

PLANNING PROPOSAL

GOSFORD CITY COUNCIL

LOT 600 DP 1099102, LOT 2 DP 706892 & LOT 5 DP 1082979, CENTRAL COAST HIGHWAY, AND LOTS 1 & 2 DP 1170047, BELLEVUE ROAD, FORRESTERS BEACH

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 (DoP&I).

Part 1 Objectives or Intended Outcomes

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

The Planning Proposal application has been prepared for five (5) lots with a total area of 32.4 ha. These lots are:

Lot 600 DP 1099102, Central Coast Highway, Forresters Beach (21.73 ha);

Lot 2 DP 706892 and Lot 5 DP 1082979, Central Coast Highway, Forresters Beach (9.611 ha);

Lots 1 and 2 DP 1170047, Bellevue Road, Forresters Beach (1.165 ha).

These lots are currently zoned 1(c) Rural (Rural Purposes) however the land accommodates the following non-rural land uses:

Lot 600 DP 1099102 accommodates a retirement village currently under construction;

Lot 2 DP 706892 and Lot 5 DP 1082979 accommodates a golf driving range, putt putt golf and a 9 hole golf course with development consent for a retirement village;

Lots 1 and 2 DP 1170047 accommodates a swimming school, child care centre, dual occupancy and dwelling house.

To reflect the existing and proposed urban uses, the Planning Proposal seeks to zone these lots predominantly to 2(a) Residential (or the equivalent zone R2 Low Density Residential under the draft Gosford LEP 2009), depending upon timing. Stands of significant vegetation are proposed to be zoned 7(a) Conservation and Scenic Protection (Conservation), or the equivalent E2 Environmental Conservation under the draft Gosford LEP 2009.

Part 2 Explanation of Provisions

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

Lot 600 DP 1099102 is currently zoned 1(c) Rural Purposes. As there is no equivalent zone under the draft LEP template for the 1(c) zone the lot was placed in the zone of the adjoining land which was E3 Environmental Management. This was considered appropriate as the land had development consent for seniors housing which would not be affected by the zone change. The Planning Proposal seeks to zone this lot to 2(a) Residential to reflect the approved residential development.

An Endangered Ecological Community (EEC) i.e. Estuarine Paperbark Scrub Forest also known as the Swamp Sclerophyll Forest on Coastal Floodplains is located in the south-western corner of Lot 600 DP 1099102. The approved development plans show this vegetation community being retained. Also, a stand of *Eucalyptus campfieldii* threatened species is located on the northern portion of Lot 600 DP 1099102. The approved development plans for seniors housing have protected this vegetation by including it in a Conservation Area. This is also reflected as a Restriction-as-to-User on the Deposited Plan. The significance of these vegetation stands should be reflected in the zoning. The most appropriate zone would be 7(a) Conservation.

Lot 2 DP 706892 and Lot 5 DP 1082979 are predominately zoned 1(c) with a small area of 7(a) land in the south-west corner. The Land and Environment Court has issued development consent for aged care housing on these lots. This development consent effectively identifies that the lots have characteristics suitable for a certain type of low to medium density residential development. Changing the zone of these two lots to 2(a) would reflect the Court approved use of the land as a retirement village. Should this approved development not proceed, it would be expected that a low density residential subdivision would create more opportunity for a reduced floor space ratio and an increased open space component compared with the more built-up and impervious nature of a retirement village.

A remnant of the EEC also occurs on the southern boundary of Lot 5 DP 1082979 which was shown on the approved plans as being incorporated into an open space area. The zoning of this vegetated area should reflect the significance of the vegetation, i.e. 7(a). As this site is traversed by a channel and adjoins wetland vegetation to the rear; it may be flood liable. Therefore, prior to consultation with public authorities or the community a flood study should be considered to ascertain the suitability of the site for a residential zone. This study should involve the whole catchment as this lot is generally downstream of Lot 600 DP 1099102 and affected by runoff from the eastern side of the Central Coast Highway.

Limiting the Planning Proposal to Lot 600 DP 1099102, Lot 2 DP 706802 and Lot 5 DP 1082979 may, if successful, result in the isolation of three (3) small lots located north of Bellevue Road and south of the Wyong Shire Council boundary. These lots are fully developed with a total area is 1.36 ha. In order to complete the strategic assessment of this area Council resolved to include these three (3) lots in the Planning Proposal provided the owners agree. If the owners are unwilling for the lots to be included in this Planning Proposal they can be considered in the urban fringe land review that is to be carried out after gazettal of the Draft Gosford LEP.

Lots 1 and 2 DP 1170047, Bellevue Road accommodate a swimming school, child care centre, dwelling house and dual occupancy. The zone is currently 1(c) and is proposed to be zoned E3 under the Gosford LEP as that is the adjoining zone and the uses could operate under existing use rights. However if the adjoining land to the south ends up being zoned 2(a)/R2, retaining two isolated parcels of 1(c)/E3 land containing these urban uses is incongruous. In this case the most appropriate zone for these lots would also be 2(a) where all the uses are permissible except the swimming centre which could continue to operate under existing use rights. The adjoining land to the north, in Wyong Shire Council, is zoned Residential. The land owner was contacted in accordance with Council's resolution and agreed to be included in the Planning Proposal.

Lot 61 DP 747931 Bellevue Road accommodates a service station. The zone is currently 1(c) and is proposed to be zoned E3 under the Gosford LEP as that is the adjoining zone and the service station could operate under existing use rights. However if the adjoining land to the south ends up being zoned 2(a)/R2, retaining an isolated parcel of 1(c)/E3 land containing a service station is incongruous. Therefore if the adjoining land to the south is zoned 2(a) then it is considered reasonable to zone this small site the same 2(a) zone and for the use to rely on existing use rights. The owner was contacted in accordance with Council's resolution but declined to be included in the Planning Proposal.

Proposed Planning Provisions

The likely wording of the planning provisions is set out below.

1 Subject Land

This clause applies to Lot 600 DP 1099102, Lot 2 DP 706892 and Lot 5 DP 1082979 Central Coast Highway, and Lots 1 and 2 DP 1170047, Bellevue Road, Forresters Beach.

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

2 Objective

The plan aims to zone the land to a zone that appropriately reflects the land's existing residential character and physical attributes.

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

3 Relationship to other Environmental Planning Instruments

(1) Interim Development Order No 122 - Gosford is amended:

(a) by inserting at the end of clause 2(2A):

Land at Forresters Beach being part of Lot 600 DP 1099102, part of Lot 2 DP 706892 and part of Lot 5 DP 1082979 Central Coast Highway, and Lots 1 and 2 DP 1170047 Bellevue Road, Forresters Beach as shown edged heavy black and lettered 2(a) on the map marked "Gosford Local Environmental Plan No XXX" deposited in the office of Gosford City Council.

(b) inserting under **I.D.C. Map** in clause 3(1):

Gosford Local Environmental plan No XXX

(2) Gosford Planning Scheme Ordinance is amended by inserting under **Scheme map** in clause 3(1):

Gosford Local Environmental Plan No XXX

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.

Appendices 1 to 11 contain all relevant mapping to the Planning Proposal

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 subject of any 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 and intended outcomes.

3 Is there a net community benefit?

From a strategic planning viewpoint the Planning Proposal has a net community benefit (See Appendix 12).

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 the Sydney Metropolitan Strategy and exhibited draft strategies)?

Regional strategies include outcomes and specific actions for a range of different matters relevant to the region. In all cases the strategies include specific housing and employment targets also. The Central Coast Regional Strategy (CCRS) 2006 – 2031 is applicable to the subject land and the proposed rezoning. The subject Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy.

The Central Coast Regional Strategy (CCRS) estimates that an additional 16,500 dwellings need to be provided in the City of Gosford by 2031 to accommodate an additional 33,000 people. The Strategy further indicates that 6,000 of these required dwellings should be provided in the Gosford City Centre, 8,500 dwellings within town, village and neighbourhood centres and 2,000 dwellings as "infill" development throughout the local government area. "Infill Development" is defined as:

Development that occurs generally within the existing urban footprint and outside of centres, such as dual occupancy development, subdivision of existing allotments and redevelopment of previously non-residential land within urban areas for residential purposes. This category can also include minor infill development on the edge of the urban footprint (p16).

The subject land shares its eastern property boundary with the existing low density residential area of Forresters Beach and its northern boundary with a swimming centre and service station in Gosford LGA and an open space zone in Wyong LGA. As most of the subject land has retirement villages, either under construction or approved on the land, it is argued that this is urban land and the proposed Residential zoning would satisfy the definition of being "minor infill development on the edge of the urban footprint".

The following Actions of the CCRS are relevant to the Planning Proposal:

- 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 principle LEPs.
- 6.3 LEPs are to appropriately zone land with high state or regional environmental, agricultural, resource, vegetation, habitat, waterways, wetland or coastline values.
- 6.5 Councils, through preparation of LEPs, are to incorporate appropriate buffers around environmentally sensitive, rural and resource lands.

The proposed residential zoning of the subject land is a correction to the urban boundary and therefore satisfies Action 4.5. The significant vegetation located on these lots has been preserved in the existing development consents and is able to be further protected by inclusion in the 7(a) Conservation zone, thus satisfying Action 6.3.

The CCRS provides that other release sites not currently identified in the Strategy may be considered if it can be demonstrated that a proposal satisfies the "Sustainability Criteria for New Land Release - Central Coast" set out in Appendix 3 of the CCRS. This part of the Planning Proposal is consistent with the "Sustainability Criteria for New Land Release - Central Coast" (see Appendix 13). However, the physical suitability of the land for residential development cannot be finally ascertained until the appropriate studies have been completed, as recommended in the Planning Proposal.

