

TITLE PLANNING PROPOSAL S55 EP&A ACT TO REZONE L194 DP1976, FROM E3 ENV. MANAGEMENT TO SP2-INFRASTRUCTURE (ELECTRICITY SUPPLY) & L195 DP659566 125 WILLOUGHBY RD FROM E3-ENV. MANAGEMENT TO R2-LOW DENSITY RESIDENTIAL. APPLICANT:DOUG SNEDDON PLANNING (IR14808667)

Department: Governance & Planning
Service Unit: Sustainable Corporate & City Planning

The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

“A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site”, i.e. a Planning Proposal. The object of Section 147 is to require the disclosure by a person of relevant political donations or gifts when a relevant planning application is made to Council per s147(4).

No disclosure was made by the applicant.

EXECUTIVE SUMMARY

The subject land, Lot 194 DP 1976 and Lot 195 DP 659566, 125 Willoughby Road, Terrigal is currently zoned E3 Environmental Management. The Planning Proposal seeks to rezone Lot 194 DP 1976 to SP2 Infrastructure (Electricity Supply) and Lot 195 DP 659566 to R2 Low Density Residential as it is surplus to Ausgrid's requirements. This will entail making corresponding amendments to the Height of Building Map (i.e. 8.5m), Floor Space Ratio Map (0.5:1), Lot Size Map (i.e. 550m²) for the proposed R2 zone and removing the maximum building height and minimum lot size from Lot 194 DP 1976 so that no height, FSR or minimum lot size apply to this lot. These LEP conditions are in keeping with other lots zoned SP2 Infrastructure under Gosford LEP 2014.

Lot 195 DP 659566 is predominantly cleared with mature vegetation around the boundary of the site, some of which is shown on Council's mapping as being the Endangered Ecological Community E5a – Alluvial Bluegum – Paperbark Forest to the south and E6ai – Coastal Narrabeen Moist Forest to the north. Council's Environment Officer has advised that as these communities are located at the very edges of this lot retention of this vegetation or any potential individual tree removal can be dealt with at the development assessment stage.

Lot 194 DP 1976 has a recently constructed electricity substation over part of the lot (DA 31129) and the vegetation to the west of the substation, which contains the threatened species *Melaleuca biconvex*, is retained and protected as part of the DA consent. The applicant proposes to access the proposed R2 Low Density Residentially zoned land to the east of the substation via the existing 'lay-by' access to the Wamberal Zone Substation from Willoughby Road in order to ensure the vegetation to the west of the substation continues to be protected. Due to unacceptable sight lines for traffic approaching along Willoughby Road, it is recommended the applicant carry out a Traffic and Access study to ensure that the issue of suitable access to the site for the proposed development is resolved prior to public exhibition.

The Planning Proposal is considered to have a strategic basis as the land proposed to be zoned R2 Low Density Residential is located within the existing urban footprint, it is able to be serviced

and the proposed R2 zoning is consistent with adjoining residential land to the east and west. The proposed SP2 Infrastructure zone reflects the use of Lot 194 DP 1976 as an electricity substation and reinforces its ongoing use as such.

BACKGROUND

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

Application Received: 18 November 2013

Environmental Planning Instrument – Current Zone: Gosford Local Environmental Plan 2014 – E3 Environmental Management

Area:	Lot 194 DP 1976	1.425 ha
	Lot 195 DP 659566	1.075ha
	Total Area	2.5ha

Map:



Recommendation: for support

Landuse History:

Prior to Gosford LEP 2014 being made by the Minister {for the now 'Department of Planning and Environment (DP&E)} Lot 194 DP 1976, 125 Willoughby Road, Terrigal was zoned 5(a) Special Use zoning under Gosford Interim Development Order No 122 and Lot 195 DP 659566 was zoned part 5(a) Special Use and part 7(c2) under Gosford Interim Development Order No 122.

An electricity substation was recently developed on part of Lot 194 DP 1976. This is a major infrastructure site which Ausgrid state will continue to be operated by them in the long term. When the Draft Gosford LEP was exhibited in 2010, the Applicant made a submission requesting that Lot 194 DP 1976 be zoned SP2 Infrastructure and Lot 195 DP 659566 be zoned R2 Low Density Residential as it is surplus to their requirements.

Notwithstanding that Draft Gosford LEP started preparation as a 'comprehensive' LEP based upon certain strategic investigations and strategies, it was considered by the Department at the Section 65 certificate (application to exhibit) stage to be *predominantly* a "conversion" LEP. Departmental Practice Note *PN 08-002 Zoning for Infrastructure in LEPs* states: "*Special use zones are not required in LEPs to permit infrastructure that is already permitted on all land.*" Hence Gosford LEP 2014 zoned both subject lots to E3 Environmental Management.

Overview of Applicant's Submission:

The applicant's submission states that the application has been prepared on behalf of Ausgrid to recognise the location of the existing Wamberal Zone Substation on Lot 194 DP 1976 and to identify Lot 195 DP 659566 as an "urban fringe area" that is capable of providing a range of residential accommodation to assist in meeting the increased demand for dwellings to accommodate population growth identified in the Central Coast Regional Strategy.

The Planning Proposal proposes to rezone Lot 194 DP 1976 to SP2 Infrastructure (Electricity Supply) and to rezone Lot 195 DP 639566 to R2 Low Density Residential from E3 Environmental Management as it is surplus to Ausgrid's requirements. For Lot 195 DP 639506 it proposes a maximum building height of 8.5m, a maximum permissible floor space ratio of 0.5:1 and a minimum lot size of 550m².

The Applicant proposes that the maximum height of 8.5m and minimum lot size of 20,000m² which currently applies in the E3 Environmental Management zone, be removed from Lot 194 DP 1976 and that no height, FSR or minimum lot size apply as this lot has been developed for electricity infrastructure purposes, a use which will continue into the longer term.

The Applicant argues that Lot 195 DP 659566 is suitable for low density residential development for the following reasons:

- Topography - the lot is gently sloping with a north facing orientation and as demonstrated by adjacent low density residential development there are no topographical constraints for development for this purpose.
- Flooding and Drainage - The land is not subject to any flooding or any drainage constraints. It is argued that development of the land can occur in a manner which will not adversely impact waterway health or impact on air quality. Various erosion and sedimentation control and stormwater management and nutrient control measures can be employed to protect the environment of Terrigal Lagoon from any potential adverse of-site impacts associated with the development of the precinct for residential

purposes. It is stated that the land is outside of areas mapped by Council as likely to be affected by potential sea level rises resulting from climate change.

- Flora and Fauna – the applicant argues that Lot 195 is largely cleared of vegetation and does not exhibit any ecological values which prevent it from being rezoned to R2 Low Density Residential. The applicant states that environmental values of remnant vegetation along property boundaries within Lot 195 and any need for its retention as part of future residential development can be addressed at the development application stage. No part of the precinct is located within Council's Coastal Open Space System.
- Bushfire Hazard – the applicant states that the site is mapped as Bushfire Prone Land, mainly vegetation buffer with the predominant bushfire hazard being located within the bushland vegetation occurring to the north and south of the site. It is argued that this classification does not constrain the residential zoning of the site as Asset Protection Zones (APZs) and other protection measures could be employed in conjunction with future residential development to address any potential bushfire hazard. Further a detailed Bushfire Hazard Assessment Report would be required to be prepared pursuant to the provisions of "Planning for Bushfire Protection" (NSW Rural Fire Service, 2006) to accompany any future development application for residential development within Lot 195.

The applicant argues that development within the locality is characterised by a mixture of predominantly low density residential use, with some minor rural-residential areas separating the surrounding residential estates. Low lying areas to the north of Willoughby Road are occupied by the Golf Club. Local and regional shopping centres, schools and other community infrastructure are all in close proximity to the subject land. As a result of existing urban uses in the locality, the development of Lot 195 DP 659566 for low density residential purposes would not have any adverse impacts on, or consequences for the settlement pattern within the locality or Gosford City generally.

Further, the implications of not proceeding with the rezoning at this time would be to lose the opportunity to provide additional housing supply and benefit from the economic multipliers associated with construction on the site.

