

PLANNING PROPOSAL

LOT 9 DP 594281, TUMBI ROAD, WAMBERAL

GOSFORD CITY COUNCIL

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 Department of Planning and Infrastructure.

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 Planning Proposal is to facilitate the use and occupation of the property as an "educational training centre"; a use for which there is no definition in either the existing IDO No 122 or the Draft Gosford LEP 2009.

The DoPI has advised that land uses chosen to be included in enabling clauses should align with the uses defined in the Standard Instrument LEP. The definitions of uses used in the Draft Gosford LEP are those compulsory definitions which are set out in the legislated Standard Instrument LEP (ie legislated). However, a search of the standard definitions has failed to find a suitable match for the proposed use.

For example, the proposed use would fall under the definition of "business premises" but this definition is too broad as it allows any occupation, profession or trade (other than an industry) for the provision of services directly to the public. Consequently, should the proposed use finish operating in the future then DAs could be submitted for numerous other uses including funeral homes, hairdressers, dry cleaners and the like. Such uses are more suited to business centres, not a rural small holding zone.

The defined use closest to that required by the applicant is "health consulting rooms". This is defined as:

premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

The applicant has stated that there will be a maximum of 4 counsellors on site at any one time. Hence the proposed use would not comply with the definition. Also the existing building on site is a dual occupancy (ie two dwellings), not a dwelling house (ie a single dwelling). Furthermore, health care professionals are defined as persons registered under an Act for the purpose of providing health care. The applicant advised that the counsellors may not be registered under an Act, as are doctors and dentists, thereby not complying with the definition.

There are properties in Business zones which accommodate single dwellings with yards. On face value the use is permitted on such land and there is open space for the children to play and relax. The applicant advised that this scenario was considered but the yards on

residential sized lots are not of sufficient area, nor is the urban setting amenable to the children's relaxation.

The proposed "educational training centre" utilises both dwellings contained in the dual occupancy and is of a scale which makes it consistent with the objectives of the 7(c2) zone for non-residential development.

The objectives of Zone No. 7(c2) are to allow for non-residential uses where those uses are:

- (i) compatible with rural-residential development and unlikely to create an unreasonable demand on public services or substantially reduce existing levels of service;*
- (ii) unlikely to adversely affect the aesthetic and scenic value of the land and its setting; and*
- (iii) unlikely to interfere unreasonably with the amenity of adjoining properties.*

These objectives relate to non-residential land uses permitted in the 7(c2) zone such as educational establishments, places of public worship, plant nurseries and veterinary hospitals. The proposed use is of a size and scale much less than these uses, in that it is accommodated within the walls of the existing dual occupancy. Therefore it is unlikely to affect the aesthetic and scenic value of the land and its setting nor interfere with the amenity of the adjoining properties.

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 IDO No 122 to include an "enabling clause" for an "educational training centre". The site specific provision will permit, with development consent, the subject site to be used for an "educational training centre". The likely wording of the site specific provisions is set out below.

1 Subject Land

This plan applies to Lot 9 DP 594281 Tumby Road, Wamberal.

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

2 Objective

The objective of the proposed planning instrument is to permit an "educational training centre" to operate on the subject land.

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

3 Permissible Development

Despite any other provision of this Order a person may with the consent of Council use the land for the purposes of an "educational training centre".

Explanation: This provision allows for the educational training centre to be a permissible use on the subject land. This use is additional to those uses already listed as permissible on the land.