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

Community Strategic Plan

The following strategies set out in the *Community Strategic Plan – Gosford 2025* are applicable to the Planning Proposal:

- A3.4 Increase the availability of appropriate housing
- B1.2 Identify and preserve areas of conservation value
- B6.3 Plan for population growth within existing developed footprint

Strategy A3.4 recognises that everyone is entitled to fair access and opportunity to participate in community life however this is a broad strategy and needs to be balanced with the other two relevant strategies.

The development consents applying to these lots have identified the environmentally significant vegetation being retained. The change of zone will not alter the development consents should they proceed as per the approval. However, to ensure the vegetation is preserved in any future development, it should be included in the 7(a) Conservation zone.

The Planning Proposal proposes to zone existing and approved retirement village land to Residential is considered infill development under the CCRS.

Biodiversity Strategy

The Biodiversity Strategy contains the following Action 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 Strategy in that it proposes to rationalise the residential zone to reflect previous development approvals and substantial existing development. The isolated stands of EECs are already protected under existing development consents and can be further protected under a 7(a) zone.

COSS Strategy

The COSS Strategy does not identify any part of the subject site as being required for the Coastal Open Space System.

Draft Residential Strategy

The Draft Residential Strategy identifies the following Objectives relevant to the Planning Proposal:

- Ensure adequate supply of land and sites for residential development.
Goal - locating housing supply to minimise impact on physical characteristics and infrastructure capabilities.
- Plan for a mix of housing near jobs, transport and services.
Goal - concentrating new housing near major transport and service hubs.

The Planning Proposal satisfies the first objective as it proposes to provide additional residential land, hence housing supply, to the market. However some of the land may not be environmentally appropriate should it be found to have physical limitations such as flooding.

The mix of housing type proposed is that which is permissible in the 2(a), or future R2, zone such as dwelling houses, seniors housing (under SEPP Housing for Seniors or People with a Disability) and secondary dwellings (under SEPP Affordable Rental Housing). A medium density housing zone is not considered suitable on this site as it is not located close to a centre as specified in the CCRS. The subject land fronts the Central Coast Highway and is thus able to be serviced by existing transport and utilities infrastructure.

Draft Report on Demand for Low and High Care Residential Aged Care 2009

The *Draft Report on Demand for Low and High Care Residential Aged Care 2009* was submitted to Council on 26 May 2009 for Council's information. It was a report identifying the current and projected future demand for aged care residences; it was not a strategic study.

The projected demand for high residential care places is greatest in Gosford, Woy Woy Peninsula and the Eastern Coastal areas. Of the Eastern Coastal areas, Forrester's Beach and Wamberal were identified as localities of high future need.

The existing development consents for aged care housing on Lot 600 DP 1099102, Lot 2 DP 706892 and Lot 5 DP 1082979 serve to address this present and future housing need.

The alteration of the 1(c) zone to 2(a) will still permit seniors housing, but could also result in the landowners opting for more conventional residential housing. The outcome would be loss of large lots on which seniors housing could be developed when required in the years to come.

However, the 2(a) zone permits seniors housing whereas the proposed E3 zone under the Draft Gosford LEP does not permit seniors housing. So if the Planning Proposal does not proceed and the development consent on Lot 2 DP 706892 and Lot 5 DP 1082979 lapses, then the opportunity to provide future aged care housing will not exist.

It should be remembered that the Report was not a strategic document, it simply made a statement of facts; it did not identify courses of action that Council will take. Hence Council cannot decline to proceed with this Planning Proposal purely on the basis of this Draft Report on Demand for Low and High Care Residential Aged Care.

Furthermore, the actual Council report 26 May 2009, noted that "It is accepted that older people wish to 'age in place' with access to existing networks and familiar surroundings", not be located in areas remote from these securities.

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.

(i) SEPP No 19 - Bushland in Urban Areas

Clause 10 of State Environment Planning Policy 19 applies to the 7(a) and 7(c2) zoned land of the Planning Proposal. When preparing draft local environmental plans for any land to which this Policy applies, other than rural land, the council shall:

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

The relevant aims of the SEPP are:

- to protect the remnants of plant communities which were once characteristic of land now within an urban area,
- to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
- to protect rare and endangered flora and fauna species,
- to protect habitats for native flora and fauna,
- to protect wildlife corridors and vegetation links with other nearby bushland.

The EEC and threatened species located on Lot 600 DP 1099102 have been identified as being retained and protected under the development consent for this property. To ensure its protection in the future, these vegetation stands are able to be protected under the 7(a) zone.

(ii) SEPP No 44 - Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living

population over their present range and reverse the current trend of koala population decline. The land is considered not to be a potential koala habitat.

(iii) SEPP No 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.

Council's aerial photographic record does not show any use being carried out that is listed in Table 1 Contaminated Land Planning Guidelines. The land has since been developed for a swimming centre, residential uses, tourist uses and has approval for aged care housing. Therefore the site does not require further investigation regarding land contamination.

(iv) SEPP No 71 – Coastal Protection

The "coastal zone" is generally 1km landward of any coastal water, bay, estuary, coastal lake or lagoon and the boundary is to be shown to the nearest cadastral boundary. All of the subject land, except for Lots 1 and 2 DP 1170047, is identified as being in the coastal zone.

Under SEPP 71 most of the "matters for consideration" relate to land that directly front water bodies, thus are not applicable to the subject site. However, applicable matters for consideration are:

- the suitability of development given its type, location and design and its relationship with the surrounding area,
- measures to conserve animals (within the meaning of the Threatened Species Conservation Act, 1995) and plants (within the meaning of that Act), and their habitats,
- existing wildlife corridors and the impact of development on these corridors,
- likely impacts of development on the water quality of coastal waterbodies,
- 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.

The lots south of Bellevue Road are generally cleared and have approval for retirement villages with the isolated stands of significant vegetation being retained. These areas contain two intermittent waterways that ultimately drain into Wamberal Lagoon. Catchment-wide flood studies are required to indicate whether any future increased development will have any direct and indirect impacts upon this catchment.

(v) SEPP (Housing for Seniors and People with a Disability) 2004

This Policy applies to land that is zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, where dwelling houses are a permitted use. It does not apply to environmentally sensitive land. Adjoining land also means land on the opposite side of a public road. This is the reason why seniors housing has been approved and/or constructed on land zoned 1(c). Consequently, the SEPP has made the 1(c) zoned land in this locality, essentially residential land. Therefore the 2(a) zone would

reflect its current status. However to ensure the land is suitable to be zoned 2(a) a flood study would be required to be carried out to support the residential zone.

(vi) Other SEPPs: No other SEPP has application to this planning proposal.

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 1 September 2009. Section 117 Directions are only discussed where applicable. The Planning Proposal is consistent with all other Section 117 Directions or they are not applicable.

(i) Direction 1.2 - Rural Zones

This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

A Planning Proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. However a planning proposal may be inconsistent with the terms of this direction if the council can satisfy the Department of Planning and Infrastructure that the provisions of the planning proposal that are inconsistent are justified by a study or strategy (prepared in support of the planning proposal) which gives consideration to the objectives of this direction.

The objective of this Direction is to protect the agricultural production value of rural land. The land that is zoned 1(c) Rural (Rural Purposes) comprises all of the subject land. These lots are used for a golf driving range, putt putt golf, 9 hole golf course, a retirement village, a swimming centre, childcare centre, dwelling house and dual occupancy which are not uses associated with agricultural production. Hence the Planning Proposal is consistent with this Direction.

(ii) Direction 2.2 - Coastal Protection

This Direction requires a planning proposal to include provisions that give effect to and are consistent with:

- (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and
- (b) the Coastal Design Guidelines 2003, and
- (c) 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 *NSW Coastal Policy* sets out the following goals relevant to the Planning Proposal:

- Protecting, rehabilitating and improving the natural environment of the coastal zone.
- Protecting and enhancing the aesthetic qualities of the coastal zone.
- Providing for ecologically sustainable human settlement in the coastal zone.

The EEC and threatened species located on Lot 600 DP 1099102 have been identified as being retained and protected under the development consent for this property. It is considered that the zoning of such land to 2(a) would be consistent with the goals of the NSW Coastal Policy providing other concerns such as flooding are satisfactorily

addressed. As discussed earlier in the report, these stands of significant vegetation are able to be further protected by inclusion in the 7(a) zone.

The *Coastal Design Guidelines* relate to design of dwellings and location of new settlements and is relevant to this Planning Proposal. The following objectives are relevant to this Planning Proposal:

- To protect and enhance the cultural, ecological and visual characteristics of a locality.
- To limit coastal sprawl by establishing separation and greenbelts between settlements.
- To integrate new development with surrounding land uses.
- To encourage new coastal settlements to be appropriately located.
- To create neighbourhoods centred around services and facilities.

Some of the subject land is already being developed for aged care housing and the limit of development is Bakali Road to the west. Adjoining land uses to the east are predominantly residential thus the planning proposal is appropriately located and integrated with existing urban land uses. The subject site is also close to a neighbourhood shopping centre. As such the Planning Proposal is consistent with the Coastal Design Guidelines.

The *NSW Coastline Management Manual* provides "information to assist present and potential users and occupiers of the coastline to understand the nature of coastline hazards and the options available for their management." "Hazards peculiar to the coastline must be recognised in the design of new developments, in the planning of changed land use patterns and in the protection of present developments at risk." As the site is not subject to immediate coastal processes it is not relevant to the Planning Proposal.