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

'Gateway' planning process

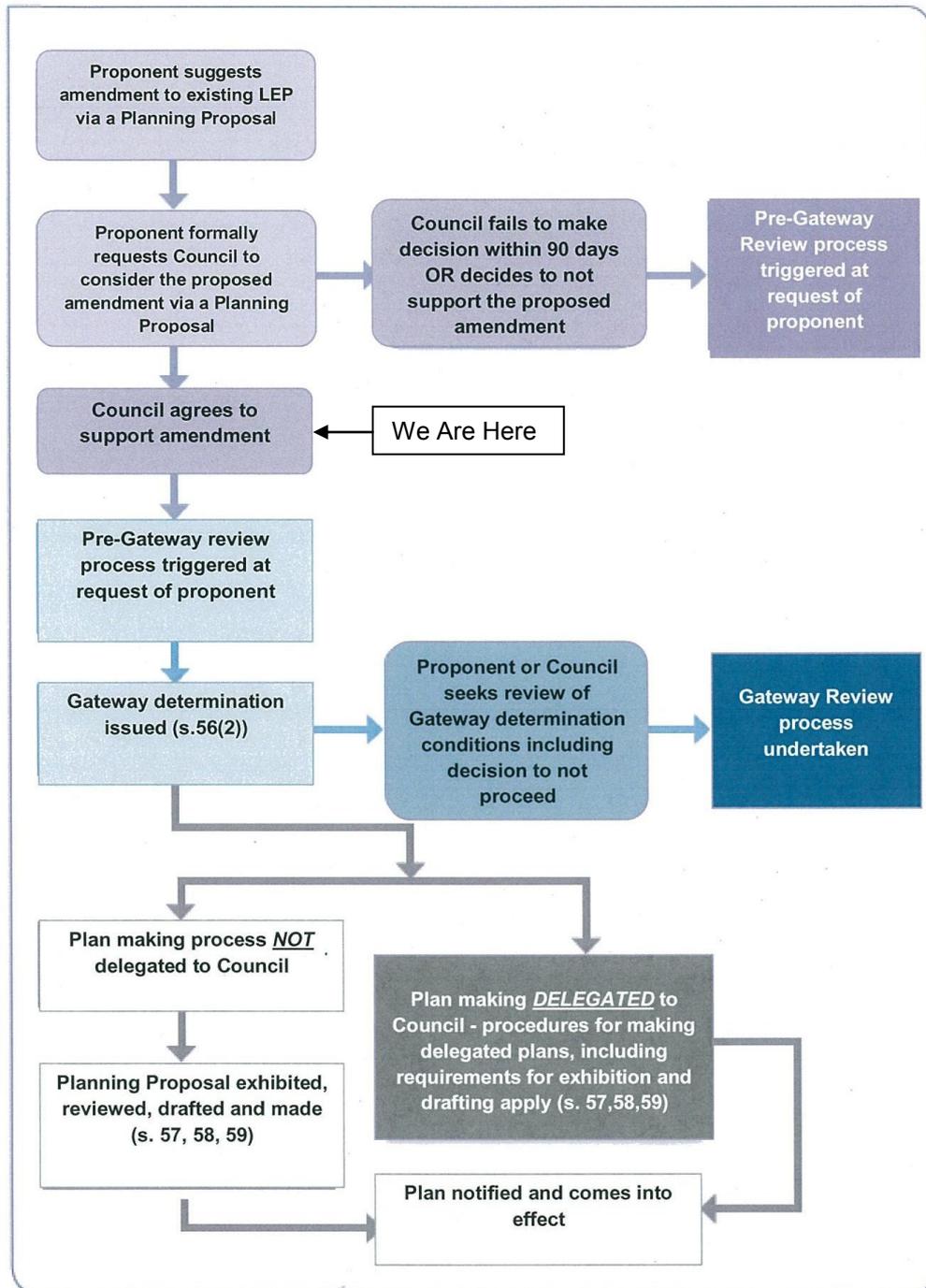
A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls.

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

The aim of the Gateway planning process is to enable early consideration by the DP&E and if supported then early public consultation. The Gateway process ensures that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. The Gateway therefore acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

Certain plan making functions may be delegated by DP&E to Council (see Planning Circular PS12-006).

LEP plan making process



PLANNING PROPOSAL GOSFORD CITY COUNCIL TO REZONE LOT 194 DP 1976, FROM E3 ENVIRONMENTAL MANAGEMENT TO SP2 – INFRASTRUCTURE (ELECTRICITY SUPPLY) AND LOT 195 DP 659566, 125 WILLOUGHBY ROAD FROM E3 – ENVIRONMENTAL MANAGEMENT TO R2 – LOW DENSITY RESIDENTIAL

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 Environment's (DP&E) *A Guide to Preparing Planning Proposals* and *Guide to Preparing Local Environmental Plans*.

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

Part 1 Objectives or Intended Outcomes

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 reflect the existence of Ausgrid's Wamberal Zone Substation on Lot 194 DP 1976 in LEP 2014 and to enable the development of Lot 195 DP 659566, No 125 Willoughby Road, Terrigal, for low density residential purposes.

Following development of the Wamberal Zone Substation on Lot 194 DP 1976, Lot 195 DP 659566 is now surplus to the requirements of Ausgrid.

Part 2 Explanation of Provisions

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

The objectives/intended outcomes are to be achieved by amending the following maps under Gosford LEP 2014 as they relate to Lots 194 DP 1976 and Lot 195 DP 659566, 125 Willoughby Road, Terrigal as follows:

Land Zoning Map (LZN_017B)

- Include Lot 195 DP 659566 in R2 Low Density Residential Zone
- Include Lot 194 DP 1976 in SP2 Infrastructure - (Electricity Supply)

Floor Space Ratio Map (FSR_017B)

- Include Lot 195 DP 659566 in area D (FSR of 0.5:1)

Height of Building Map (HOB_017B)

- Include Lot 195 DP 659566 in area I (Height of 8.5m)
- Delete the maximum height of 8.5m (I) from Lot 194 DP 1976

Lot Size Map (LSZ_017B)

- Include Lot 195 DP 659566 in area K (Lot Size 550m²)
- Delete minimum Lot Size from Lot 194 DP 1976

s.55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

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

Part 3 Justification for objectives & outcomes

s.55(2)(c) The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

Section A Need for the Planning Proposal

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

The Planning Proposal is not the result of 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/intended outcomes as it proposes to rezone the land to facilitate the use of Lot 195 DP 659566 for low density residential purposes and to rezone Lot 194 DP 1976 to reflect its current and future use as a substation for electricity supply.

Section B Relationship to strategic planning framework

3 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Regional strategies include outcomes and specific actions for a range of different matters relevant to the region. In all cases the strategies include specific housing and employment targets also. The Central Coast Regional Strategy 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of housing. This Planning Proposal is consistent with the following objectives/actions contained within the Regional Strategy:

- 4.2 Councils are to provide for a mix of housing types, including housing that will accommodate an aging population and smaller household sizes through the preparation of LEPs and strategies.
- 4.5 Councils are to review their current residential development strategies, including a review of the adequacy and accuracy of existing urban boundaries and zonings in fringe areas, through the preparation of principal LEPs.
- 4.6 Land to be rezoned for housing during the life of this Strategy is to be located within existing urban areas, existing MDP (Metropolitan Development Program) areas, areas identified through the preparation of LEPs and Greenfield areas nominated in the North Wyong Shire Structure Plan.

This planning proposal seeks to contribute to the stock of single detached dwellings characteristic of the R2 zone. The proposed residential zoning of the subject land is a minor amendment to the urban boundary and therefore satisfies Action 4.5. The subject land is located adjacent to existing R2 Residentially zone, this is considered to be within an urban area in accordance with Action 4.6.

The proposed SP2 Infrastructure (Electricity Supply) reflects the recent development of Lot 194 DP 1976 for an electricity substation constructed to improve electricity supply

and reliability for the Lower Central Coast in order to meet current and future demand. This is considered to be in accordance with the following objective as it reinforces the role of the site for electricity supply.

- 9.3 Councils are to identify suitably-located and appropriately zoned land for new water supply, wastewater treatment and recycling, energy and waste avoidance, and resource recovery infrastructure, to support growth in major regional centres.

3a Does the proposal have strategic merit and is it consistent with the Regional Strategy and Metropolitan Plan, or can it otherwise demonstrate strategic merit in light of s117 Directions?

The Planning Proposal has strategic merit in that it will ensure the R2 zoning of Lot 195 DP 659566 is consistent with that of adjoining properties and the physical characteristics of the land. The SP2 zoning reflects the current and longer term use of Lot 194 DP 1976 for electricity supply. The proposal is consistent with the Central Coast Regional Strategy (see Question 3 above) and Section 117 Directions.

3b Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following: the natural environment (including known significant environmental values, resources or hazards) and the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

The proposed residential zoning for Lot 195 DP 659566 is compatible with adjoining residentially zoned land to the east and west. The proposed rezoning of Lot 194 DP 1976 to SP2 Infrastructure (Electricity Supply) reflects the current and future proposed use of the site (see also responses elsewhere in this report)

There is another planning proposal under consideration in this locality, Lot 1021 DP 1054632 Wycombe Road, Terrigal. It is proposed to zone this lot from 7(c2) Conservation and Scenic Protection (Rural Small Holdings) under The Gosford Interim Development Order NO 122 to R2 Low Density Residential under Gosford LEP 2014. Between this lot and the subject land are three (3) lots currently zoned 7(c2), namely Lots 1022 and 1023 DP 1054632 and Lot 5 DP 207799. Should these subject planning proposals proceed it is possible that a precedent be created for the remaining three (3) 7(c2) zoned properties on the eastern side of Wycombe Road to seek a residential zone in future. Should the owners of these lots wish to rezone their properties they are able to submit an application and undertake the necessary studies. The subject Planning Proposal should not be delayed awaiting the submission of these applications which may or may not be forthcoming given the level of capital investment and Endangered Ecological Communities (EECs) on the land.

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

Community Strategic Plan – Gosford 2025

The *Community Strategic Plan – Gosford 2025* has the following strategies applicable to the subject planning proposal.