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

Amendment to Interim Development Order No 122 - Gosford

- (a) Insert in clause 3(1) after "educational establishment" the following definition:

"Educational training centre" means a building or place used for the purposes of:

- (a) identifying the causes of learning difficulties in children under the age of 18 years who are attending a kindergarten, pre-school, primary school, high school or a tertiary institution which is constituted by or under an Act; and
- (b) providing counselling and training (but not medical or surgical treatment) to those children, their parents, guardians, family members and carers to improve the learning outcomes of those children; where
 - (i) no more than 4 counsellors/trainers are present on the site simultaneously; and
 - (ii) the use does not interfere unreasonably with the amenity of adjoining properties or involve exposure to view from any place of any unsightly matter, equipment or machinery; and
 - (iii) the use does not involve the display of goods, whether in a window or otherwise; and
 - (iv) there is no more than 1 advertisement on the site, and the advertisement is in the form of a sign which does not exceed 1 metre square in size, and which indicates only the name of the business carried out on the site.

- (b) Insert at the end of the Table in Clause 93 in Columns 1 and 2, respectively:

Lot 9 DP 594281 Tumbi Road, Wamberal as shown edged heavy black on the map marked Gosford Local Environmental Plan No. xxx deposited in the office of the Council	Educational training centre (confined to the existing dual occupancy building)
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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.

See Appendices 1, 2 and 3 for related maps.

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 a specific strategic study or report.

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

The Planning Proposal is the best means of achieving the objectives/intended outcomes as an enabling clause in the planning instrument is required to allow this use to be considered and assessed as a permitted use.

3 Is there a net community benefit?

The assessment provided in Appendix 4 demonstrates that the Planning Proposal will produce a net community benefit.

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 to the proposed rezoning. The Planning Proposal is inconsistent with the following action contained within the Central Coast Regional Strategy (CCRS):

5.11 Ensure new retail and commercial development is located in centres

The Strategy identifies that centres will usually have concentrations of retail, health and other services. The benefits of concentrating growth and activities in centres include; improved access to and coordination of retail, office, health, education, leisure, entertainment and cultural facilities, and community and personal services.

Economic and population growth over the years have resulted in the growth of specialised health services, amongst other services, and the number of health-related jobs is forecast to increase substantially over the life of the Strategy. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of jobs, although these targets could be met if the operation was located elsewhere, for example in a Business zone.

This is a broad action that is generally applicable to the Central Coast. The CCRS does not anticipate the individual circumstances and qualities of every Planning Proposal or Development Application; nor is it meant to. In this instance, the subject Planning Proposal requires an environment outside of centres in which to successfully treat the problems of the children who attend its services.

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

Community Strategic Plan

The Planning Proposal is consistent with the following strategies set out in the *Community Strategic Plan - Gosford 2025*:

- A5.2 *Provide a range of opportunities to enhance community wellness*
- A5.3 *Ensure health services are well supported and meet community needs*

From the personal testimonies of clients, this service meets a community need and by locating on this site, enhances community wellness.

Biodiversity Strategy

The *Biodiversity Strategy* contains the following Action applicable to the Planning Proposal:

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

Under the EP&A Act, the definition of development includes land use. However, not all land uses are suitable for location around urban centres. The applicant has advised that this land use is one such use unsuitable for location in and around centres. The use is proposed to be carried out in the existing dual occupancy on-site, thus not impacting on the environmental character of the locality.

Draft Centres Strategy

This draft Strategy is consistent with the CCRS and also broad in its treatment of general land uses within centres. As mentioned in Question 4 above, the subject proposal is for a specific use that, to achieve its successful treatment of children, requires location outside of a centre.

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

The Planning Proposal is consistent with all SEPPs or they are not applicable.

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. Section 117 Directions are only discussed where applicable. The Planning Proposal is consistent, with all other S117s Directions or they are not applicable.

(i) *Direction 2.1- Environment Protection Zones:*

A Planning Proposal must 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 subject land is not within an identified environmentally sensitive area. The Planning Proposal seeks to retain the parent zone and add an enabling clause applying to the subject land which permits an educational training centre. As the zone is not being altered it will not reduce environmental protection standards applicable to the zone.

