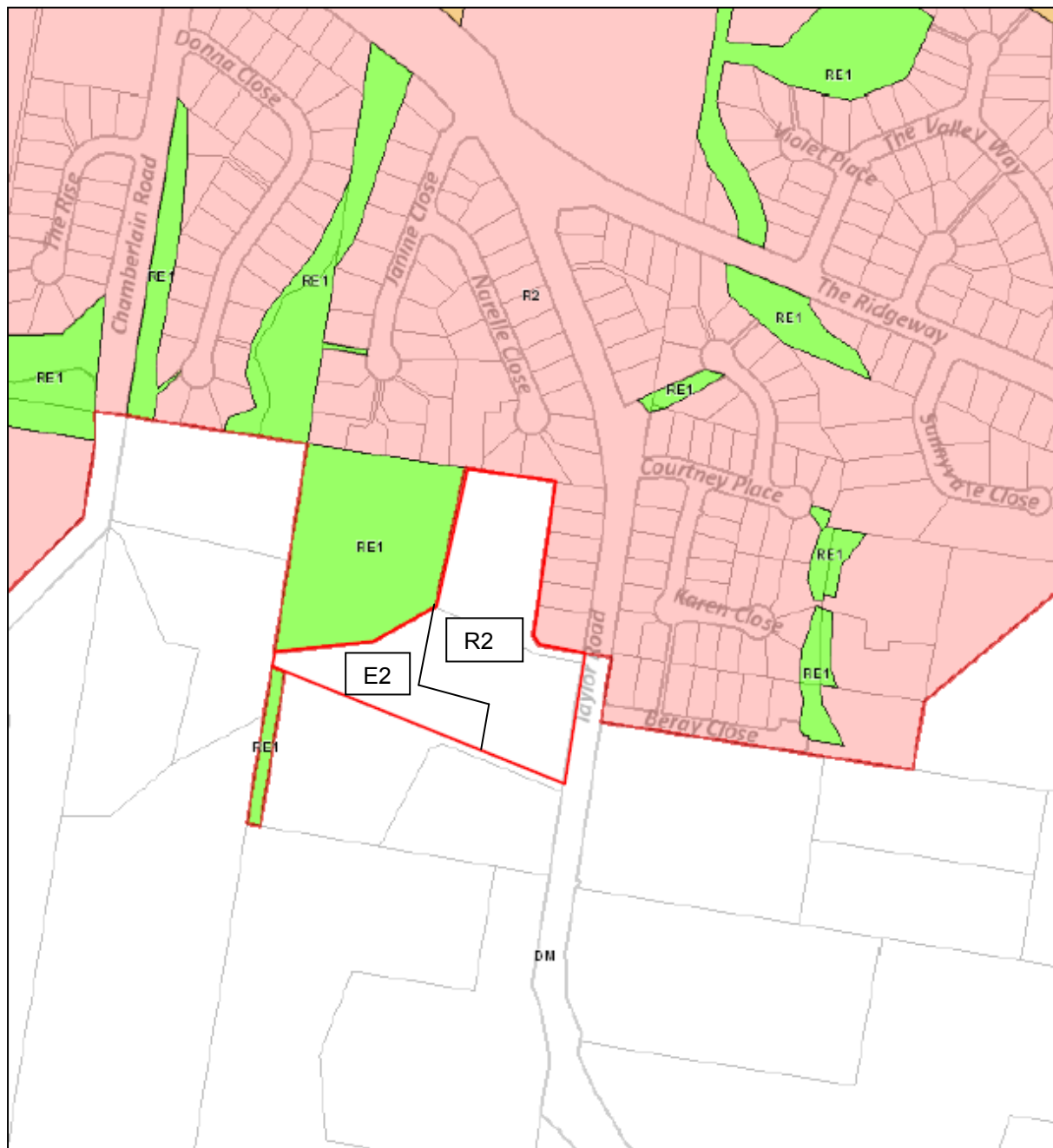
APPENDIX 2 - Aerial Photograph



APPENDIX 3 - Existing Zoning under IDO 122 for subject land

7(c2) Conservation and Scenic Protection (Rural Small Holdings)

7(a) Conservation and Scenic Protection (Conservation)