A3.4 Increase the availability of appropriate housing

B6.3 Plan for population growth within existing developed footprint

D4.1 Implement good practice in planning for infrastructure

The Planning Proposal is consistent with these strategies because the proposed R2 zone increases the availability of housing and the subject land is generally located within the existing developed footprint. The proposed SP2 Infrastructure zone will reinforce and support the current and proposed future use of Lot 194 DP 1976 for electricity supply.

Biodiversity Strategy

The following action from the biodiversity strategy is applicable to the Planning Proposal

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

The Planning Proposal is consistent with this action as it proposes to zone land for residential purposes generally within the existing urban footprint. Lot 195 DP 659566 is predominantly cleared and any vegetation around the edges of the site can be addressed at the development assessment stage. The threatened flora species *Melaleuca Bioconvexa* on the western portion of Lot 194 DP 1976 was required to be retained as part of the development of the substation.

Residential Strategy

The Residential Strategy has the following action applicable to this Planning Proposal:

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

The Planning Proposal is an example of urban consolidation as it seeks to rezone a vacant predominantly cleared site to the residential zone applying to lots to the east and west of the site.

Draft Residential Strategy

Under the draft Residential Strategy, the applicable objectives, goals and actions are:

- Objective – ensure adequate supply of land and sites for residential development
- Goal – locating housing supply to minimise impact of physical characteristics and infrastructure
- Action – Council ensure all rezoning applications involving a residential component maintain the existing urban footprint

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

The planning proposal will provide additional residential land on a site that is predominantly cleared and not visually prominent which is generally within the existing urban footprint. It is capable of being serviced by existing utilities and infrastructure in the locality.

The site is located in close proximity to a bus service that operates on Willoughby Road and accesses Terrigal Village Centre, Erina Fair and Gosford.

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

The following assessment is provided of the relationship of the planning proposal to relevant State Environmental Planning Policies.

(i) **SEPP 19 – Bushland in Urban Areas** – Clause 10 of State Environmental Planning Policy (SEPP 19) applies to the planning proposal. Council must take into account the following factors when undertaking an assessment:

- the need to retain any bushland on the land;
- the effect of the proposed development on bushland zoned or reserved or public open space purposes and, in particular, on the erosion of soils, the siltation of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland; and
- any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.

Lot 194 DP 1976 (electricity substation) adjoins a small area of land zoned RE1 Public Recreation currently used as a storm water detention basin. The part of Lot 194 which adjoins the area zoned recreation is subject to the development consent relating to the substation (DA 31129). The consent proposes to retain vegetation the western side of the electricity substation site (which adjoins the land zoned recreation) due to the presence of the threatened flora species *Melaleuca biconvex*. That vegetation in this area forms part of the endangered ecological community listed as River-flat Eucalypt Forest on Coastal Floodplain.

Therefore the proposal is considered to be consistent with aims and objectives of SEPP 19

(ii) **SEPP 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 applicant has not provided any information with regards to the SEPP.

“Potential Koala habitat” is defined by SEPP 44 as areas of native vegetation where the trees of the types listed in Schedule 2 of the SEPP constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. As shown below, ten tree species are currently listed in Schedule 2 as “Feed Tree Species”.

Schedule 2 Koala Feed Tree Species as per SEPP 44

Eucalyptus tereticornis Forest red gum
Eucalyptus microcorys Tallowwood
Eucalyptus punctata Grey Gum
Eucalyptus viminalis Ribbon or manna gum
Eucalyptus camaldulensis River red gum
Eucalyptus haemastoma Broad leaved scribbly gum
Eucalyptus signata Scribbly gum
Eucalyptus albens White box
Eucalyptus populnea Bimble box or poplar box
Eucalyptus robusta Swamp mahogany

The Flora and Fauna Assessment lodged as part of DA 31129 for the electricity substation on Lot 194 DP 1976 identifies one species of tree listed in Schedule 2 of SEPP 44 as occurring on the site, that being *Eucalyptus microcorys* (Tallowwood). The report states that *E. microcorys* occurs in very low numbers on the site, and no where does this species occur in densities of greater than 15% of the total tree component. This lot has already been developed for the substation with remaining vegetation on Lot 194 identified for retention in the various reports which form part of the consent for this DA.

Lot 195 DP 659566 (proposed residential) is predominantly cleared with a narrow band of vegetation around the very edges of the site. Therefore it is not considered that the site constitutes "Potential Koala Habitat" as defined by the SEPP.

(iii) **SEPP 55 – Remediation of Land – SEPP 55** lists activities that may cause contamination, including agricultural or horticultural activities. Council's aerial photographs indicate that part of the site has been cleared since 1964 and that surrounding the site was used for agricultural purposes (crops and orchards). Although it is unclear from the aerial photographs whether the subject site was used for these purposes. Much of the land nearby has been developed as a residential subdivision, so it is unlikely that the subject land is contaminated. Even so a preliminary contamination assessment should be undertaken prior to public exhibition should the Gateway support the Planning Proposal.

(iv) **SEPP 71 – Coastal Protection – SEPP 71** requires the matters set out in Clause 8 of the Policy to be taken into account when it prepares a draft Local Environmental Plan / i.e. Planning Proposal in respect to land to which the Policy applies.

The proposal to rezone Lot 195 DP 659 566 to R2 Low Density Residential does not raise any concerns in relation to the matters identified in Clause 8(a) – (p) of the Policy as the subject land is not beachfront/foreshore land and is not scenically prominent. The lot is predominantly cleared of vegetation and the bulk and scale of any development resulting from a R2 Low Density Residential zone is similar to surrounding development, details of which can be addressed at the development assessment stage.

Lot 194 DP 1976 has recently been developed for use as an electricity substation so the proposed rezoning to SP2 Infrastructure reflects the current and proposed use of the land.

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

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

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

(i) **Direction 2.1 – Environment Protection Zones:** Clause 4 of this Direction requires a planning proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas.

Lot 195 DP 659566 which is proposed for R2 Low Density Residential development as part of this planning proposal is predominantly cleared. Council's Environment Officer has advised that as this vegetation is located at the very edges of this lot, retention of this vegetation or any potential individual tree removal can be dealt with at the development assessment stage.

Lot 194 DP 1976 which is proposed to be zoned SP2 Infrastructure (Electricity Supply) has already been developed with the constructed electricity substation located on part of the site, vegetation on the western side of the site was retained and protected as part of the substation consent. The proposed zoning for this site reflects the current use of the site (see response to Question 7 for more detailed response).

The Planning Proposal is therefore consistent with this Direction.

(ii) Direction 2.2 – Coastal Protection

The Planning Proposal is located within the Coastal Zone and must give effect to and be consistent with *The NSW Coastal Policy*; the *Coastal Design Guidelines*; and 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.

Lot 195 DP 659566 which is proposed to be zoned R2 low density residential is predominantly cleared of native vegetation and is not scenically prominent, it is essentially infill development making use of existing utilities and infrastructure and in this sense is considered ecologically sustainable.

Development of Lot 194 DP 1976 for the electricity substation required the retention and protection of existing vegetation on the site to the west of the substation building and a number of environmental measures are in place as part of the DA consent to ensure the natural environment on the site is protected.

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

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

The residential component of this planning proposal adjoins existing residential development to the east and west and is not visually prominent. It is consistent with the residential character surrounding the site and will integrate with adjoining landuses. The Planning Proposal will retain the greenbelt between the urban areas

of Terrigal and the surrounding suburbs. Matters of individual building design can be dealt with at the development application stage.

The *NSW Coastline Management Manual* has no practical application to this planning proposal as the subject land is not located within a coastal foreshore environment to which the manual principally applies.

- (iii) **Direction 2.3 – Heritage Conservation:** This direction applies when a Planning Proposal is prepared. A planning proposal must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area. This includes items, areas, objects and places of indigenous heritage significance.

The Direction has no practical application to this Planning Proposal as there are no items of European Heritage on the site and given the disturbed nature of the site it is unlikely that there are any remaining aboriginal relics if they originally existed. Additionally the Statement of Environmental Effects associated with the DA 31129 which related to Lot 194 DP 1976 for the substation stated that *“An Aboriginal archaeological investigation was undertaken in conjunction with members of the Aboriginal community. This investigation found that there were no Aboriginal cultural heritage values that would be impacted upon by the project.”*

- (iv) **Direction 3.1 Residential Zones:**

This Direction applies where a Council prepares a draft LEP that affects land within an existing or proposed residential zone.

- (4) *A planning proposal must include provisions that encourage the provision of housing that will:*
- (a) *broaden the choice of building types and locations available in the housing market, and*
 - (b) *make more efficient use of existing infrastructure and services, and*
 - (c) *reduce the consumption of land for housing and associated urban development on the urban fringe, and*
 - (d) *be of good design.*

in addition

- (5) *A planning proposal must, in relation to land to which this direction applies:*
- (a) *contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to Council, or other appropriate authority, have been made to service it), and*
 - (b) *not contain provisions which will reduce the permissible residential density of land.*

The planning proposal is consistent with this Direction. The requirements of clauses (4) and (5) of the Direction (outlined above) are to be satisfied by Council's requirement for the applicant to carry out a water and sewer systems capacity analysis for the design and full cost of any augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development for the proposed R2 Low Density Residential zoning over Lot 195 DP

659566 (subject to Gateway support). It will provide for increased housing in a location which is able to be efficiently serviced by existing infrastructure.