The proposed use will have less environmental effect on the locality than the other bulky, more intensive uses permitted in the 7(c2) zone which include child care centres, educational establishments, places of public worship, plant nurseries and veterinary hospitals. The "educational training centre" is proposed to operate within the existing single storey dual occupancy on-site thus retaining the low density built-form and character reflective of residential development in the surrounding area. In this regard it is more consistent with the low density residential character of the area than other uses permitted in the 7(c2) zone.

(ii) Direction 3.4 - Integrating Land Use and Transport

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 subject site is 1.5 km from the urban zones of Wamberal. Tumbi Road is a bus route but buses only travel once every 2 hours. Therefore access to the site will, in all likelihood, be by private vehicle.

It is considered that this Direction could be varied having regards to the minor impact such a use will have on the traffic flow of Tumbi Road and the promotion of additional jobs in the community. Furthermore, the use is proposed to be placed in a generally accessible location, when considering the Central Coast as a whole, which will contribute to reduced travel distances.

(iii) Direction 4.4 - Planning for Bushfire Protection

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 under section 56 of the Act, and prior to undertaking community

consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

A Planning Proposal must:

- (a) have regard to Planning for Bushfire Protection 2006,*
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.*

A Planning Proposal must, where development is proposed, comply with the following provisions, as appropriate:

- (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
 - (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and*
 - (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,**
- (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the Planning Proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,*
- (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,*
- (d) contain provisions for adequate water supply for firefighting purposes,*
- (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,*
- (f) introduce controls on the placement of combustible materials in the Inner Protection Area.*

The subject site is identified as bushfire prone land. A Bushfire Hazard Assessment Report was prepared for the previous Development Application and comments from the Rural Fire Service were received. Should the gateway determination require further consultation, the Planning Proposal will be sent to the Rural Fire Service for comment.

(iv) Direction 5.1 - Implementation of Regional Strategies:

Planning Proposals must be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure.

The Planning Proposal is considered to be inconsistent with the objectives and actions contained in the Central Coast Regional Strategy 2006-2031 as it is proposed to locate the commercial use outside of a business centre.

A planning proposal may be inconsistent with the terms of this direction if Council can satisfy the Director-General of the Department of Planning and Infrastructure that the extent of inconsistency is of minor significance and it achieves the overall intent of the strategy. The insertion of an enabling clause in IDO No 122 to allow the subject use on an individual lot is of minor significance and does not undermine the broad intent of the CCRS.

(v) 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.

(vi) Direction 6.3 - Site Specific Provisions:

A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or*
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

A planning proposal must not contain or refer to drawings that show details of the development proposal.

The Planning Proposal is consistent with this Direction as it proposes to amend IDO No 122 to allow the requested land use on the relevant land without imposing any development standards or requirements in addition to those already contained in IDO No 122, nor does it refer to drawings of the development.

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?

The vegetation on-site is consistent with Bells mapping adopted by Council. There are no Endangered Ecological Communities (EECs) or regionally significant vegetation on the subject site. The proposal will not impact on threatened species, populations, ecological communities or their habitats.

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

On-site Waste Management

The On-site Sewer Management Report assessed the 30 year old septic tank and absorption trenches as satisfactory subject to the installation of an additional 20m of trench. The existing septic tank has been assessed at 3000 litres capacity.

Council's Waste Services section has advised that the 1500mm diameter concrete septic tank would not achieve a 3000 litre capacity. The existing absorption trenches are 30 years old and of undetermined configuration. The Environment and Health Protection Guidelines indicate an expected life of 5-15 years for soil absorption systems. It would be expected that the existing trenches may have reached or be

rapidly approaching replacement. This issue can be addressed at development application stage.

Character

Under DCP No 159 - Character, the subject land is identified as being in Precinct 11 - Scenic Buffers. The existing character comprises:

A variety of lands, both private and public reserves, situated on gentle to moderate slopes, providing scenic backdrops to two major thoroughfares as well as buffers between neighbouring residential suburbs.

The desired character for the Scenic Buffer precinct is:

These should remain 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 effective landscape management, by appropriate very-low density residential developments on private lands that are associated with low-impact rural activities, or with small-scale businesses, community or educational facilities that have a modest impact on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.