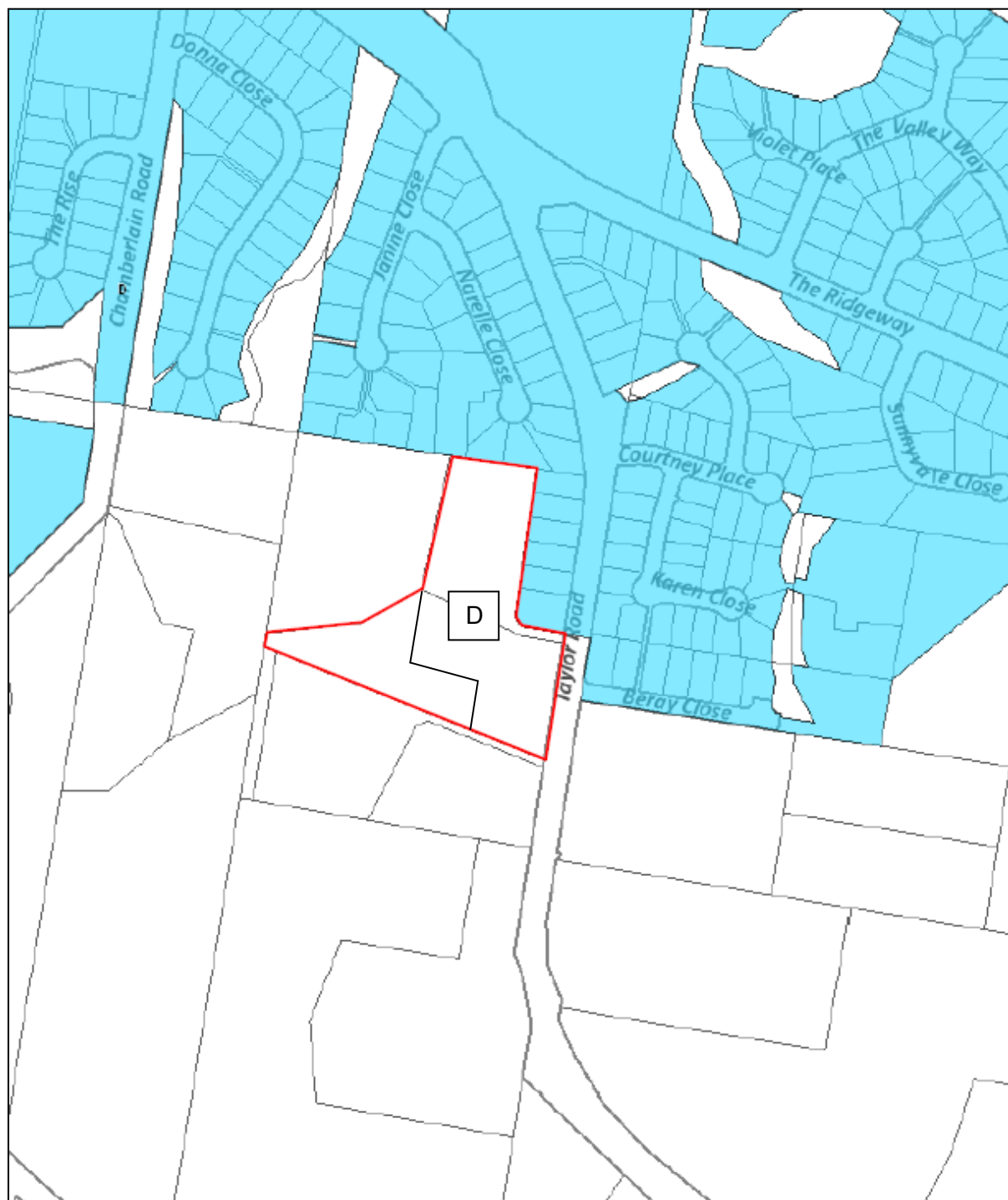
APPENDIX 4 - Zoning of adjoining land under Gosford LEP 2014