- (v) **Direction 3.4 Integrating Land Use and Transport:** Clause 4 of the Direction requires a planning proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for Planning and Development 2001* and *The Right Place for Businesses and Services – Planning Policy 2001*.

This planning proposal is consistent with the objective to integrate land use and transport by providing additional housing opportunities within an established urban corridor offering a choice of transport and enabling people to make fewer and shorter trips. The subject land is well served by bus transport; and is located in close proximity to local service centres, schools and recreation areas.

- (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 is classified as Rural Fire Service Bushfire Category 1 and Vegetation Buffer. Should Council support the Planning Proposal, formal consultation should be undertaken with the RFS as part of the Gateway Determination.

- (vii) **Direction 5.1 Implementation of Regional Strategies:** Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure.

The Planning Proposal is considered to be consistent with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031 as indicated in the response to Question 4 above.

- (viii) **Direction 6.1 Approval and Referral Requirements:** Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development.

This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.

- (ix) **6.3 – Site Specific Provisions:** The Planning Proposal is consistent with this Direction as it is not intended to restrict development of the subject land to a particular development proposal.

It is intended to rezone Lot 195 DP 659566 to R2 Low Density Residential to permit low density residential without imposing and land use restrictions, development standards or other requirements additional to those already contained in that zone under Gosford LEP 2014. The rezoning of Lot 194 DP 1976 reflects the recent redevelopment of the site as an electricity substation.

Section C Environmental, social and economic impact

7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

An inspection of the site confirmed that the vegetation is consistent with Bells mapping adopted by Council. Lot 195 DP 659566 which is proposed to be zoned R2 Low Density Residential is predominantly cleared as a result of previous land use. Around the boundary of the site to the north council's vegetation mapping indicates the Endangered Ecological Community E5a – Alluvial Bluegum – Paperbark Forest to the south and E6ai – Coastal Narrabeen Moist Forest to the north. Council's Environment Officer has advised that as these communities are located at the very edges of this lot retention of this vegetation or any potential individual tree removal can be dealt with at the development assessment stage.

Lot 194 DP 1976 which is proposed to be zoned SP2 Infrastructure (Electricity Supply), has a recently constructed electricity substation located on part of the site. The majority of the site which has not been developed for the substation is shown on Council's vegetation mapping as the vegetation community E6ai – Coastal Narrabeen Moist Forest. Ecological studies conducted as part of the substation approval (DA 31129) identified 30 mature individual specimens of the threatened flora species *Melaleuca biconvex* on the western portion of the substation land. The vegetation in this area forms part of the endangered ecological community listed as River-flat Eucalypt Forest on Coastal Floodplain. Council's Environment Officer has advised that given ecological constraints any access to the proposed R2 zoned land should be restricted to the east of the substation.

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

Character

Chapter 2.1 Character of the Gosford DCP 2013 identifies the subject land in Character Precinct 11 – Rural Hamlets. The desired character is:

These should remain rural-residential buffers between surrounding urban areas, where the scenically-distinctive qualities and amenity of existing secluded settings are preserved by very low density residential development plus low-impact rural activities or businesses that are associated with a dwelling.

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 in existing clearings, and using low-impact construction such as suspended floors and decks rather than extensive cut and fill, particularly on elevated slopes or near bushland.

Even though the subject land is included in the Rural Hamlet character precinct, the site proposed for residential development is bordered to the east and west by low density residential development, to the south by 3 rural residential lots and to the north / front by Lot 194 DP 1976 which has been developed as an electricity substation. It is essentially cleared, is not visually prominent, much of the bushland remnant vegetation visible from

Willoughby Road has been conserved as part of the development for the substation. Consequently any future residential scale development of Lot 195 DP 659566 will not significantly impact in the character of the area.

Should the Planning Proposal be successful and the zoning of the land altered, Gosford DCP 2013 will need to be amended to align the Character Precinct with the new zone boundaries. The subject land will be in Terrigal Character Precinct 3 – New Estates.

Scenic Quality

Chapter 2.2 Scenic Quality of Gosford DCP 2013 identifies the subject land as being within the North Coastal Geographic Unit and in the Terrigal Landscape Unit. The Terrigal Landscape Unit is of Regional Significance.

The development objectives applicable to this Planning Proposal are:

- *Opportunities for increases in densities and scale are available in areas not subject to visibility constraints or other physical constraints. Visually constrained areas include land along beach front, sand spit at Terrigal, headlands and lagoon frontages as well as along main roads within Environmental Conservation and Environmental Management/Scenic Protection zoned areas.*
- *Proposals for residential and retail/commercial rezoning 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.*

The land proposed for residential development is not visually constrained as outlined in the objective above it is predominantly cleared and is partly screened from Willoughby Road by vegetation retained as part of the development of the front lot, Lot 194 DP 1976 as an electricity substation. Due to the existing low density residential development to the east and west of the site it represents a fill-in of the gap in the existing residential zone as outlined in the objective above. The rezoning is not therefore considered to be inconsistent with the objectives of the Scenic Quality Chapter of Gosford DCP 2013 outlined above.

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

The Central Coast Regional Strategy sets a target of 2000 dwellings to be provided on infill development sites within Gosford LGA. The Planning Proposal will contribute to the supply of residential land and therefore assisting in satisfying the target. This will provide social benefits to the community in the form of additional low density housing in a highly accessible location and economic multipliers in the form of construction employment and enhanced demand by residents for services and amenities provided in local/regional centres.

Section D State and Commonwealth interests

10 Is there adequate public infrastructure for the Planning Proposal?

Existing infrastructure in the form of reticulated water, sewerage, gas, telephone and electricity are available in the locality to service future residential development on the land.

Water and Sewer

Council's Water and Sewer section raised no objections subject to the applicant being responsible for undertaking a water and sewer systems capacity analysis for the design and full cost of any augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development. In addition, augmentation works may need to be completed before Council could allow the connection of the development to the water supply and sewerage systems. Payment of the current water and sewer headworks and augmentation contributions would need to occur in accordance with Council's policy. The applicant shall be responsible for the design and construction of water supply and sewerage works required to connect the proposed rezoned land to Council's existing water supply and sewerage systems. The water and sewer designs must be submitted to Council for approval and shall be in accordance with Council's water and sewer design standards.

Traffic and Transport

The site is readily accessible by the regional road system and is well served by public transport, with a frequent bus service to major centres including Terrigal, Erina and Gosford City Centre, providing connections to schools, retail facilities, community and medical centres and the rail system for interregional connections.

Lot 195 DP 659566 has no direct access to Willoughby Road and the applicant has advised that it is proposed that access would be provided across Lot 194 DP 1976 via the existing "lay-by" access to the Wamberal Zone Substation from Willoughby Road.

Council's Environment Officer has advised that given the ecological constraints and conditions of consent relating to the approval of the substation, access should be restricted to the east of the substation. This is consistent with the applicant's proposal.

A site inspection reveals that access to the current "lay-by access" driveway point has limited unacceptable sight lines for traffic approaching along Willoughby Road from the south (also for Ausgrid vehicles exiting the site and turning right into Willoughby Road) in the current lay-by location.

The planning proposal can only be supported if available recommended stopping sight lines along Willoughby Road can be met or alternate suitable access to the site is identified. Available stopping sight distances would have to meet *Guide to Road Design Safe Intersection Sight Distances* (Ausroads Guide To Road Design 2010) (for example for a 50km/h speed environment then a sight distance of 90 metres would be required for traffic entering and exiting any new road).

From an inspection of the site it appears that an increase in available sight distances could be achieved by reengineering the current "lay-by" driveway to intersect Willoughby Road at 90 degrees and maximise available sight distances along both directions along Willoughby Road.

Should the planning proposal be supported by Council it is recommended that a Traffic Study be undertaken by the applicant to identify site access and determine whether sight distances are able to meet the required guidelines. This should be provided by the applicant prior to public exhibition.

Recreation

A small public park, Wycombe Road Playground is located in close proximity to the subject site. This piece of recreational infrastructure would be available and accessible for future residents.

11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?

No consultations have yet been undertaken with State and Commonwealth agencies as the gateway determination has not yet been issued.