(iii) 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 Planning Proposal will permit the range of housing permitted in the 2(a) zone such as dwelling houses, seniors housing (under SEPP Housing for Seniors or People with a Disability) and secondary dwellings (under SEPP Affordable Rental Housing). The low density residential zone will not permit a broad range of housing types as is permitted in the medium density residential zones. However, such housing is not considered suitable for this site as the site is not located close to centres as specified in the CCRS. The 2(a) 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. Although the subject site is located on the fringe of the existing urban zones, it is currently being developed for residential purposes. Under the Regional Strategy such land immediately adjoining urban land is defined as infill development. Hence the Planning Proposal is consistent with this Direction provided further studies identify that the physical characteristics of the site are able to support residential development of the land.

(iv) 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 subject site is located on the Central Coast Highway which is the major arterial road connecting the coastal communities with regular and frequent bus services to Erina Fair and Gosford CBD. Whilst future residents could use their private vehicles, the option to use public transport would be available.

(v) Direction 4.3 - Flood Prone Land

This Direction applies when a Planning Proposal is prepared that creates, removes or alters a zone or provision that affects flood prone land. A draft LEP shall not rezone land within a flood planning area from Rural or Environmental Protection zone to a Residential zone.

The Floodplain Development Manual, 2005 defines the Flood Planning Area as the area of land below the Flood Planning Level (i.e. combination of flood events and freeboards as determined in management studies and incorporated in management plans) and thus subject to flood related development controls.

A flood study has not been submitted for these lots so it is not possible to ascertain whether or not the subject land is within a flood planning area. It is noted that there are intermittent watercourses and a drainage channel conveying stormwater across the site from east to west. The applicant should submit further hydrologic and hydraulic information prior to public consultation. Until a catchment study looking at all overland flow directed toward and through these lots has been undertaken, a full impact assessment by Council of any future development potential on the site is not possible.

(vi) 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 accommodates vegetation that is classified as Rural Fire Service Bushfire Categories 1 and 2 as well as associated Buffer. As the subject site is bushfire prone a Bushfire Hazard Assessment will have to be prepared and the Planning Proposal referred to the Rural Fire Service for comment should a Gateway Determination be received.

(vii) Direction 5.1 - Implementation of Regional Strategies:

This 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 and Area 2 is considered to be inconsistent as indicated in the response to Question 4 above.

(viii) Direction 6.1 – Approval and Referral Requirements:

This 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 6.3 – Site Specific Provisions:

This Direction applies to the Planning Proposal as the Planning Proposal seeks to rezone the land.

The proposal is consistent with this Direction as it proposes to use existing zones and proposes the imposition of no development standards or requirements in addition to those already contained in the principal planning instrument. The proposal does not contain or refer to drawings/concept plans that show details of the proposed development.

Section C Environmental, social and economic impact

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 EEC occurs on land zoned 1(c) and approved for retirement villages. The EEC is located on the southern boundary of Lot 5 DP 1082979 and is shown on the approved plans to be incorporated into an open space area. It is proposed to zone this vegetation 7(a) thus indicating that it is to be retained.

Furthermore, the EEC also occurs in the southwest corner of Lot 600 DP 1099102 which is currently being developed for seniors housing. The approved development plans show this vegetation community being retained. Also, a stand of *Eucalyptus campfieldii* threatened species is located on the northern portion of Lot 600 DP 1099102. The approved development plans for seniors housing have protected this vegetation by including it in a Conservation Area. Any change to the zoning of the land to Residential would not negate compliance with the Development Consent. However, to ensure the vegetation is preserved in any future development, it should be included in the 7(a) zone.

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

Wamberal Lagoon Catchment

The whole of the subject site is within the Wamberal Lagoon Catchment. Land on the eastern side of the Central Coast Highway is zoned 2(a) Residential and drains westward through the subject site, to the adjoining land to the west that is zoned 7(a) Conservation and is identified as Proposed COSS.

The Coastal Lagoons Management Plan has the following relevant strategy:

"Restrict any rezoning of land within the lagoon catchments that increases density of development."

The previous development consents for increased density of development (ie retirement villages) within the lagoon catchment, satisfactorily addressed runoff by incorporating on-site stormwater control measures as part of the development.

A retirement village on Lot 2 DP 706892 and Lot 5 DP 1082979 was approved in the Land and Environment Court in 2007. A comprehensive joint expert report was prepared for the court case. The report provided background information, collated technical reports and described Wamberal Lagoon and the available water quality data. It was concluded that the proposed seniors living development was unlikely to result in an adverse impact on Wamberal Lagoon and associated ecosystems as a result of hydrological changes. The Court approved the retirement village development on the site.

Changing the zone of these two lots to 2(a) would reflect the Court approved use of the land as a retirement village. It would be expected that a low density residential subdivision would create more opportunity for a reduced floor space ratio and an increased open space component compared with the more impervious nature of a retirement village.

The site directly abuts the EEC to the south and west, and without a buffer around this significant vegetation, the EEC may suffer from edge effects resulting from the close proximity of urban development. Any future development would be required to comply with bushfire Asset Protection Zones (APZs) due to its interface with the adjoining vegetation. Such APZs could also be used for stormwater and nutrient control measures.

The Coastal Lagoons Management Plan is currently under review. A study is being prepared in draft form for Council's consideration with a view to go on public exhibition.

Scenic Quality

Under DCP No 89 - Scenic Quality, the subject site is located in the North Coastal Geographic Unit, and more specifically in the Forresters Beach-Wamberal Landscape Unit. The most northerly section of the unit forming the Forresters Beach landscape has characteristics more typical of the Tuggerah landscapes of Wyong LGA. The flat rear dune hinterland comprises a mixture of residential, rural-residential and recreational land uses. The flat landform, low vegetation and stunted characteristics result in a generally low visual quality. Residential development adjacent to the Central Coast Highway is visually dominant. Visual sensitivity is high for areas on higher slopes and along main roads. The Forresters Beach-Wamberal Landscape Unit is of regional significance as it is a unique landscape within the Gosford area.

The development objectives of the North Coastal Geographic Unit relevant to this Planning Proposal are:

- Opportunities for increases in densities and scale are available in areas not subject to visibility or physical constraints. Visually constrained areas include land along beach front, sand spit, headlands and lagoon frontages, as well as along main roads within scenic protection and conservation zoned areas and within scenic protection and conservation zoned areas.
- Proposals for residential and retail/commercial rezonings be preferred where the result will be the consolidation of existing residential and retail/commercial zoned areas rather than the extension of these zones as either ribbon development or as incremental extensions into adjoining areas.
- Maintain broad patterns of land use within area to ensure protection of landscape diversity and in particular scenic protection and conservation zoned areas.

Lots 1 and 2 DP 1170047 are fully developed as a swimming centre and residential uses so no increase in density is likely to result from the Planning Proposal.

Lot 600 DP 1099102 is being developed for a retirement village and has a privacy wall constructed along the full length of its frontage with the Central Coast Highway so any additional residential buildings will not be visible from the main road. The zoning to 2(a) will have no effect on the built form on this site. A Residential use is already evident on the subject site so the Planning Proposal is not an incremental expansion of the urban zones but a rationalisation of a development decision several years ago.

Likewise, the two lots immediately to the south have development consent for a retirement village complex of a scale comparable to medium density residential development. The proposed 2(a) zone, whilst continuing to permit such scale of seniors housing also permits low density residential development which is comparable with the scale of development on Lot 600 and on the eastern side of the Central Coast Highway.

Character

Under DCP No 159 - Character, the two lots (Lot 2 DP 706892 and Lot 5 DP 1082979) accommodating the golf driving range, 9 hole course and putt putt golf are identified in Precinct 7 - Recreational Centre. The desired character of this precinct is:

These properties should continue to provide community and recreation services according to the needs of their surrounding residential population. The scenic and civic qualities of prominent backdrops to Gosford City's major roads and residential areas should be enhanced by future development, infrastructure or landscape improvements, and by open space management.

Protect the habitat and scenic values of remnant bushland and wetland by retaining natural slopes and by avoiding further fragmentation of the tree canopy.

Ensure that new developments do not dominate their natural or landscaped settings, or their predominantly low-rise residential surroundings.

Minimise the scale and bulk of new buildings and avoid the appearance of uniform building heights along any street by well-articulated forms.

Under the 1(c) zone development consent has been issued for a retirement village which is not consistent with the desired character statement. Given this precedent it is unreasonable to expect that the precinct will remain a recreational centre forever. The proposed 2(a) zone will permit low density housing form which will minimise bulk and scale of any new buildings.

Lot 600 DP 1099102 is identified in Precinct 5 - Medium Density Estate. The desired character of this precinct is:

These areas should remain medium-density residential estates that accommodate older people or people with a disability, where improved standards of amenity and urban design quality are achieved by new low-rise multi-unit buildings that are surrounded by leafy gardens to provide distinctive backdrops for Gosford city's town centres and major roads.

Maintain the existing informal scenic qualities of hillside properties and road verges by appropriate site planning that conserves visually-prominent trees, particularly near hill crests, close to ridgelines or along street frontages.

Ensure that new developments complement the siting, form and scale of nearby detached dwelling neighbourhoods, as well as maintaining reasonable levels of sunlight, privacy and amenity that are enjoyed by neighbouring dwellings and their private open spaces.

The zoning of the land to 2(a) will reflect the urban character of this precinct. The vegetation has been conserved as part of the development consent and will continue to be conserved by its inclusion in the 7(a) zone.

Lots 1 and 2 DP 1170047 are identified in Precinct 8 - Scenic Buffer. The desired character for this precinct 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 on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.

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.

In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire resistant siting, design and construction for all new structures plus effective management of gardens.

The zoning of the land to 2(a) would not alter the character of the land as it is fully developed for a swimming centre, child care centre, dwelling house and dual occupancy.

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

The Planning Proposal will provide social benefits to the community in the form of additional low density housing in an accessible location. It will enable a significant contribution to be made to residential land supply in the Gosford LGA. Employment will be provided during the construction phase which will benefit the local economy.