The Planning Proposal is consistent with the desired character for the area in that it is a low-scale educational facility located in an existing residential building thus not impacting on the visual amenity of the locality.

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

The proposed use provides a service to the community for children and families on the Central Coast. This proposal is supported from a social planning viewpoint.

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

Tumbi Road is classified as a regional road which carries one traffic lane in each direction. The traffic volume is approximately 6000 vehicles (ie 3000 in each direction) on weekdays from 8.30am to 5.30pm. During this 9 hour period the educational training centre generates in the vicinity of 20 vehicle trips into and 20 vehicle trips out of the site.

Tumbi Road is able to accommodate these additional vehicle trips without any adverse effect on operating service levels.

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:

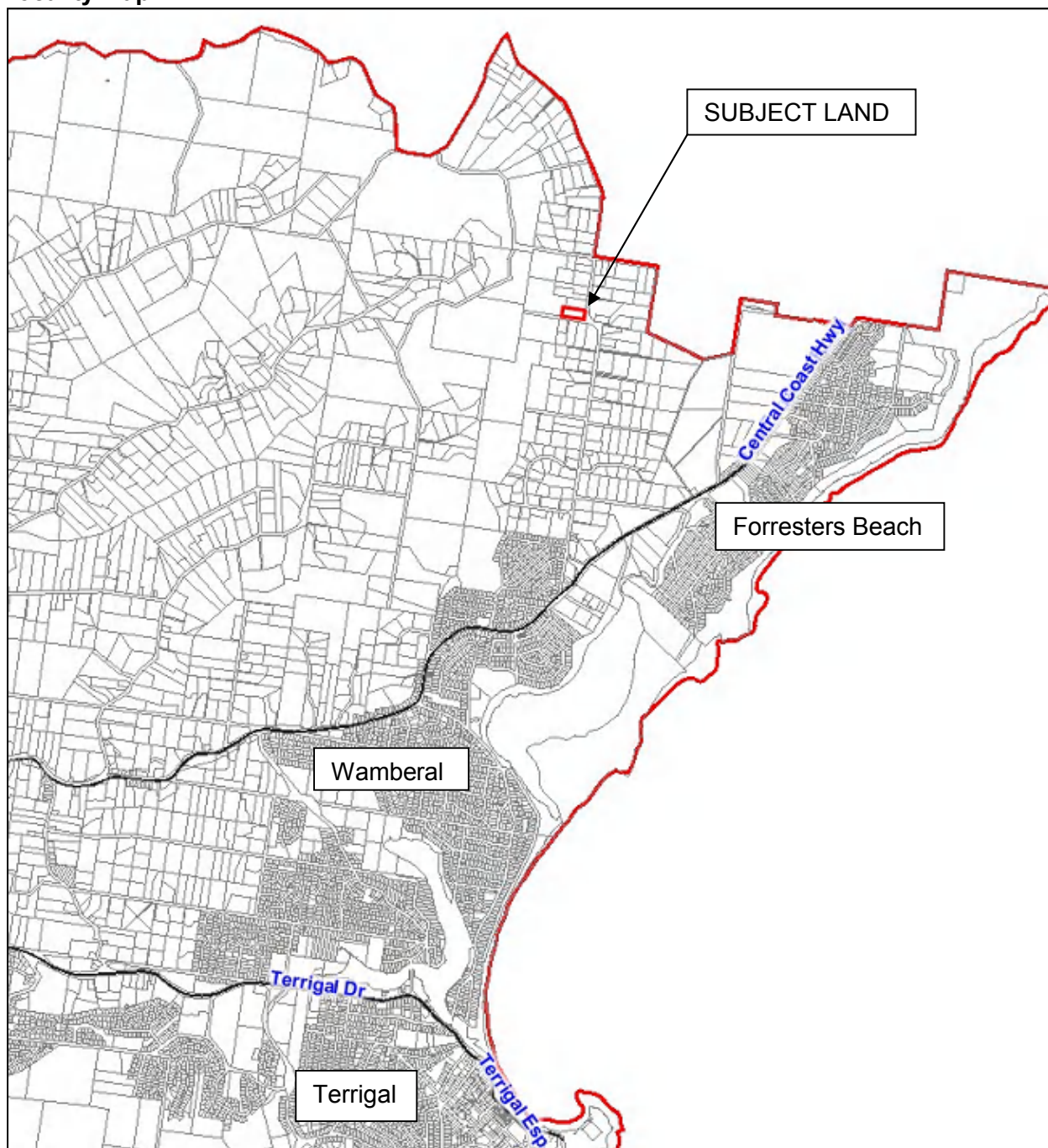
- give a brief description of the objectives or intended outcomes of the planning proposal;
- indicate the land affected by the planning proposal;
- state where and when the planning proposal can be inspected;
- give the name and address of Gosford City Council for receipt of submissions; and
- indicate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