Part 4 Mapping

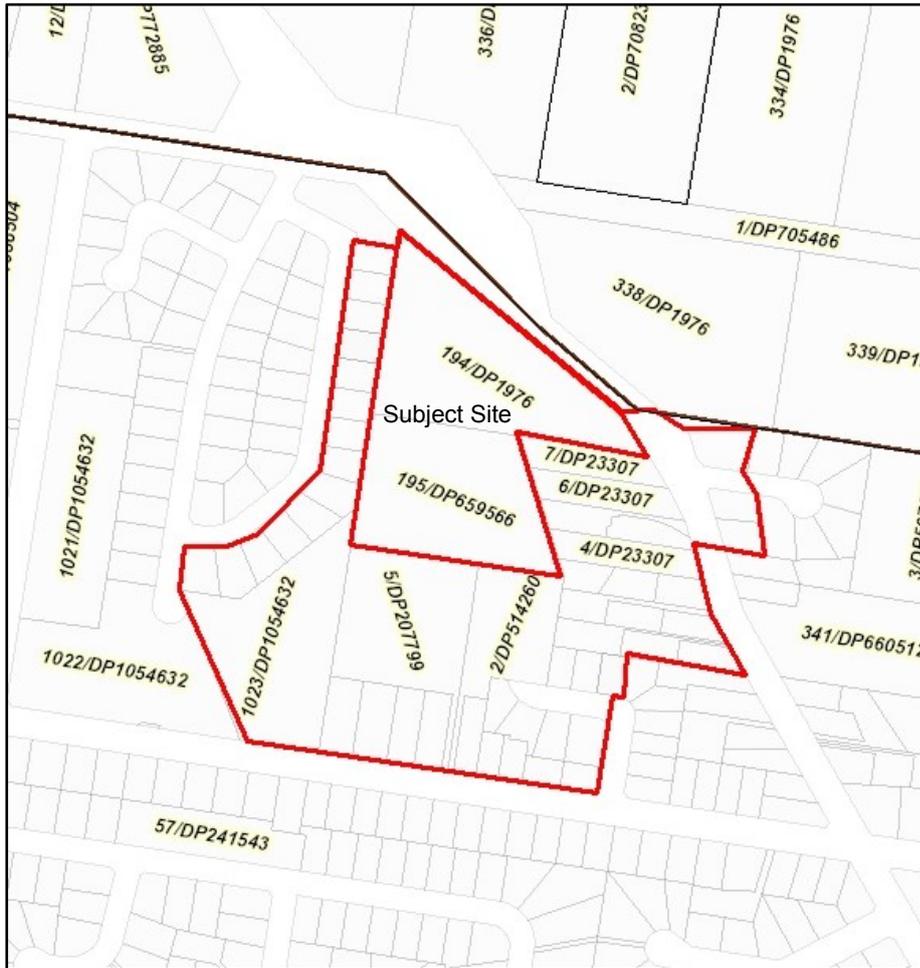
S55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land - a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.

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

Part 5 Community Consultation

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 (see map below).



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, Lot 194 DP 1976 and Lot 195 DP 659566, 125 Willoughby Road, Terrigal is currently zoned E3 Environmental Management. The Planning Proposal seeks to rezone Lot 194 DP 1976 to SP2 Infrastructure (Electricity Supply) and Lot 195 DP 659566 to R2 Low Density Residential as it is surplus to Ausgrid's requirements. This will entail making corresponding amendments to the Height of Building Map (i.e. 8.5m), Floor Space Ratio Map (0.5:1), Lot Size Map (i.e. 550m²) for the proposed R2 zone and removing the maximum building height and minimum lot size from Lot 194 DP 1976 so that no height, FSR or minimum

lot size apply to this lot. This is in keeping with other lots zoned SP2 Infrastructure under Gosford LEP 2014.

Lot 195 DP 659566 is predominantly cleared with mature vegetation around the boundary of the site, some of which is shown on Council's mapping as being the Endangered Ecological Community E5a – Alluvial Bluegum – Paperbark Forest to the south and E6ai – Coastal Narrabeen Moist Forest to the north. Council's Environment Officer has advised that as these communities are located at the very edges of this lot retention of this vegetation or any potential individual tree removal can be dealt with at the development assessment stage.

Lot 194 DP 1976 has a recently constructed electricity substation over part of the lot (DA 31129) the vegetation to the west of the substation which contains the threatened species *Melaleuca biconvex* is retained and protected as part of the DA consent. The Applicant proposes to access the proposed R2 residentially zoned land to the east of the substation via the existing 'lay-by' access to the Wamberal Zone Substation from Willoughby Road in order to ensure the vegetation to the west of the substation continues to be protected. Due to unacceptable sight lines for traffic approaching along Willoughby Road it is recommended the Applicant carry out a Traffic and Access study to ensure that the issue of suitable access to the site is resolved prior to public exhibition.

As it is unclear whether the land was used for horticultural purposes in the past it is recommended that a preliminary contamination assessment be undertaken subject to a Gateway Determination.

The Planning Proposal is considered to have a strategic basis as the land proposed to be zoned R2 Low Density Residential is located within the existing urban footprint, it is able to be serviced and the proposed R2 zoning is consistent with adjoining residential land to the east and west. The proposed SP2 Infrastructure zone reflects the use of Lot 194 DP 1976 as an electricity substation and reinforces its ongoing use as such.

Should Council wish to reconsider the matter after public exhibition where no submissions objecting to the matter have been received, Part C of the recommendation should be amended to include the words: "After public exhibition of the Planning Proposal a report is referred to Council on the matter."

FINANCIAL IMPACT STATEMENT

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

Attachments: Planning Proposal Mapping

Tabled Items: Nil

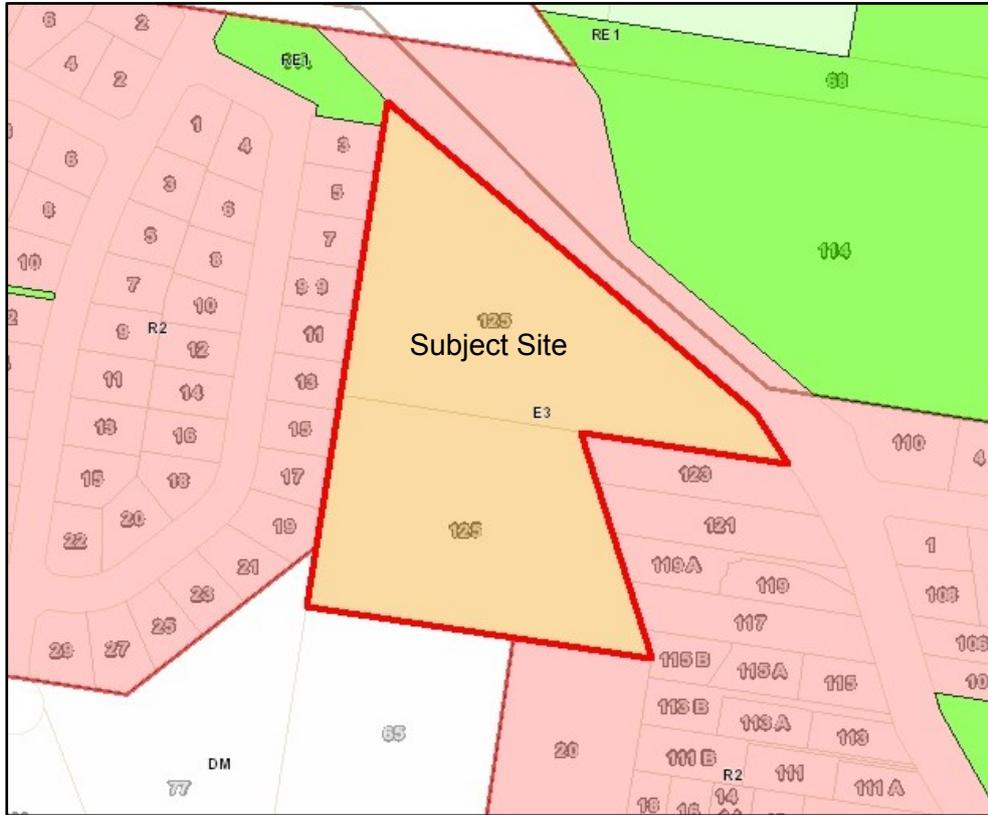
RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal as outlined in this report for zoning Lot 194 DP 1976, 125 Willoughby Road Terrigal to SP2 Infrastructure (Electricity Supply) and Lot 195, DP 659566, 125 Willoughby Road Terrigal to R2 Low Density Residential.