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

Water and Sewer

Water and sewer is available to the land however there is insufficient capacity to accommodate additional loads or demands from future development should the land be rezoned. Water and sewerage reticulation systems will be required to be augmented prior to future development of the land.

Transport

Traffic Volume Data, for the Annual Average Daily Traffic (AADT) volumes along the Central Coast Hwy (Roads and Maritime Services) have been referenced at a counter station located close to the subject site, at the intersection of Central Coast Highway and Bateau Bay Road. The 2004 AADT of 21,263 was a 25% increase on the 1995 traffic count. Applying a 25% increase over the 2004 data, it can be estimated that an AADT for 2012 would be approximately 26,500. The data indicates that the Central Coast Highway currently operates well within its capacity in the area around the subject site.

The potential traffic generation resulting from the Planning Proposal will not impact on the traffic efficiency of the Central Coast Highway adjacent to the subject site. However the effect of the additional traffic flow generated by any future residential development on the operating performance and capacity of the existing and potential intersections accessing the subject site is relatively unknown.

Information is required to be submitted to enable a proper interpretation of traffic impacts on traffic efficiency, amenity and safety on the surrounding road network.

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 been undertaken with State and Commonwealth agencies as no gateway determination has been issued.

It is envisaged that the following agencies will be consulted:

- Office of Environment and Heritage
- Roads and Maritime Service
- Rural Fire Service
- Wyong Shire Council

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.

Conclusion

The subject land, although zoned 1(c) Rural Purposes, no longer exhibits a rural character. Lot 600 DP 1099102 accommodates a seniors housing development currently under construction. The two lots immediately to the south (Lot 2 DP 706892 and Lot 5 DP 1082979) currently accommodate a golf driving range, a nine hole golf course and a putt-putt golf complex. These two lots have a development consent issued by the Land and Environment Court for another seniors housing development. Lots 1 and 2 DP 1170047 accommodates a swimming school, child care centre, dwelling house and dual occupancy.

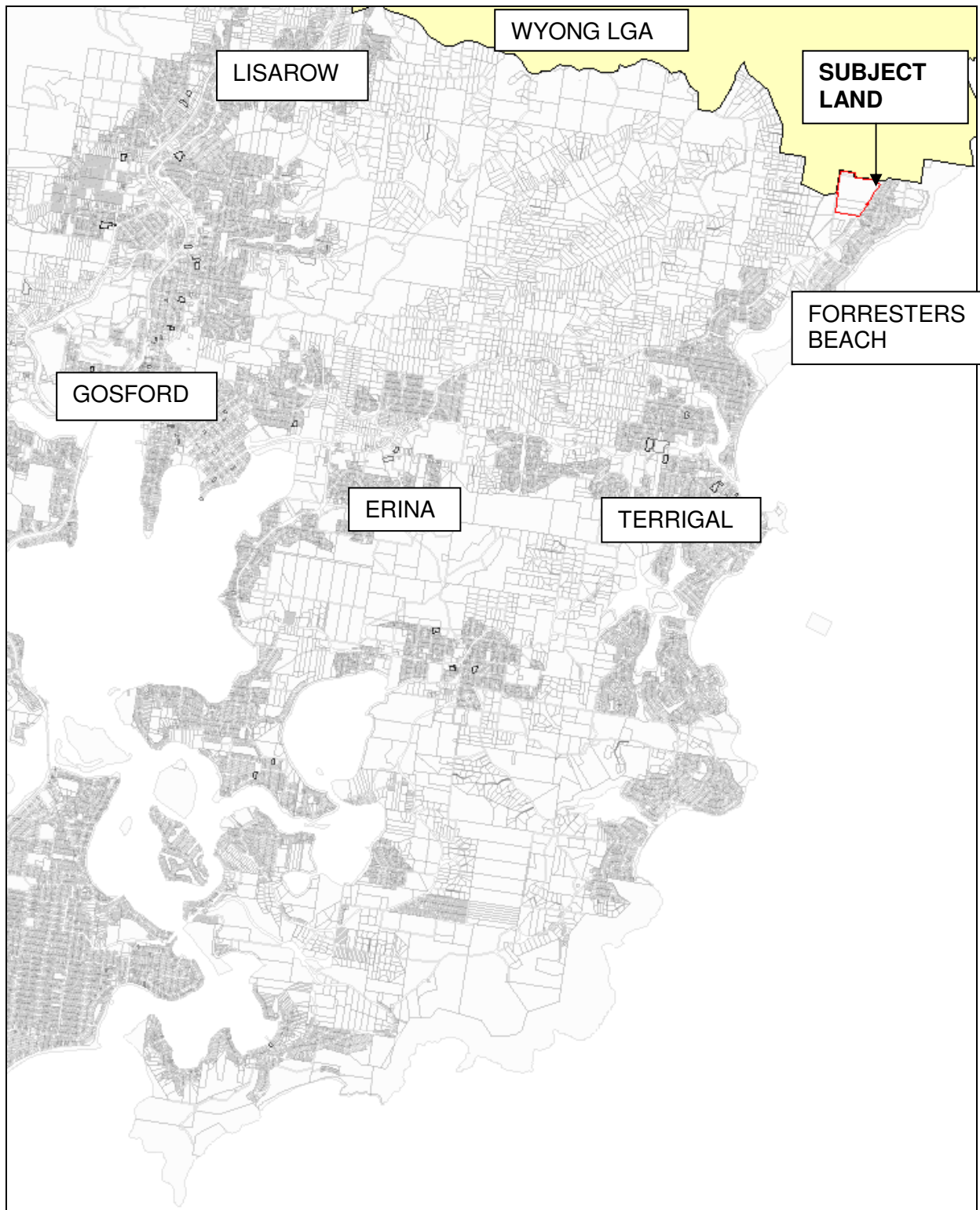
The Draft Gosford LEP 2009 proposed to zone these lots to E3 Environmental Management as that was the adjacent zone and the Draft LEP in this location was primarily a conversion plan. Now that a Planning Proposal has been submitted the zoning of the land is able to be assessed in a strategic manner. The settlement of Forresters Beach, to the east of the subject land, is zoned 2(a) Residential and land to the north in Wyong LGA is generally zoned Residential and Open Space. There is broad strategic justification for zoning the subject land to zones that more closely reflect what is occurring on the ground.

These lots, although adjoining urban uses, and therefore geographically consistent with being considered infill development under the Central Coast Regional Strategy (CCRS), should be confirmed to be physically compatible with development permitted under a residential zone. The area of land available for rezoning on this site may be restricted due to the extent of flooding and overland flow generated from the upper catchment. Until a catchment study looking at all flows directed toward and through this site has been undertaken, a full impact assessment by Council of any future development on the site is not possible. The applicant is to submit further hydrologic and hydraulic information to enable a full assessment of the proposal to be made. Such information should also include the effect of any residential development on Wamberal Lagoon and groundwater.

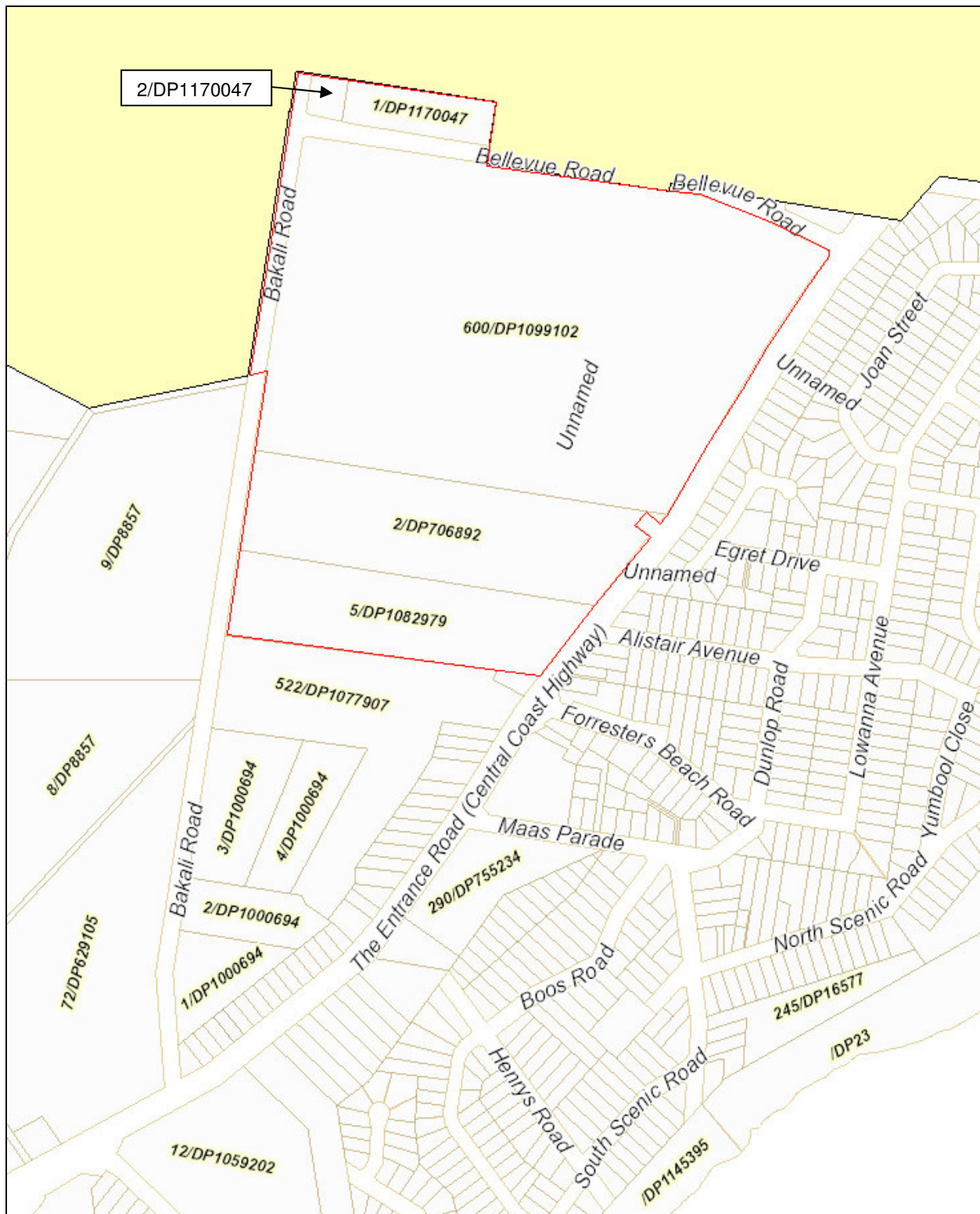
The subject site is adjacent to the Central Coast Highway which provides good access to centres and services by either private or public transport. The potential traffic generation resulting from the Planning Proposal may impact on the traffic efficiency of the Central Coast Highway adjacent to the subject site, hence information is required to be submitted which would enable the proper interpretation of traffic impacts on traffic efficiency, amenity and safety on the surrounding road network.