R2 = Low Density Residential

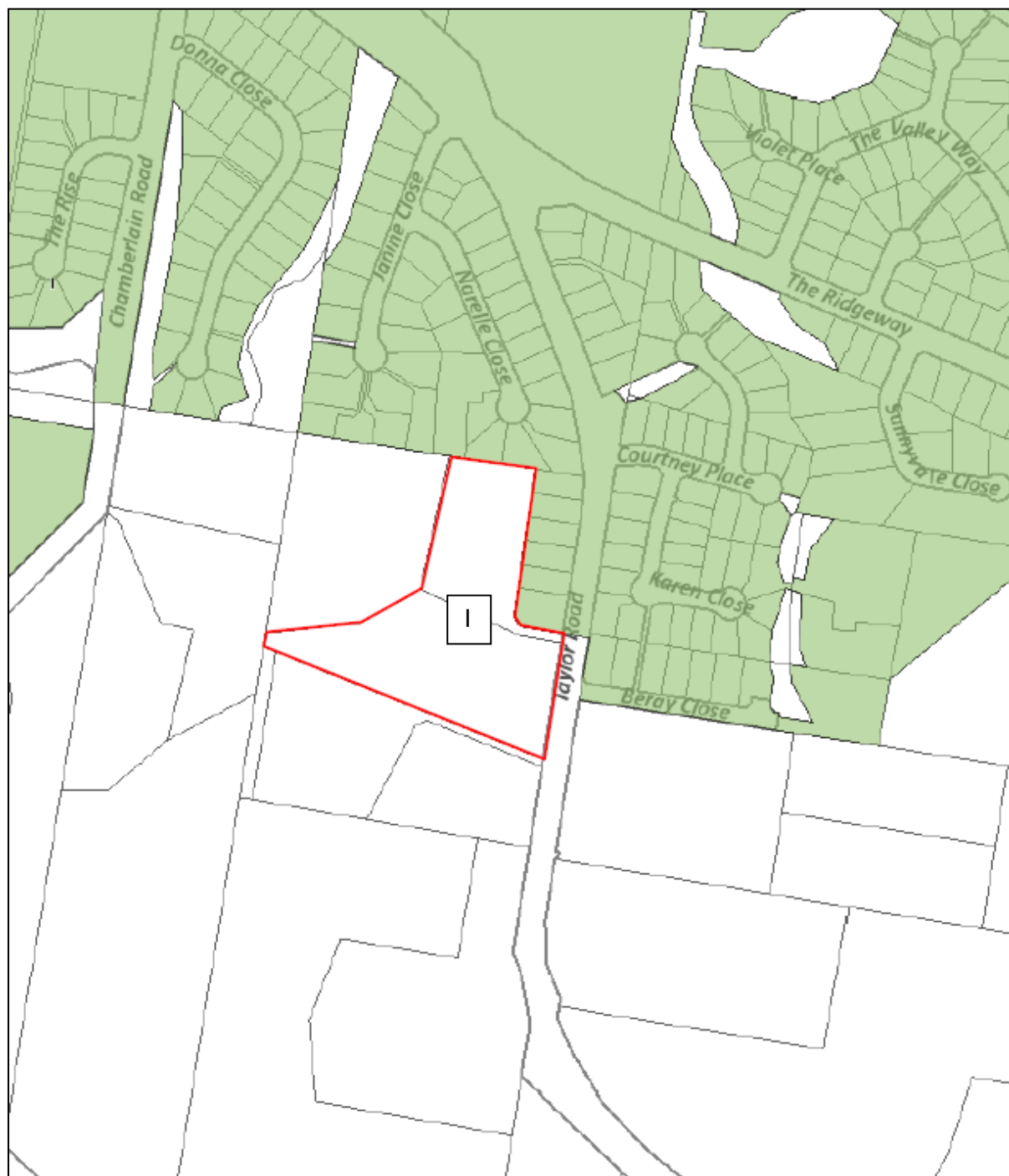
E2 = Environmental Conservation

RE1 = Public Recreation

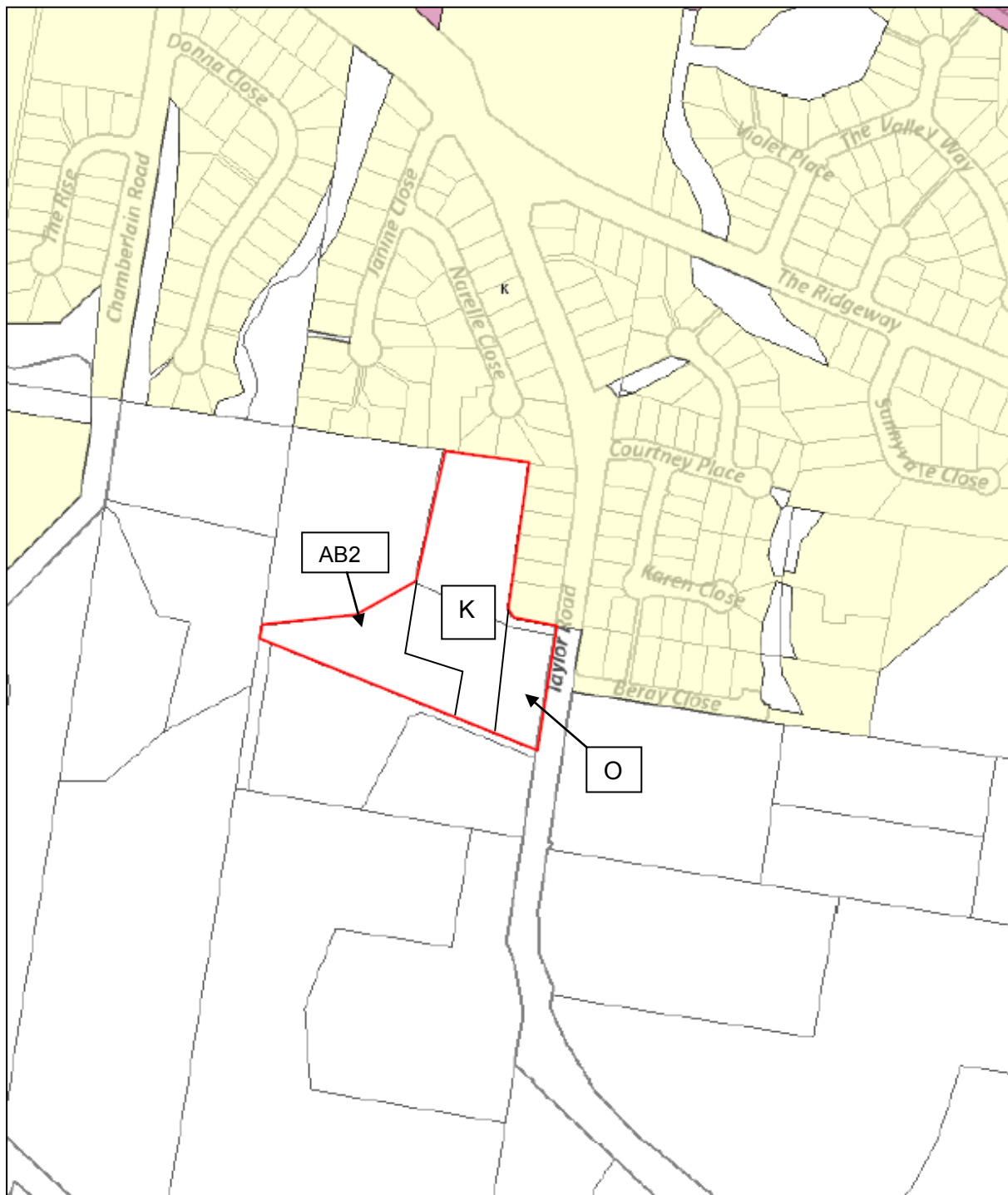