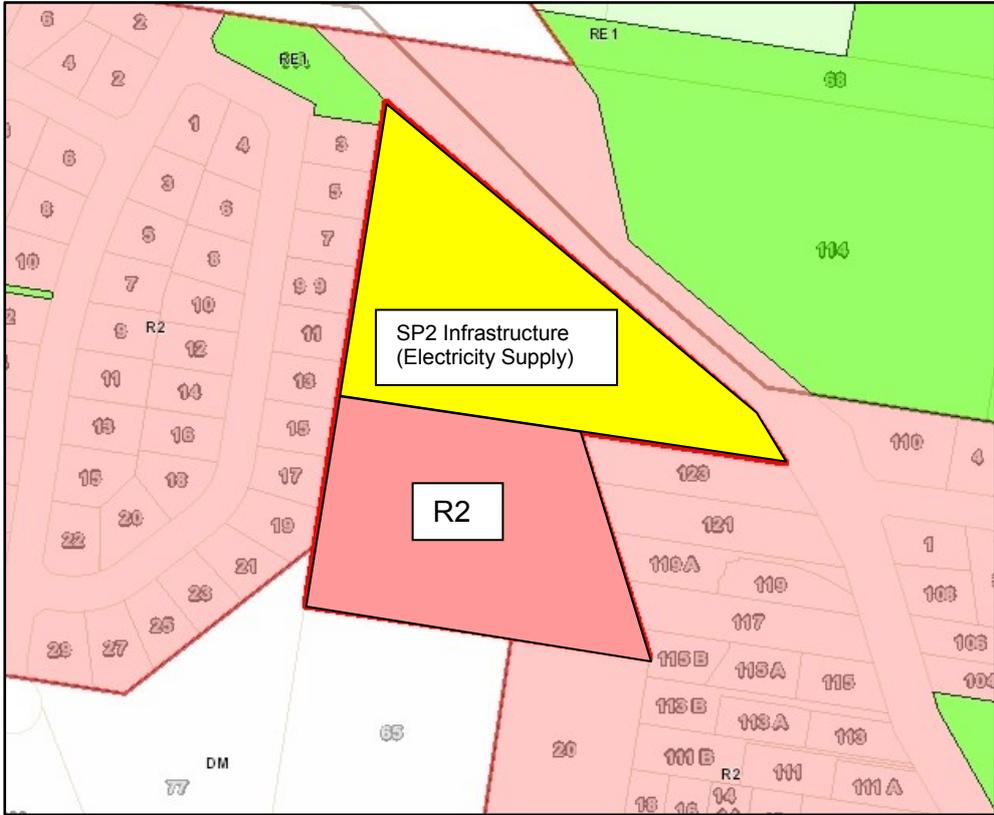
- B Council notify the Department of Planning and Infrastructure of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- C Council requests that the Gateway determination include a requirement to undertake the following studies, which Council will require the applicant to carry out;
- A preliminary contamination assessment
 - A Traffic and Access Study
 - A Water and Sewer Systems Capacity Analysis for the design and full cost of any augmentation to both water supply and sewerage reticulation systems required as a result of extra loading from proposed development resulting from the Planning Proposal
- D After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, if no submissions objecting to the planning proposal are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.
- E The applicant be advised of Council's resolution.
- F Council seeks delegations from the Department of Planning and Infrastructure for this Planning Proposal.
- 1 Upon Council receipt of the Department of Planning & Infrastructure's intention to issue delegation, Council will submit to the Department of Planning & Infrastructure a "Written Authorisation to Exercise Delegation" for the same
 - 2 Any delegation to Council is to be delegated to the Chief Executive Officer - Paul Anderson, per s381 of the *Local Government Act 1993*, who will complete the "Authorisation" on behalf of Council and submit to the Department of Planning & Infrastructure.
- G The boundary of the Character Precincts within Chapter 2.1 of Gosford DCP 2013 be amended to reflect the proposed R2 Low Density Residential zone. The amended Character Precinct map for Terrigal be exhibited with the Planning Proposal.

ATTACHMENT – Planning Proposal Mapping

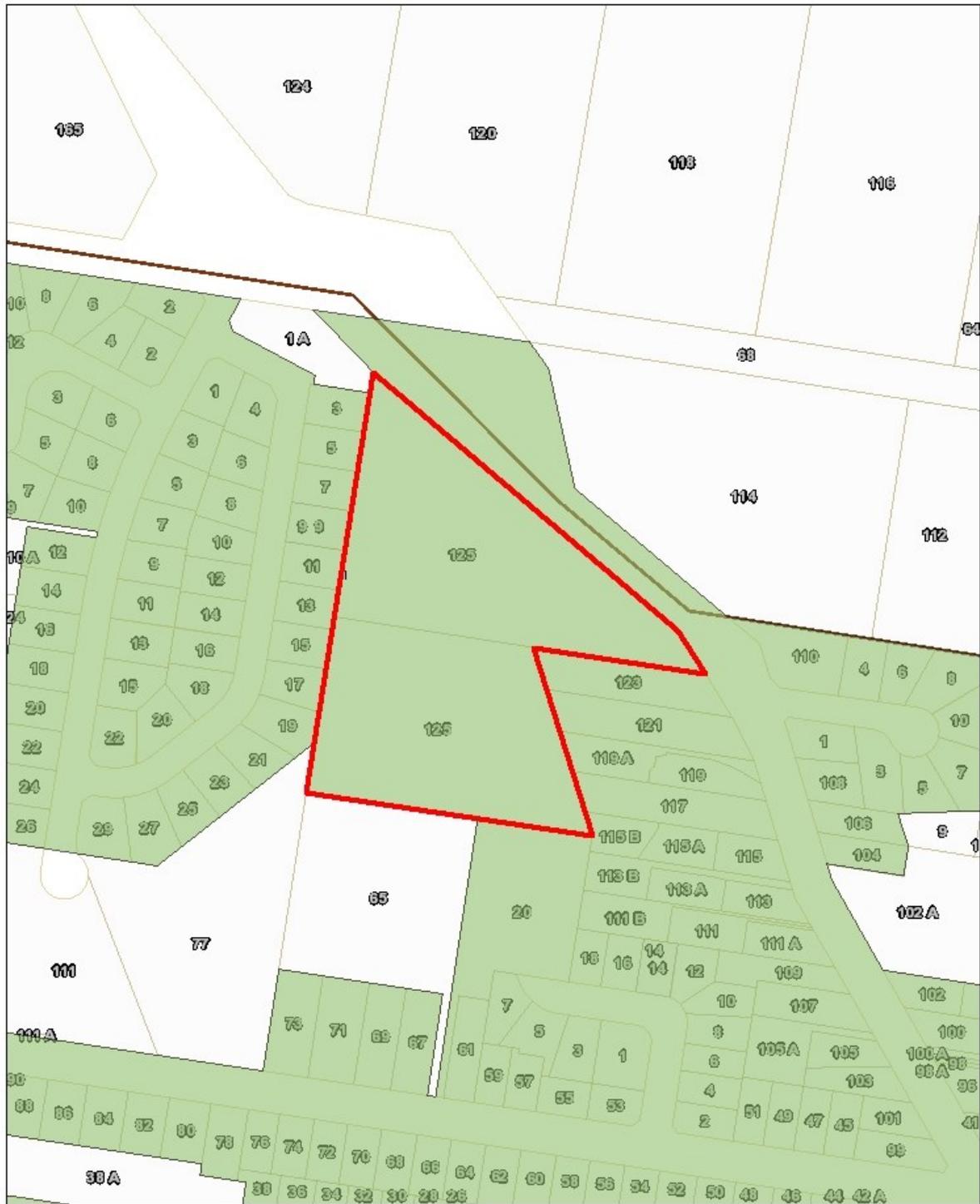
APPENDIX 1 Existing Zoning Map



APPENDIX 2 Proposed Zoning Map

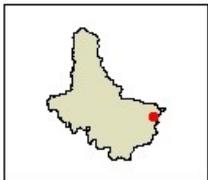
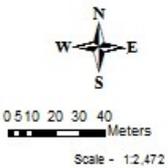