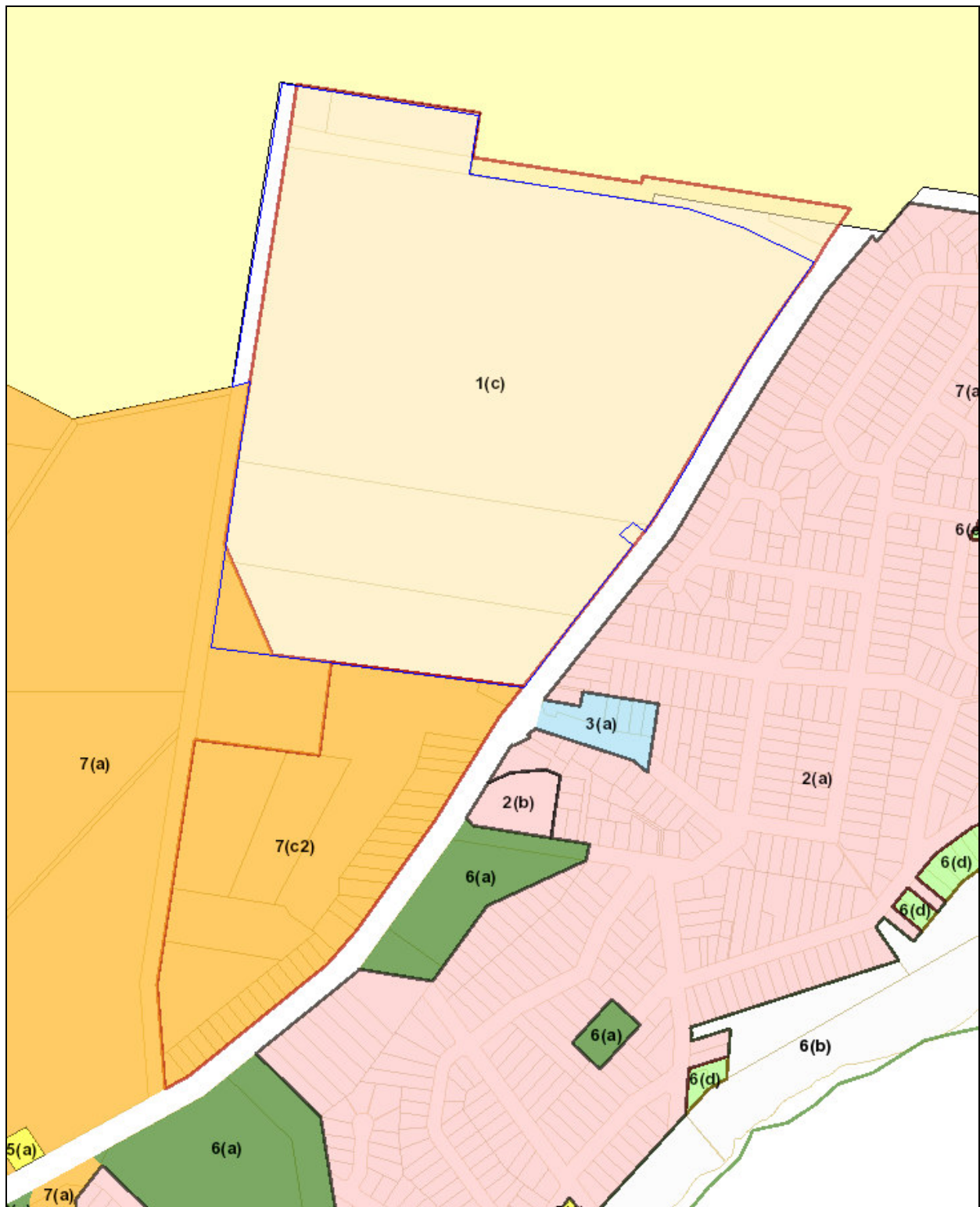
Should the 'gateway' consider that the planning proposal has strategic merit the following studies are to be completed prior to progression to consultation with public agencies and the community:

- Bushfire Hazard Assessment
- Flood Study including overland flow study
- Impact assessment on groundwater and Wamberal Lagoon (sedimentation and nutrification)
- Traffic Impact Study