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

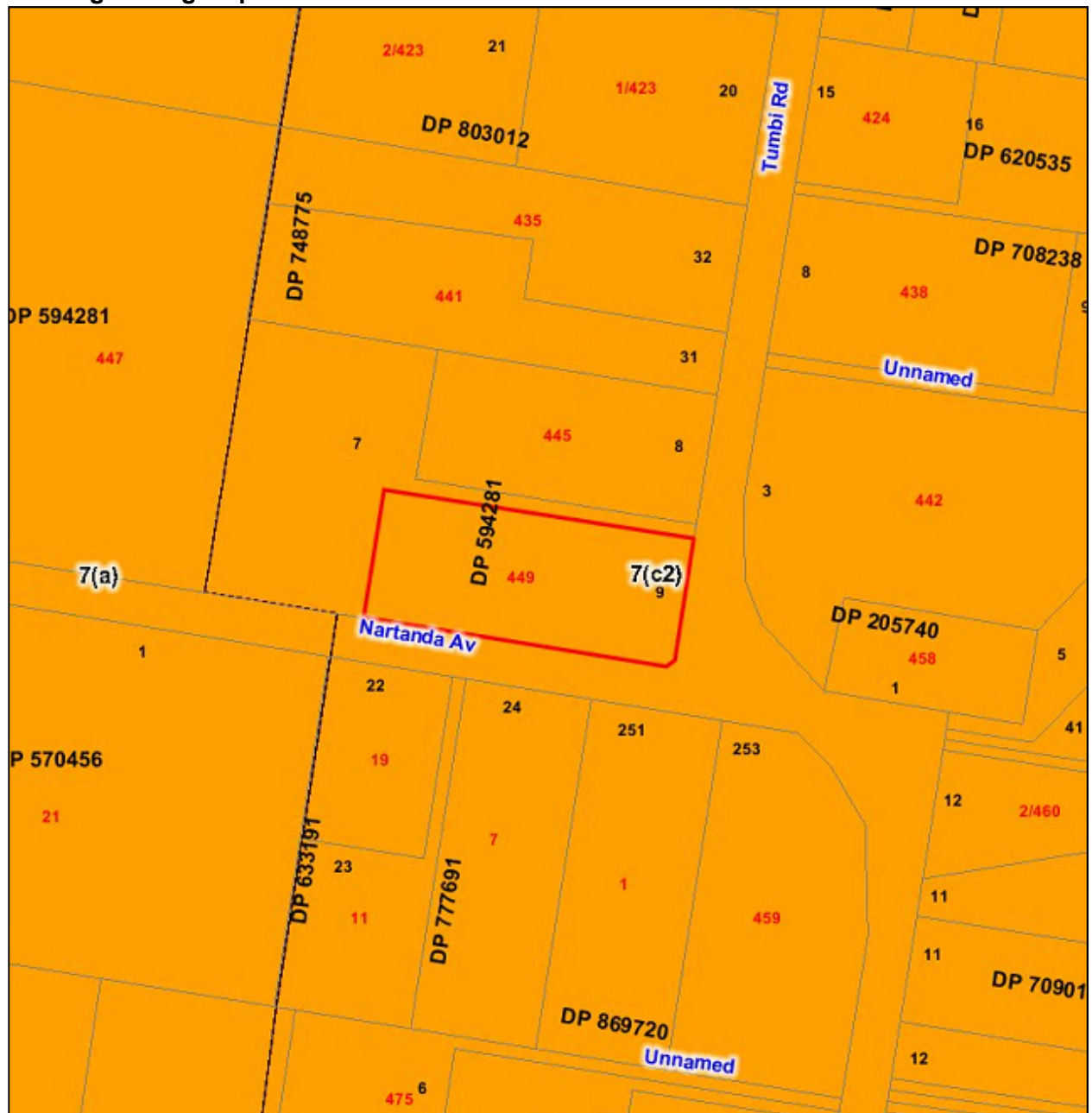
- the planning proposal, in the form approved for community consultation by the Director-General of Planning;
- the gateway determination; and
- any studies relied upon by the planning proposal.