APPENDIX 3 Existing Height Map

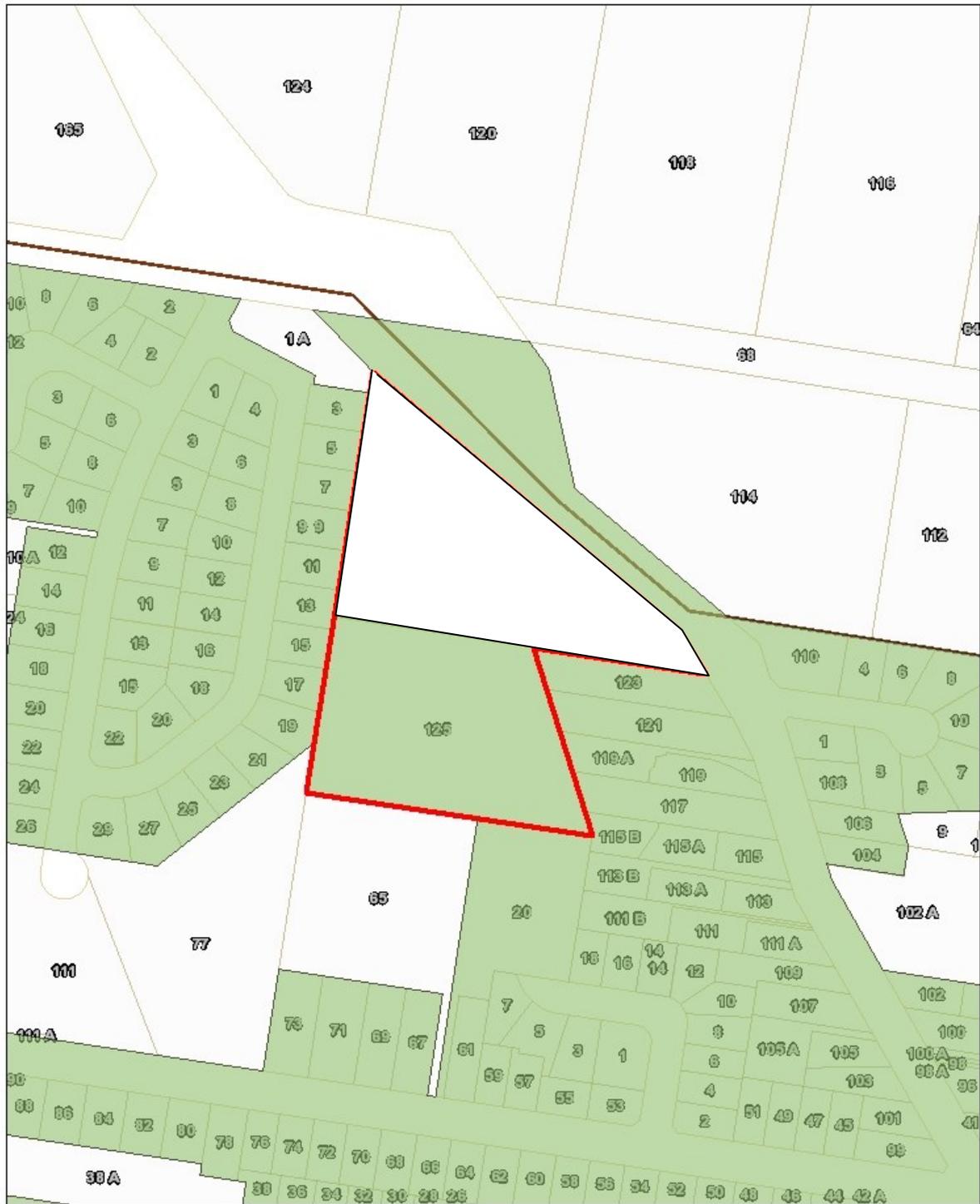


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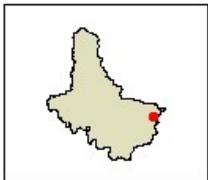
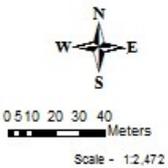


APPENDIX 4 Proposed Height Map



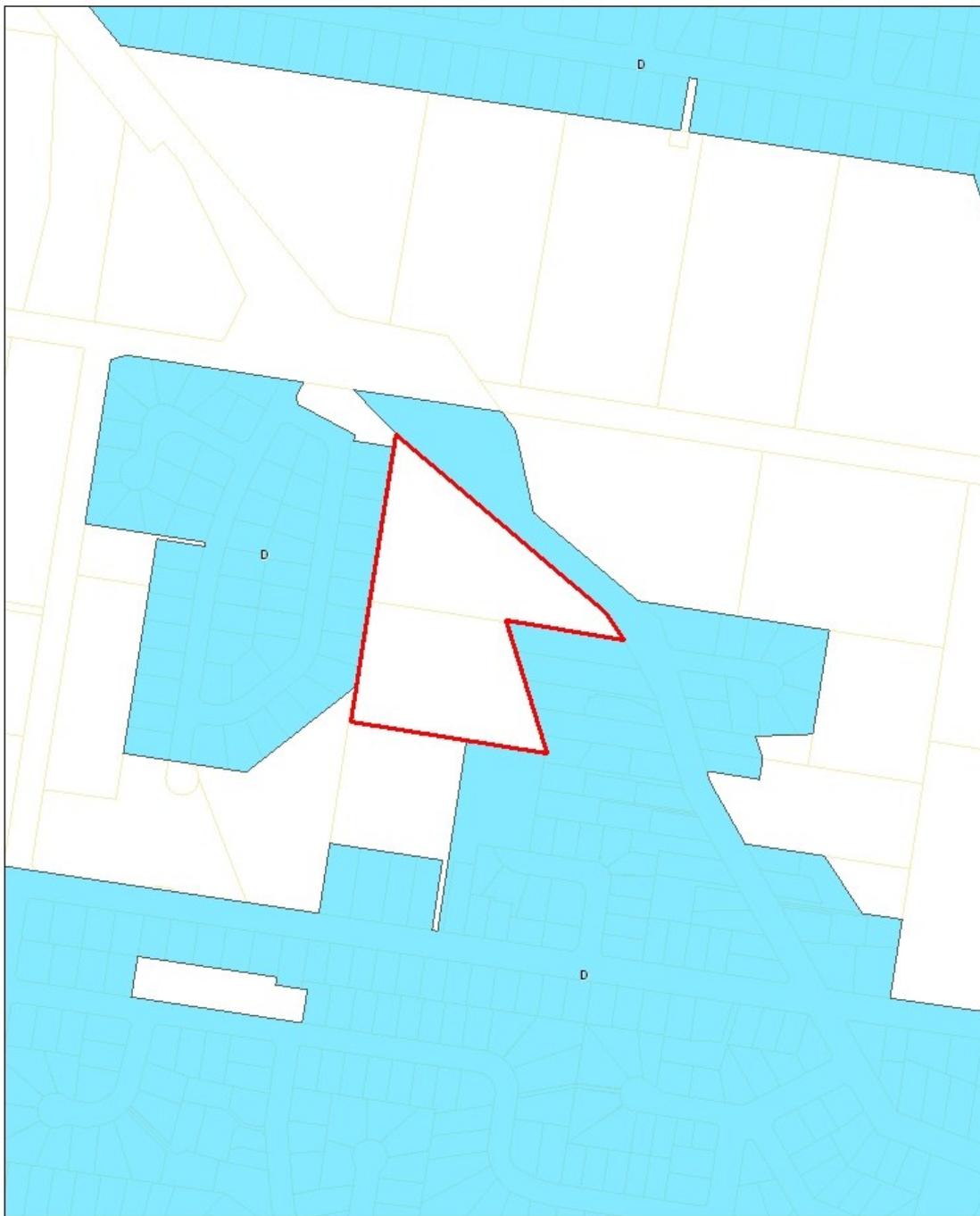
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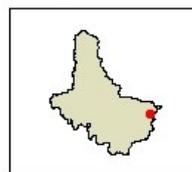
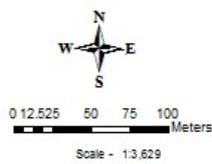
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APPENDIX 5 Existing Floor Space Ratio Map



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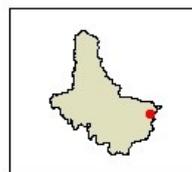
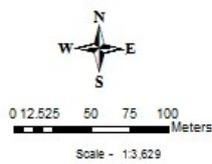
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APPENDIX 6 Proposed Floor Space Ratio Map



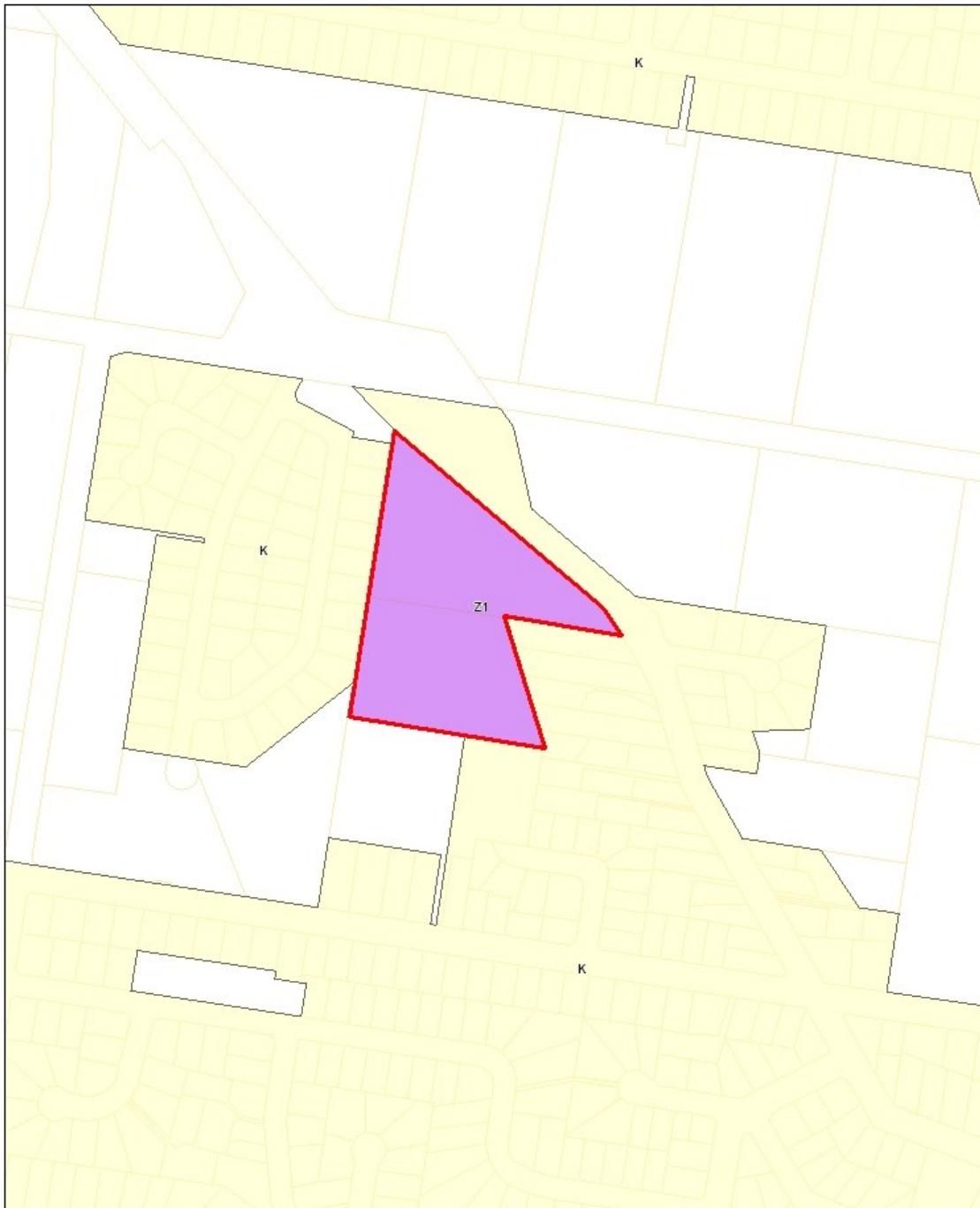
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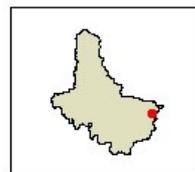
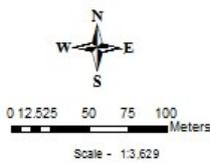
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APPENDIX 7 Existing Lot Size Map