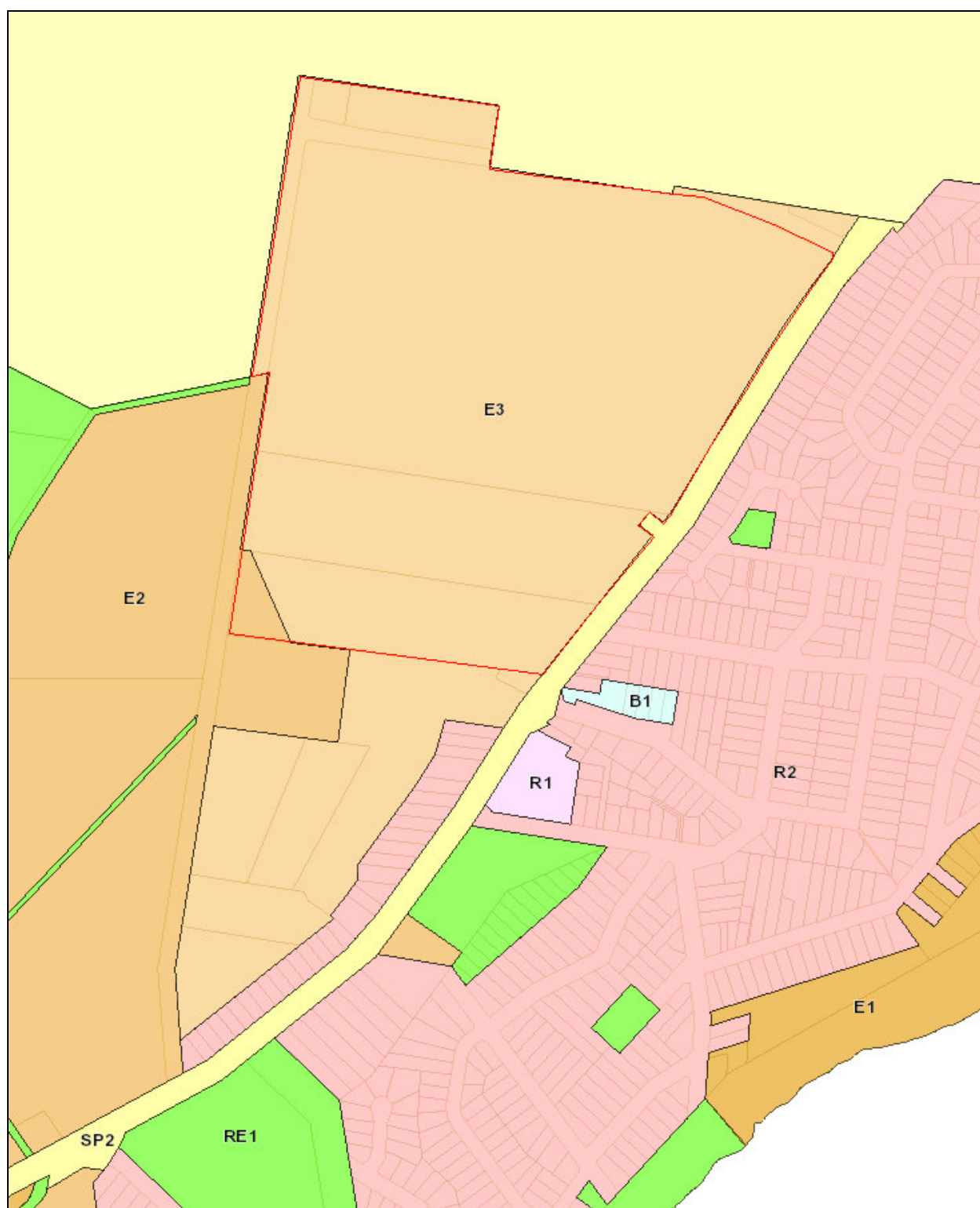
APPENDIX 1 - Locality Map

APPENDIX 2 - Lot Description



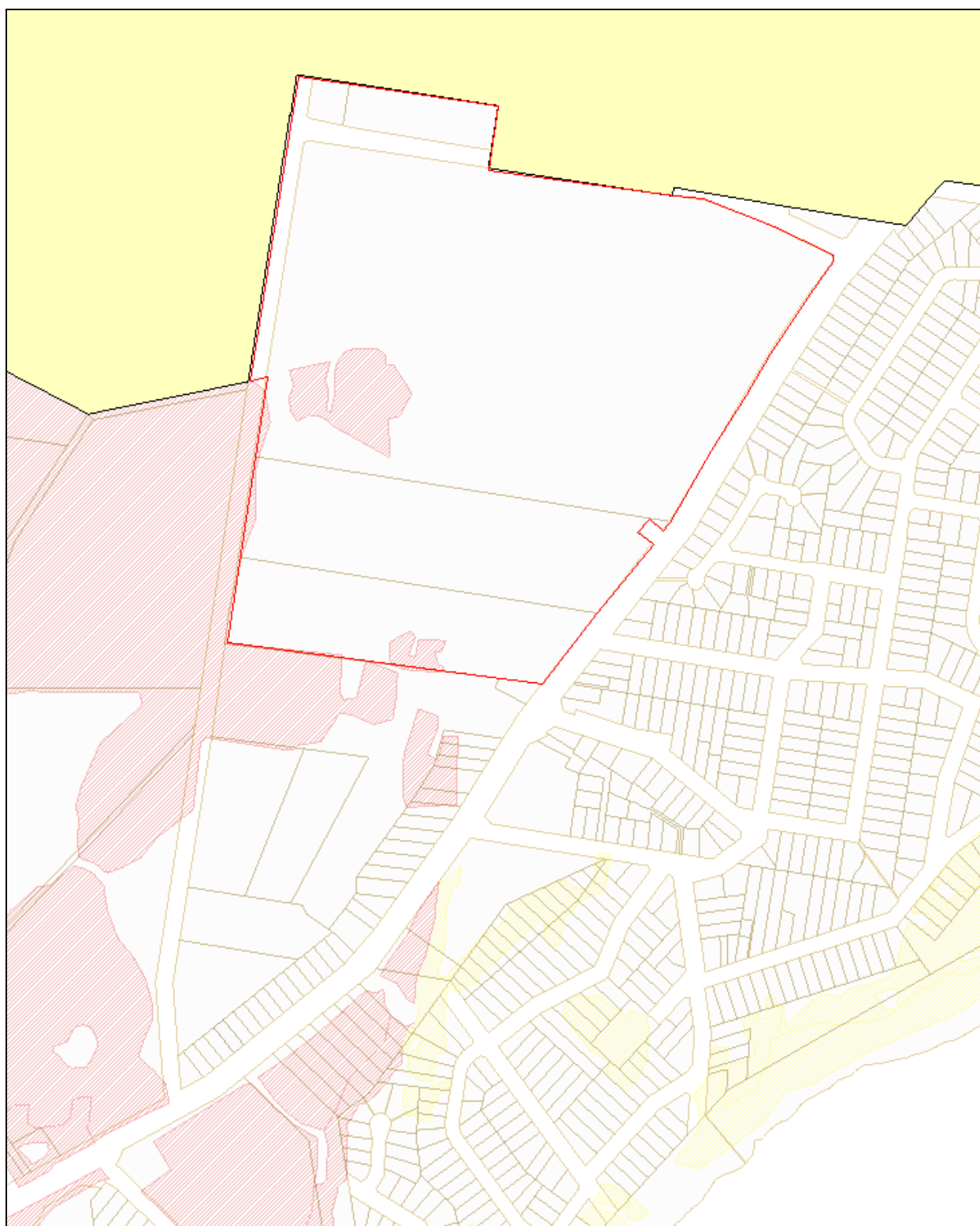


7(c2) Conservation and Scenic Protection (Rural Small Holdings)

APPENDIX 4 - Proposed Zoning under Draft Gosford LEP 2009 (as exhibited)

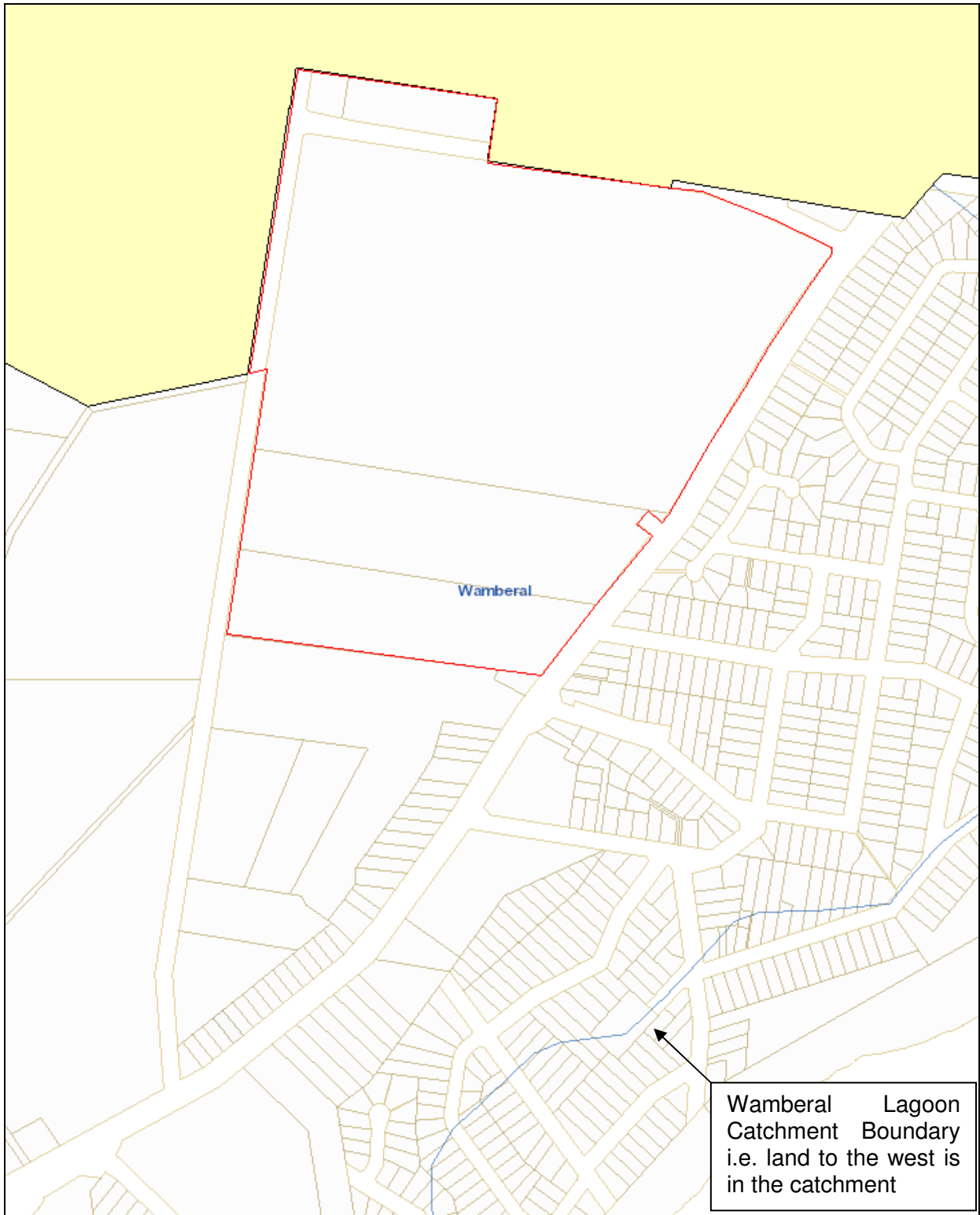
R2 - Low Density Residential
E2 - Environmental Conservation
E3 - Environmental Management

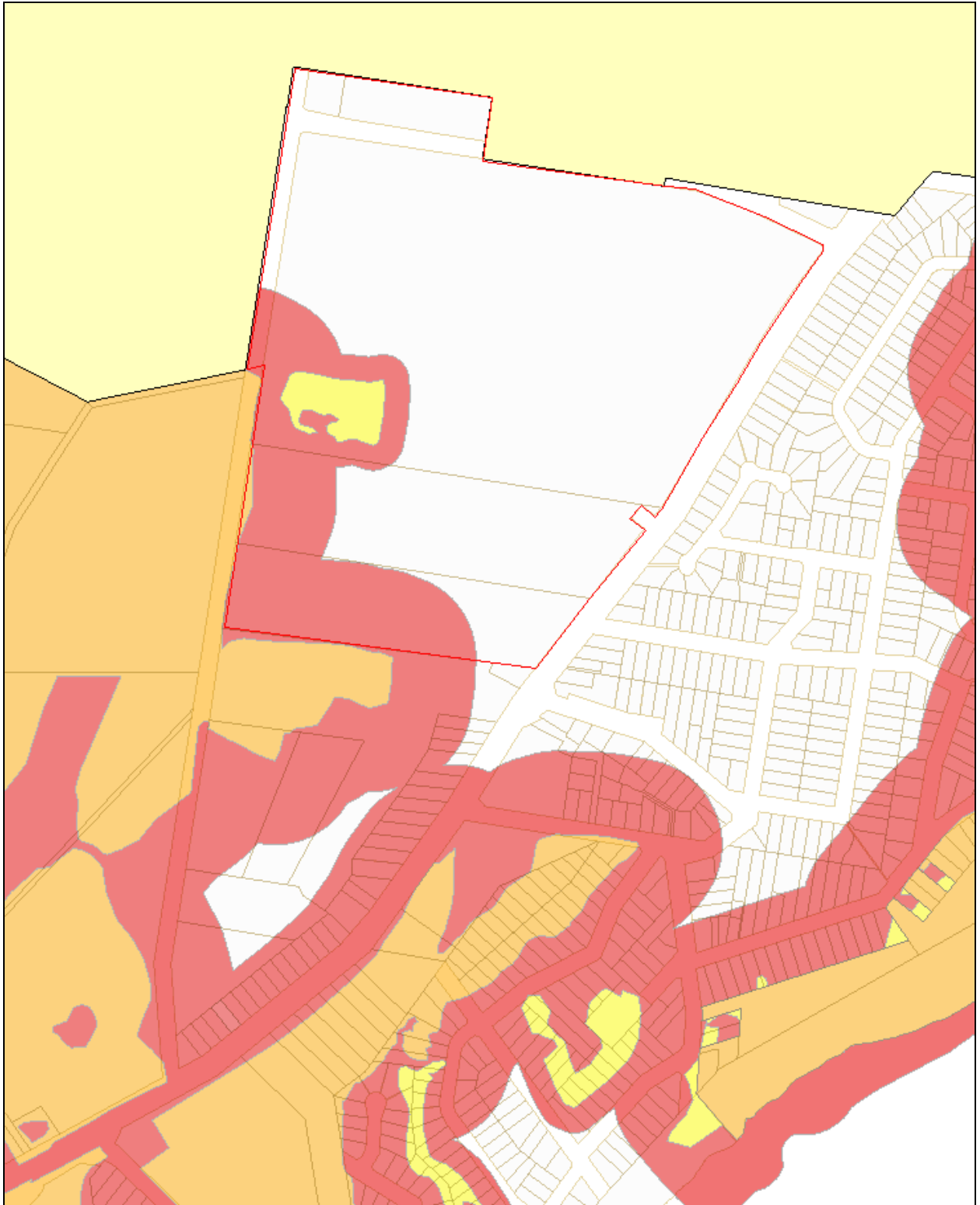
APPENDIX 5 - Aerial Photograph (1:6000)