DM = Deferred Matter

APPENDIX 5 – Floor Space Ratio under Gosford LEP 2014

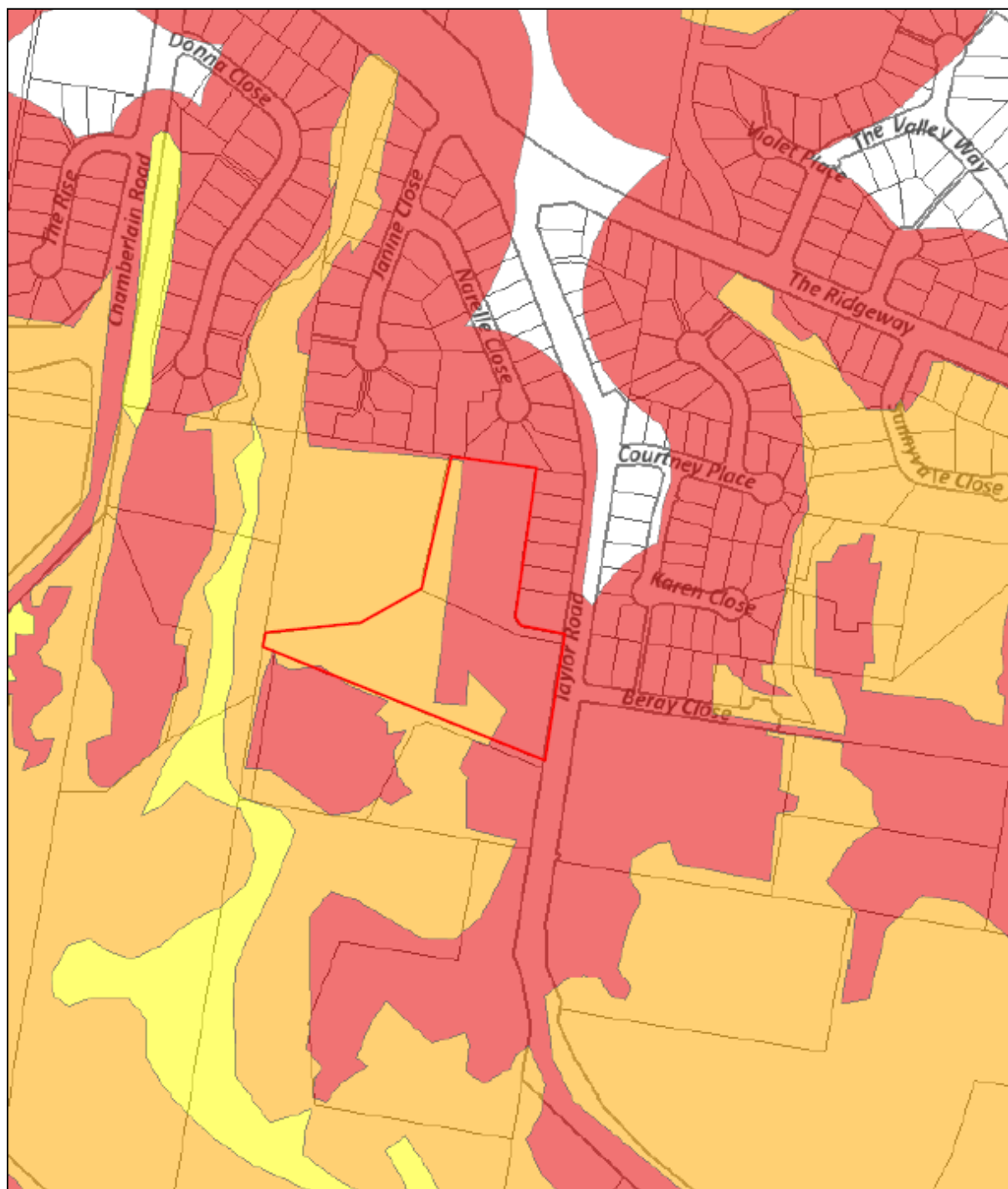
D = 0.5:1

APPENDIX 6 – Height of Building under Gosford LEP 2014