APPENDIX 1

Locality Map



Existing Zoning Map

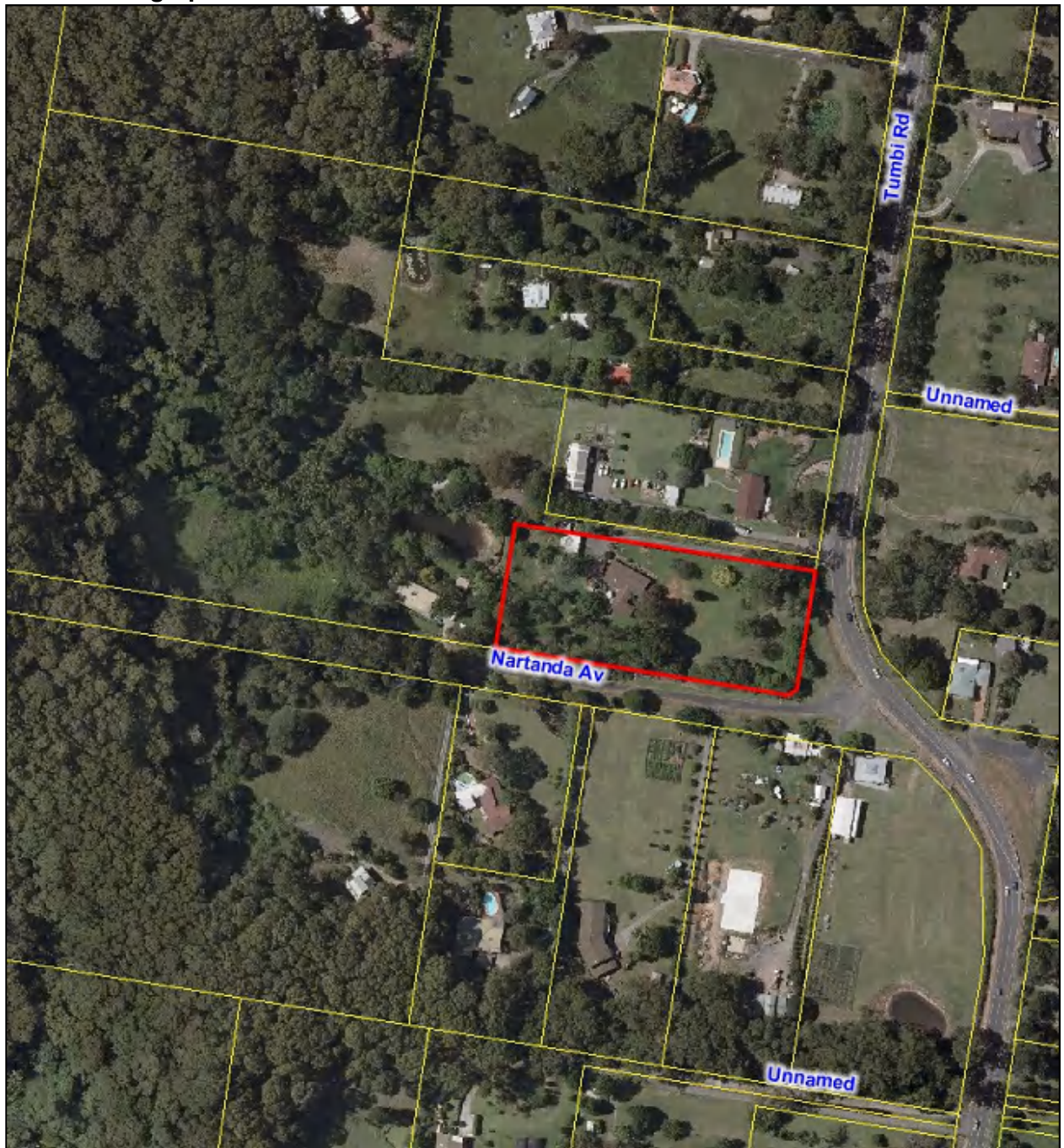


7(a) Conservation and Scenic Protection (Conservation)

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

APPENDIX 3

Aerial Photograph



APPENDIX 4

NET COMMUNITY BENEFIT TEST

Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?

No. The Central Coast Regional Strategy requires all future commercial development to be located in centres. The nature of this service is that a commercial environment is not conducive to the welfare of the child clients. Therefore the location of the use outside of a centre is justified in this instance.

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?

No. The site is close to the Gosford/Wyong LGA boundary, which is important as the facility caters for clients in both local government areas.

Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?

No. The purpose of the LEP is for a specific use on a specific parcel of land. It is unlikely that this specific use will be replicated elsewhere in the 7(c2) zone.

Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

There have been no spot rezonings in the locality.

Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?

The LEP will facilitate an employment opportunity for 4 counselling positions. No loss of employment land will result from the LEP.

Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?

No. The LEP will result in the dual occupancy on-site not being used for residential purposes. However loss of this one lot will not affect the overall supply of housing supply on the Central Coast.

Is the existing public infrastructure (roads, rail, 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?

Yes. Tumby Road is a two-lane regional road which is capable of servicing the proposed use. Public transport, in the form of buses, is available however its lack of frequency will probably deter people from using it.

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 greenhouse gas emissions, operating costs and road safety?