APPENDIX 6 - Significant Vegetation

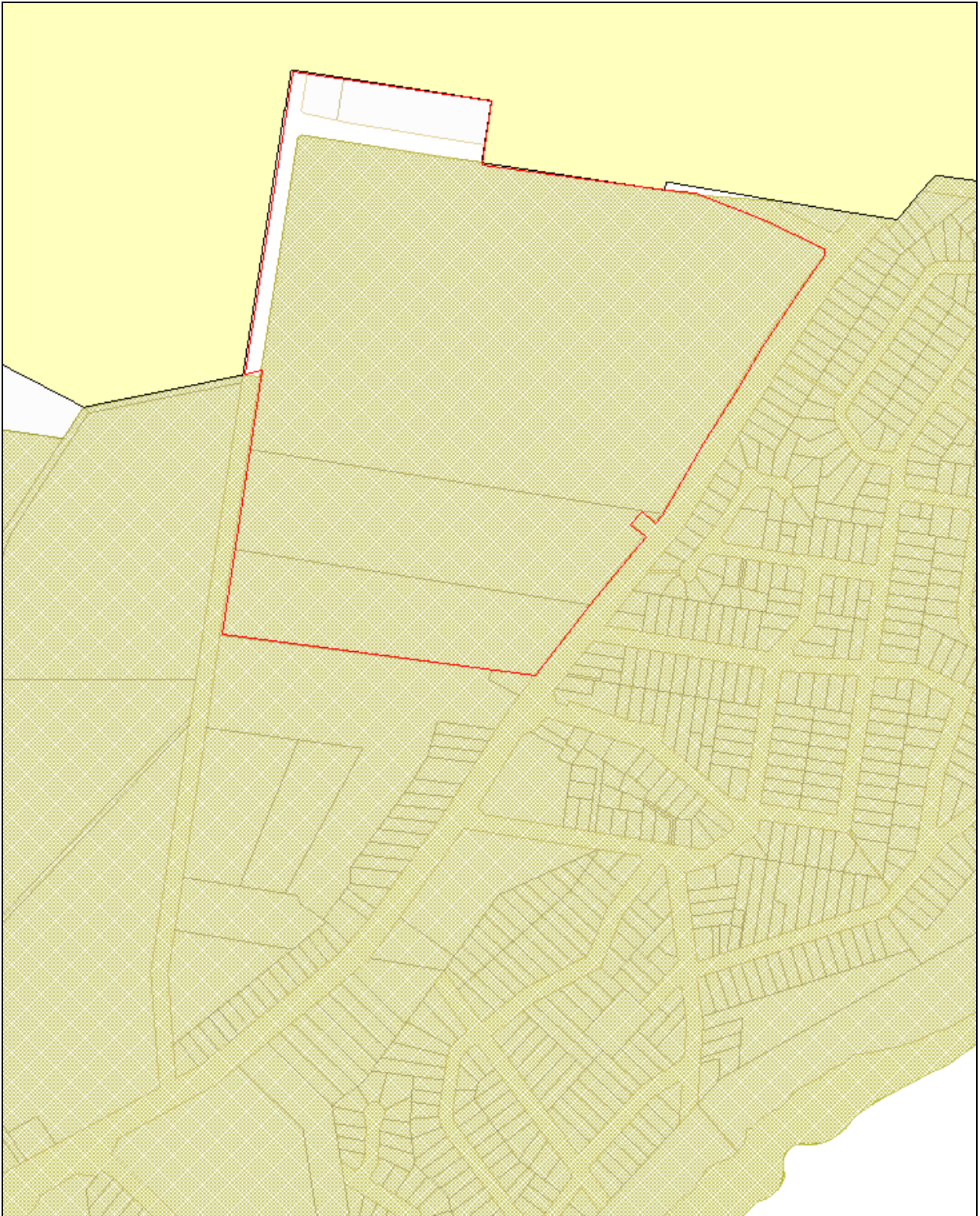
Red Hatching - Endangered Ecological Communities
Yellow Hatching - Regionally Significant Vegetation