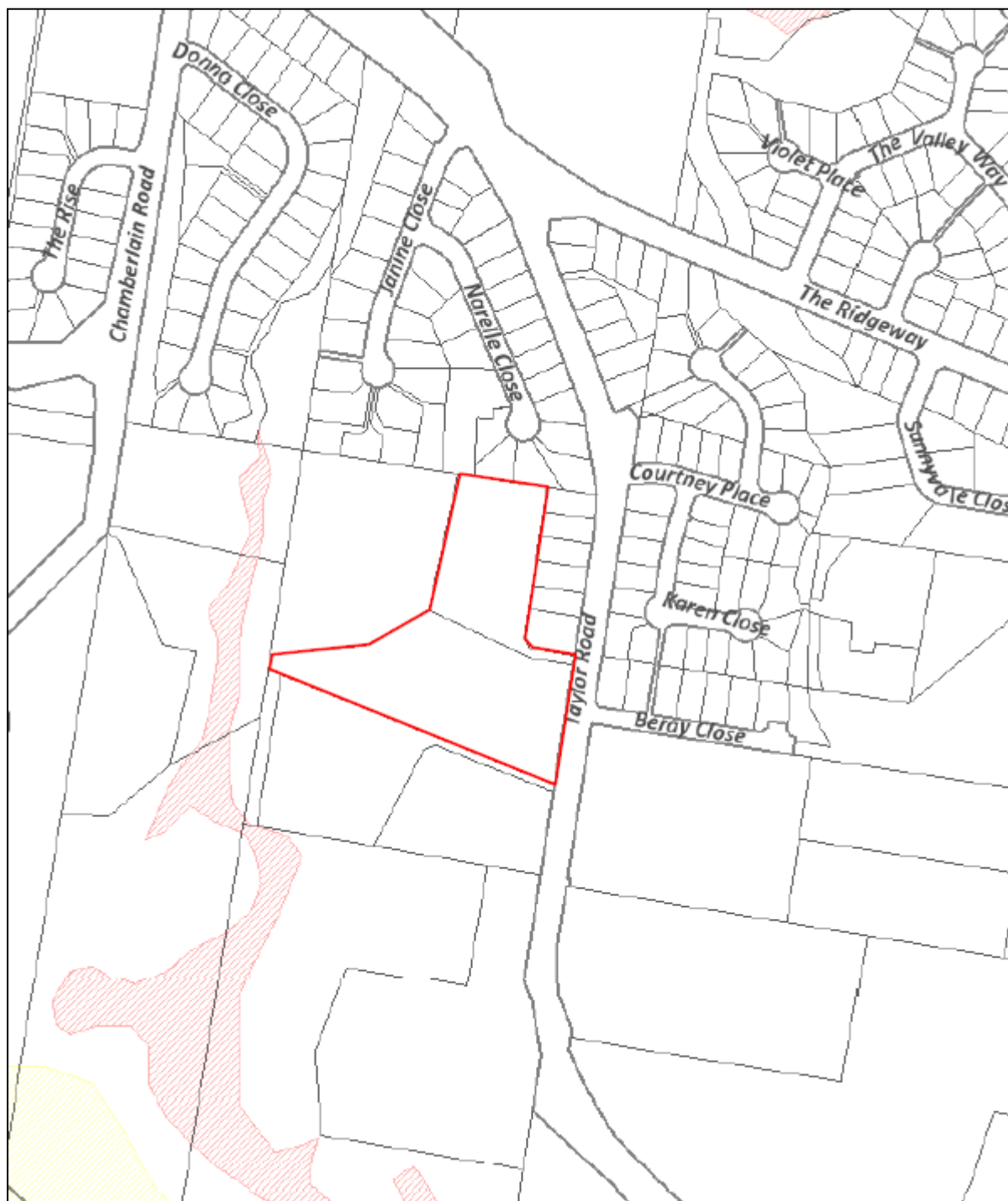
I = 8.5 m

APPENDIX 7 – Minimum Lot Size under Gosford LEP 2014

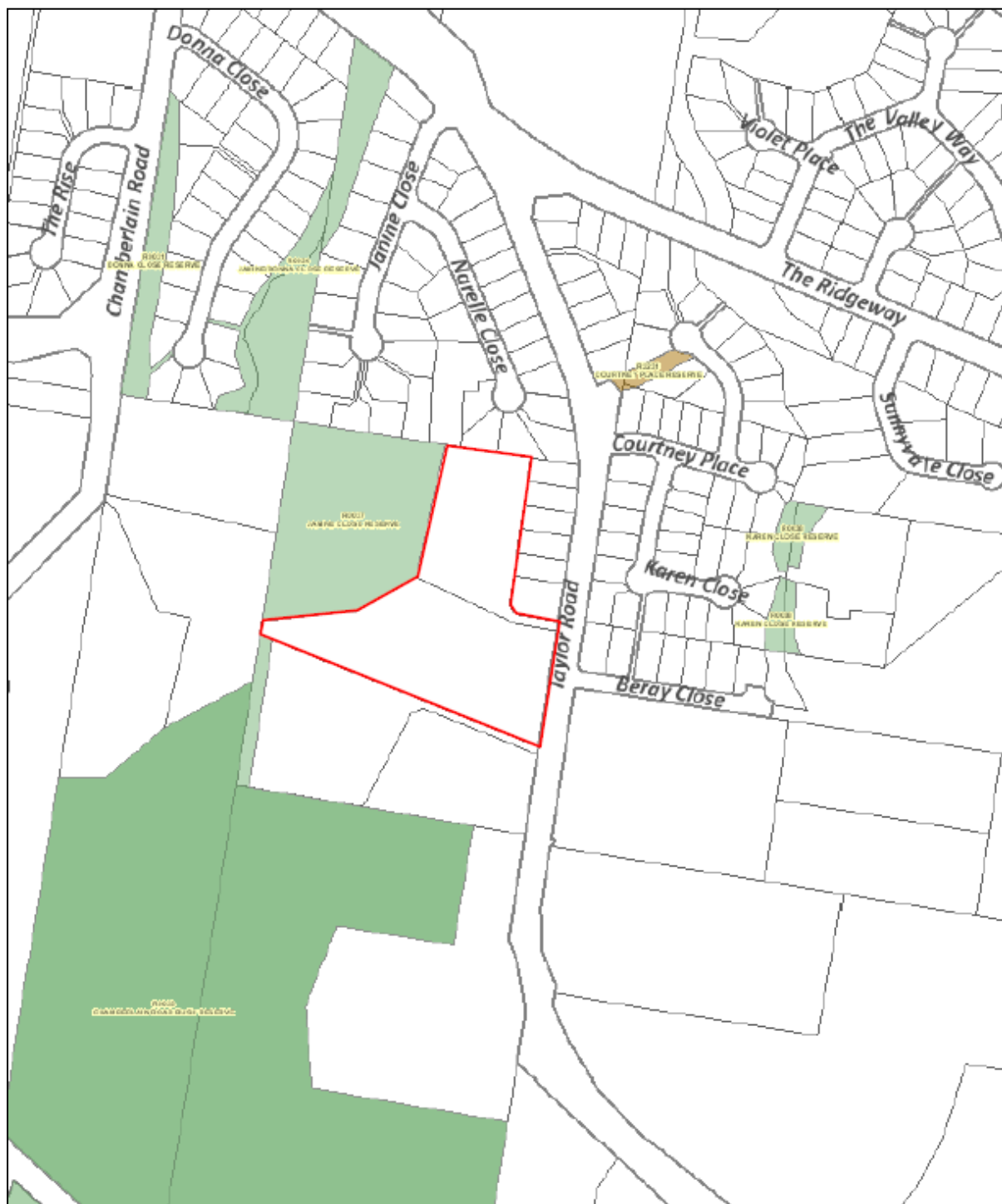
K = 550 sqm
O = 650 sqm
AB2 = 40 ha