No. The proposal is neutral in its impact in terms of car distances travelled because the site is located close to the Gosford/Wyong LGA boundary which is central to the client base.

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?

No. The proposal will not impact on Government infrastructure or services.

Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?

No. The Government has not identified the subject land as being in need of protection. The land does not accommodate any endangered ecological communities, nor is it constrained by flooding. As the proposed use will be carried out within the existing buildings on-site, there will be no additional environmental impact.

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? Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

The Planning Proposal will be compatible with surrounding land uses as it will utilise the existing structures on the site and retain the existing landscaping surrounds. The impact on the amenity of the locality will be negligible due to the use being less intense than other uses permitted in the 7(c2) zone, such as plant nurseries, places of public worship and educational establishments. The proposal will increase the availability of a critical service to the community.

If a stand-alone proposal and not a centre; does the proposal have the potential to develop into a centre in the future?

No. The Planning Proposal is for a specific land use on a specific parcel of land which will not enable the site to be developed 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 Planning Proposal will provide a direct benefit to the public by accommodating a much needed educational, counselling and training service addressing behavioural and learning difficulties in children under 18 years of age. Furthermore, assistance is provided to the children's families and carers. The implications of not proceeding with this Planning Proposal will be that the opportunity to provide a relaxed, rural-residential setting that benefits the children will be lost.