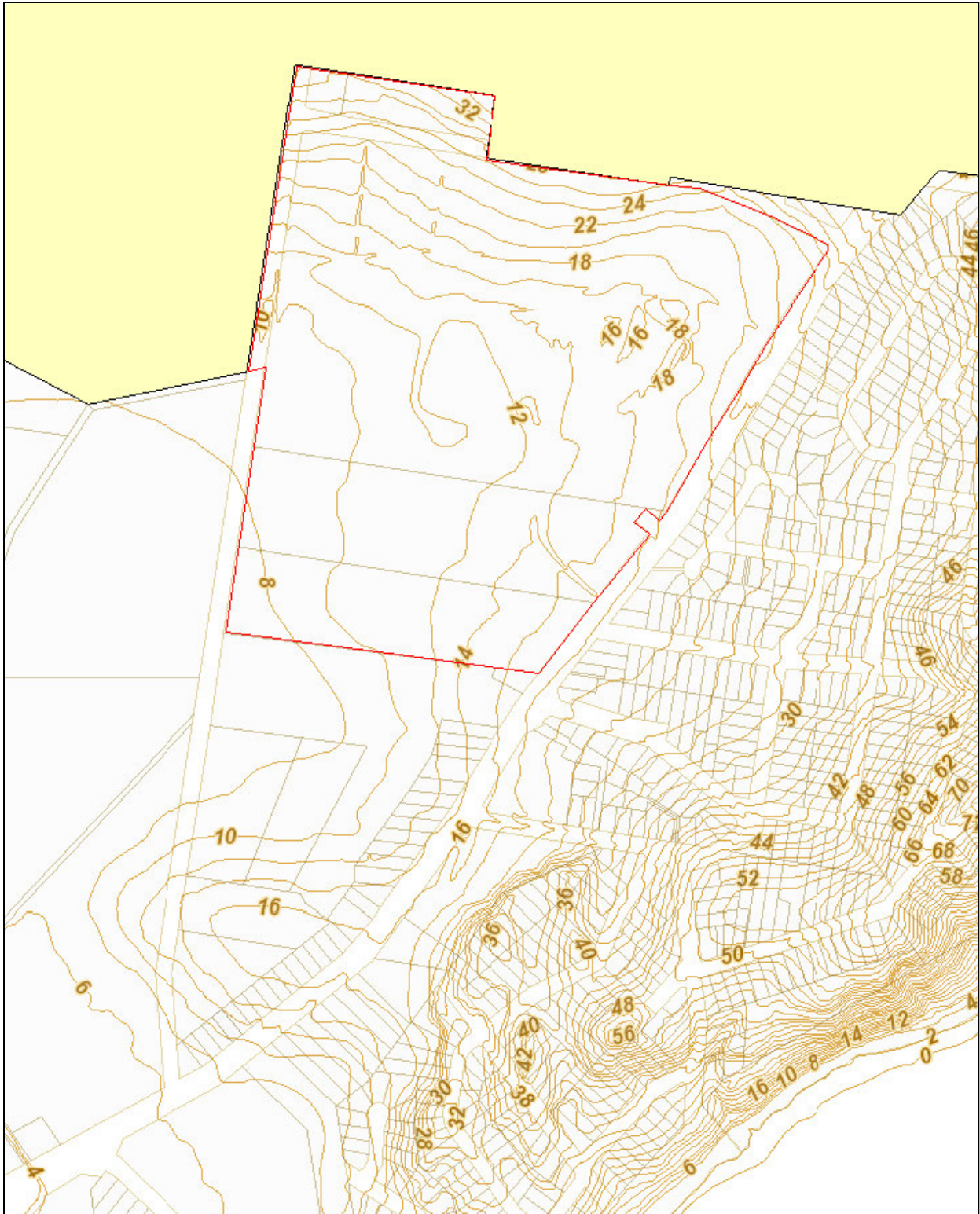
APPENDIX 7 - Wamberal Lagoon Catchment

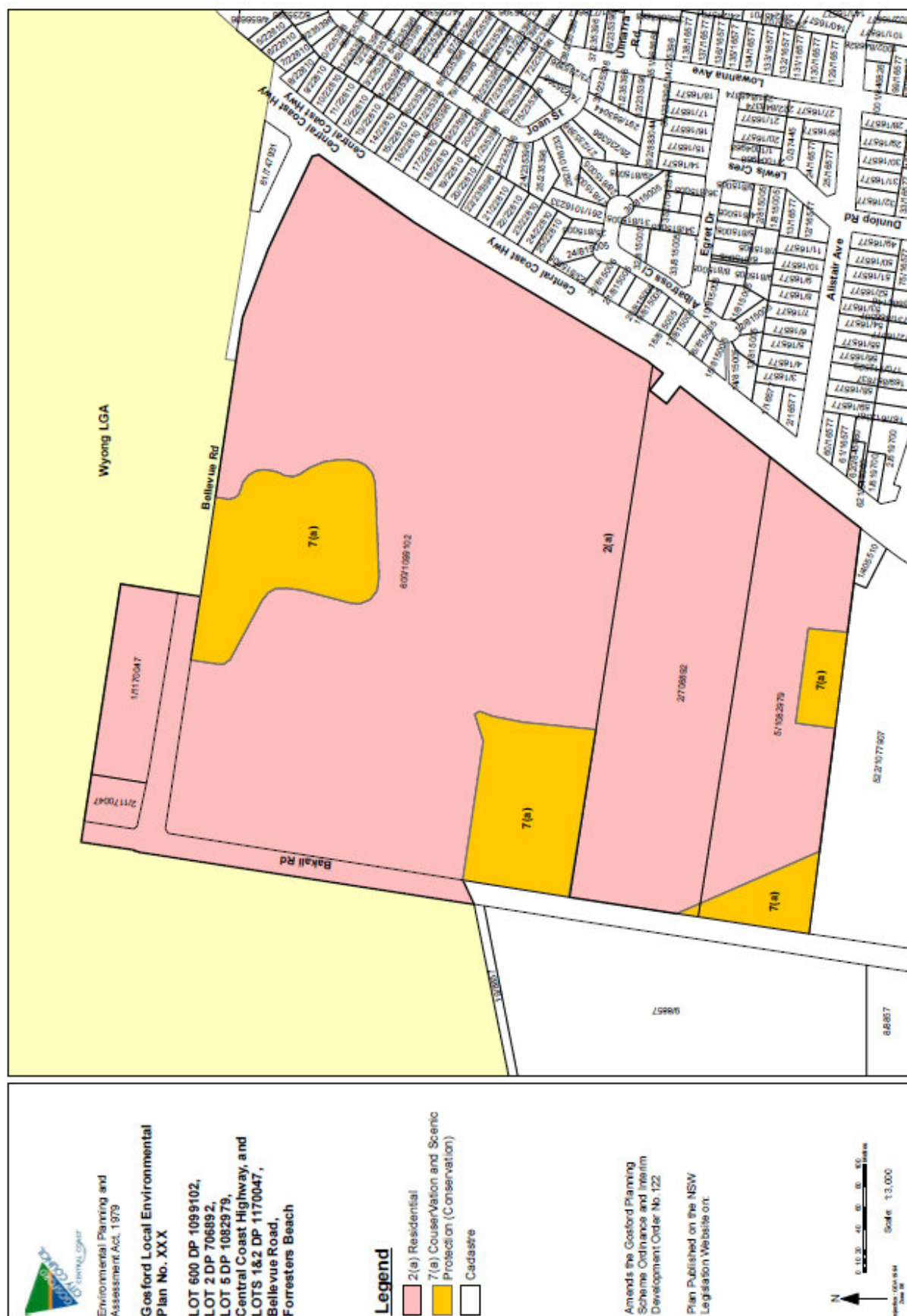


APPENDIX 8 - Bushfire Hazard

Orange and Yellow Shading - Vegetation
Red Shading - Buffer Area

APPENDIX 9 - SEPP 71

APPENDIX 10 - Topography (2m Contours)



APPENDIX 12

Net Community Benefit

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)?

Yes. The Planning Proposal is generally compatible with the Central Coast Regional Strategy in that it represents an opportunity to review zones on the urban fringe at Forresters Beach in accordance with the Central Coast Regional Strategy (CCRS). It is adjacent to a strategic bus corridor identified in the CCRS.

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. Although not located within a regional city or strategic centre, the subject site is adjacent to a strategic bus corridor identified within the Central Coast Regional Strategy.

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

Yes. The Planning Proposal if it proceeded may create a precedent and alter the expectations of other landholders in the area, especially those owners of the 7(c2) zoned land on the southern part of the area bounded by the Central Coast Highway, Bakali Road and Bellevue Road.

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

Yes. Should this Planning Proposal proceed as submitted other landowners in the vicinity would likely submit Planning Proposals for their lots as they are within the same precinct and would have similar issues to address.

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

No. Although the Planning Proposal would facilitate employment during construction, it will neither result in a loss of employment lands nor create employment generating activities.

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

Yes. The Planning Proposal will increase the supply of residential land in an established urban area and is close to a main access route to employment and services.

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. The existing road and utility infrastructure is capable of servicing the proposed residential site provided intersections with the Central Coast Highway are designed for, and the utilities are augmented to cater for, the additional population. The site is accessible for pedestrian and cyclists. Frequent public bus transport is available to the subject site.

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 Planning Proposal is not a "greenfield" subdivision located remote from existing urban areas. It is located directly adjacent to the existing urban footprint. Therefore car distances travelled will be no farther from places of employment and services than from the existing residential areas of Forresters Beach. Due to the location of the subject site adjacent to a main road, no adverse impact will occur on greenhouse gas emissions, operating costs and road safety.

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. Should the development proceed, the proponent will have to upgrade any infrastructure as required.

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. However, the land accommodates an Endangered Ecological Community under the *Threatened Species Conservation Act*. Such a vegetative community has been protected under the development consent and is further preserved by being zoned 7(a).

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?

Yes. The Planning Proposal will be compatible with surrounding land uses to the east and north as this land is already zoned for urban land uses. It is also compatible with existing uses or approved uses on the site. Hence there will be no adverse impact on the amenity of the locality. The public domain will increase as public open space areas are required to be provided as part of any residential subdivision. The additional housing provided as a result of the Planning Proposal may benefit the businesses in the local shopping centre on the corner of Central Coast Highway and Forresters Beach Road.

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 residential zone and does not have the potential to develop into a centre.

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 additional land to be used for low density housing proximate to an existing urban area. The implication of not proceeding with this Planning Proposal now is that it will be delayed until the broader, previously identified urban fringe study is undertaken in accordance with directions from the Department of Planning and Infrastructure.

APPENDIX 13

Sustainability Criteria for New Land Release - Central Coast

1 Infrastructure Provision

Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.

The subject site is capable of being connected to reticulated water supply, sewerage services, and electricity and telecommunication infrastructure. The site adjoins a main road which provides regular and frequent public bus transport and allows efficient private vehicular access to centres and facilities. Development Control Plan (DCP) No. 112 - Residential Subdivision requires public open space to be provided at the rate of 2.83ha per 1000 people.

Should the Gateway process indicate that the Planning Proposal can proceed and the required studies support residential development, investigations should be carried out to determine whether a DCP should be prepared for the site.

2 Access

Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provide.

The subject site is located adjacent to an existing main road which provides efficient and sustainable transport options from the site to places of employment, to services and to recreational facilities.

Whilst potential traffic generation resulting from future development would not impact on the traffic efficiency of the Central Coast Highway, the effect of the additional traffic generated on the existing and potential intersections on the Central Coast Highway is relatively unknown. Hence information is required to be submitted which would enable the proper interpretation of traffic impacts on traffic efficiency, amenity and safety on the surrounding road network.

3 Housing Delivery

Provide a range of housing choices to ensure a broad population can be housed.

The proposed low density residential zone permits a range of housing ranging from dwelling houses, secondary dwellings (under SEPP Affordable Rental Housing) to seniors housing (under SEPP Housing for Seniors or People with a Disability). Hence a broad population can be accommodated under this zone.

4 Employment Lands

Provide regional/local employment opportunities to support the Central Coast's expanding role in the wider regional and NSW economies.

The Planning Proposal does not relate to the provision of employment lands.

5 Avoidance of Risk

Land use conflicts and risk to human health and life is avoided.

The Planning Proposal does not present a land use conflict with adjoining land to the east as this land is already developed for low density residential uses. There is the possibility of land use conflict with wetlands to the west and Wamberal Lagoon if the site is

developed without knowing the parameters relating to flooding, overland flow and groundwater characteristics. These issues need to be addressed prior to progression of the Planning Proposal. Risk to human health and life will be avoided by developing the site in accordance with Planning for Bushfire Protection 2006 and in accordance with flood management requirements.

6 Natural Resources

Natural resource limits not exceeded / environmental footprint minimised

The existing natural resource on the subject site is an endangered ecological community and a threatened species on Lot 600 DP 1099102 which have been protected within the development consent applying to the land and within the proposed 7(a) zone.

The environmental footprint will only be minimised if the parameters relating to flooding, overland flow and groundwater characteristics are known. These issues need to be addressed prior to progression of the Planning Proposal.

7 Environmental Protection

Protect and enhance biodiversity, air quality, heritage and waterway health.

The retention of the endangered ecological community and threatened species on Lot 600 DP 1099102 will protect biodiversity and waterway health. The retention of this vegetation will enable nutrients to be taken out of site runoff via a natural filtration system prior to release into the Wamberal Lagoon Catchment. Maintaining this existing vegetation will also serve to protect air quality. There are no items of environmental heritage on the subject land.

8 Quality and Equity in Services

Quality health, education, legal, recreational, cultural and community development and other government services are accessible.

The subject site is on a main road, which provides access to a number of centres (eg Terrigal, Erina and Gosford) where an extensive range of health, education, legal, government, recreational, cultural and community services are available.