APPENDIX 8 – Bushfire Hazard

Orange – Category 1 Vegetation
Yellow – Category 2 Vegetation
Red - Buffer

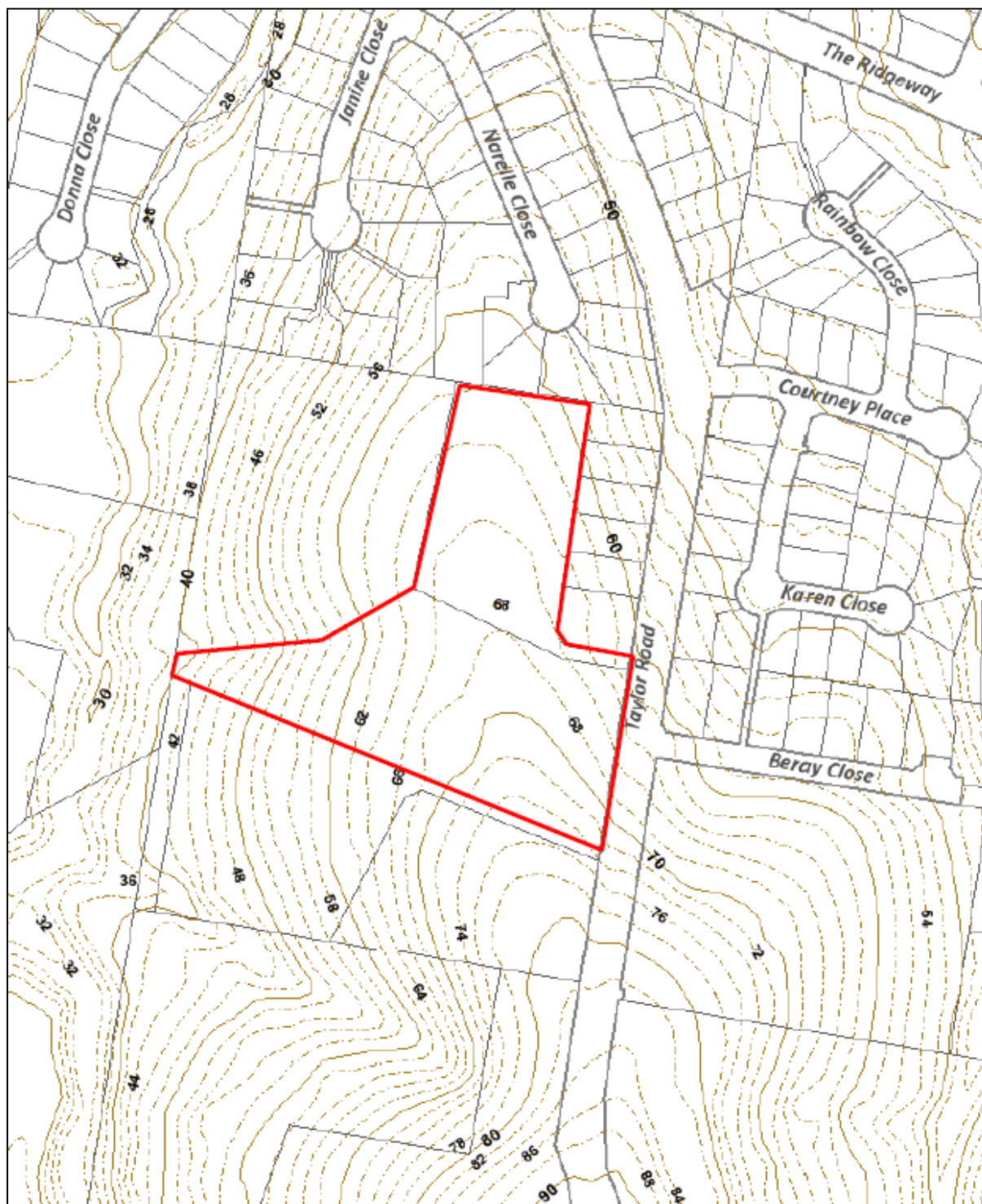
APPENDIX 9 – Ecologically Endangered Communities

Red Shading – Endangered Ecological Communities

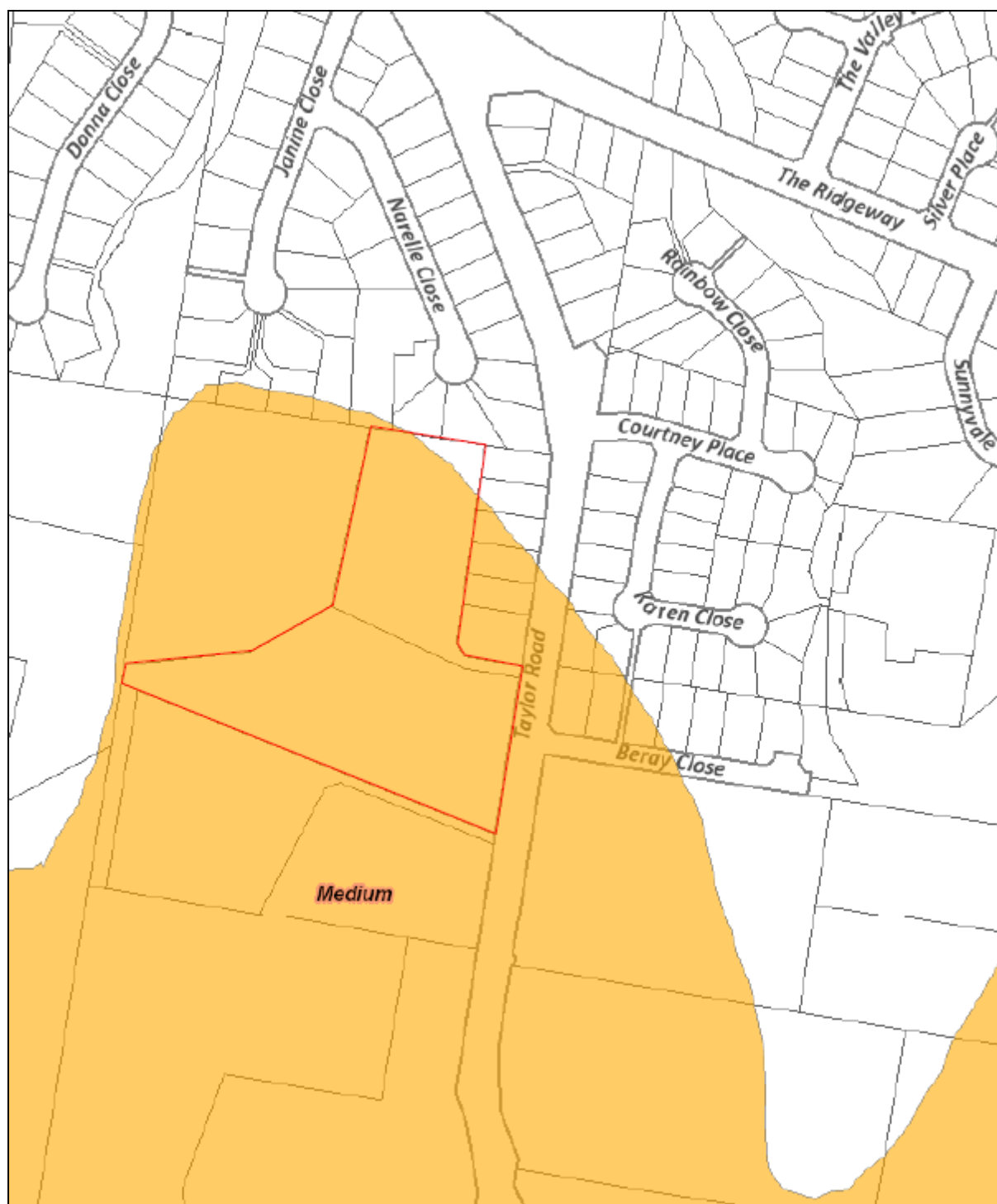
APPENDIX 10 – Coastal Open Space System and Council Reserves

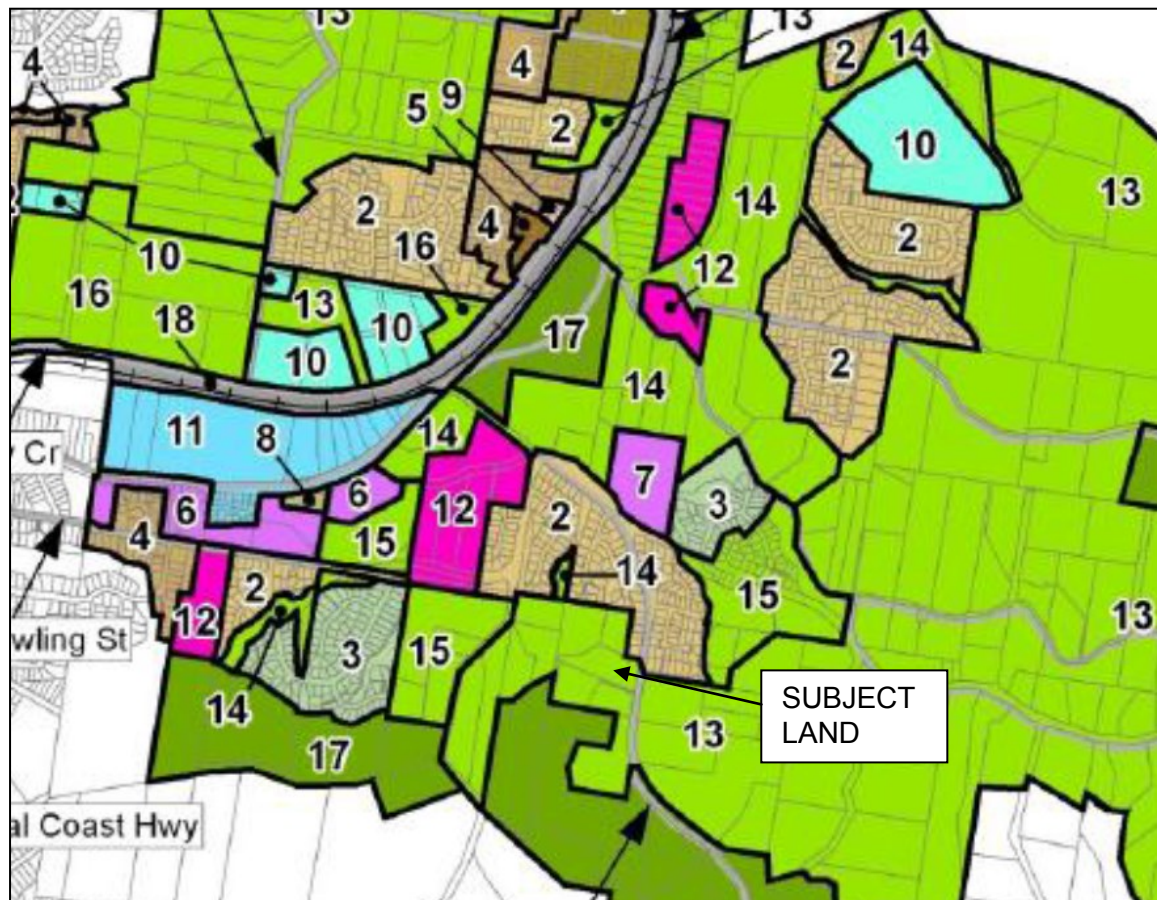
Dark Green – COSS
Light Green – Council Reserves

APPENDIX 11 - Slope



Contour – 2 metres

APPENDIX 12 – Landslip Hazard

APPENDIX 13 – Character Precincts – Lisarow

Precinct 2 – New Estates
Precinct 13 – Scenic Buffer