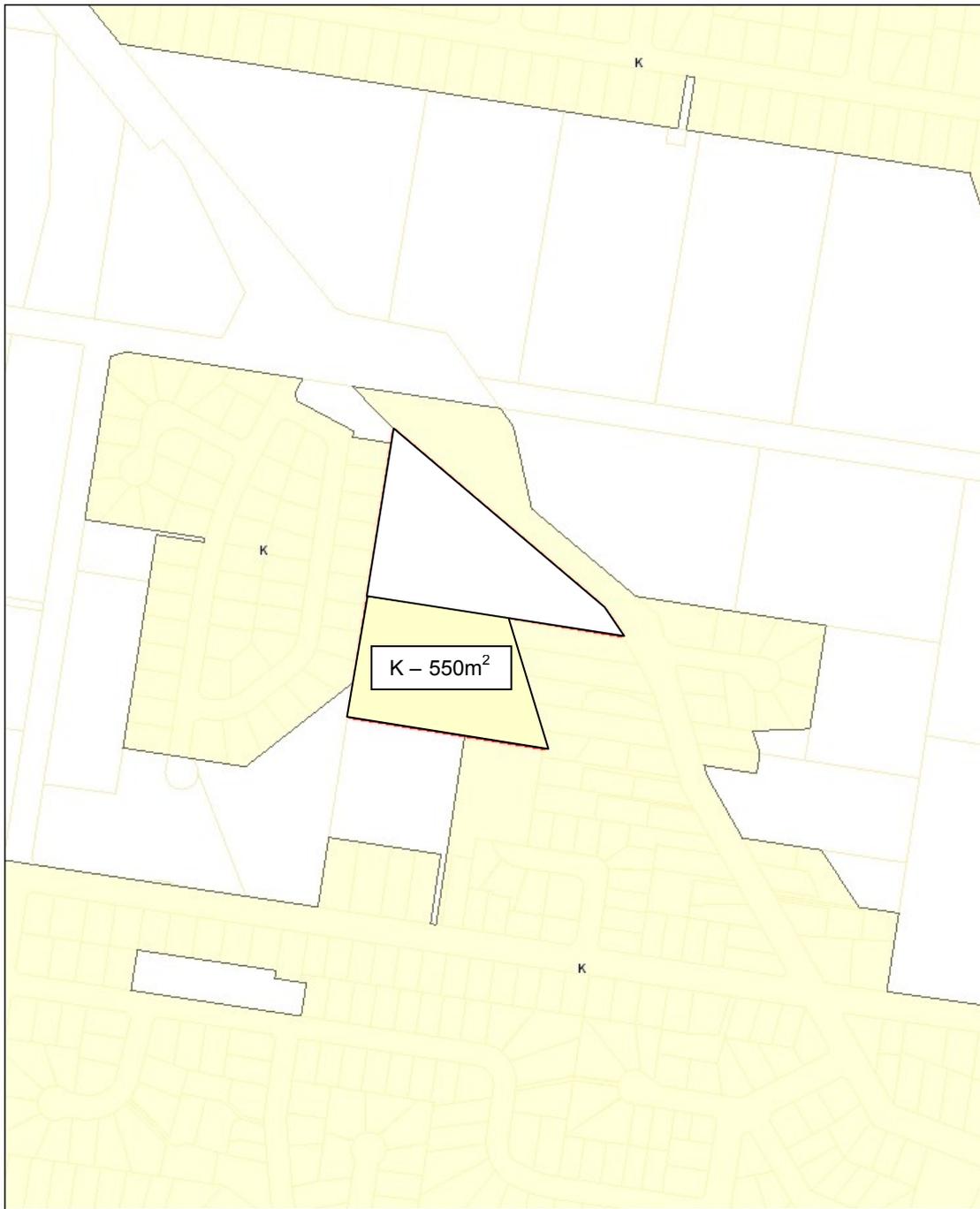
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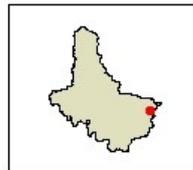
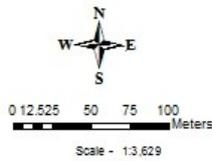
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APPENDIX 8 Proposed Lot Size Map



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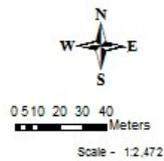
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APPENDIX 9 Aerial Photograph



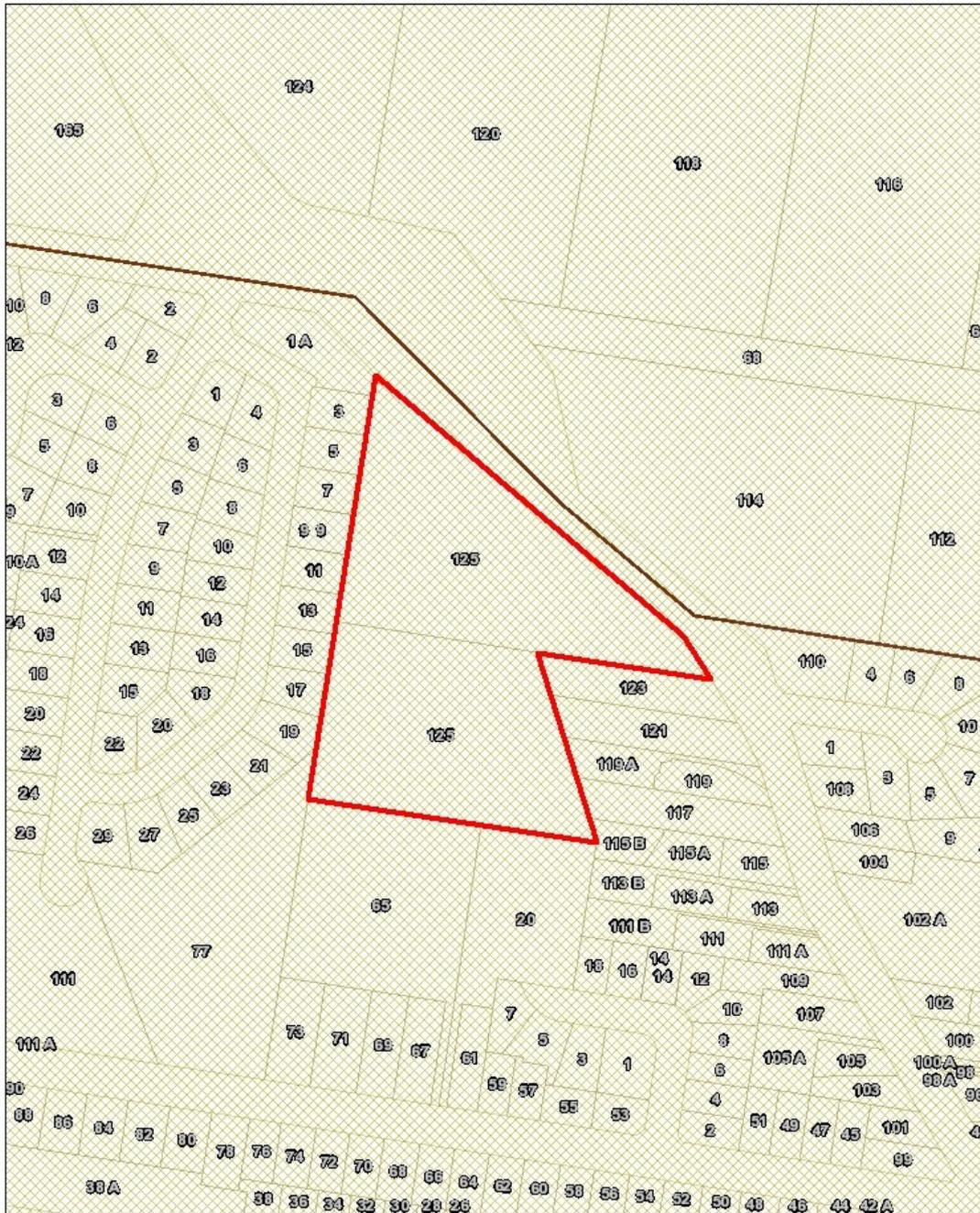
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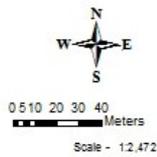
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APPENDIX 10 SEPP 71

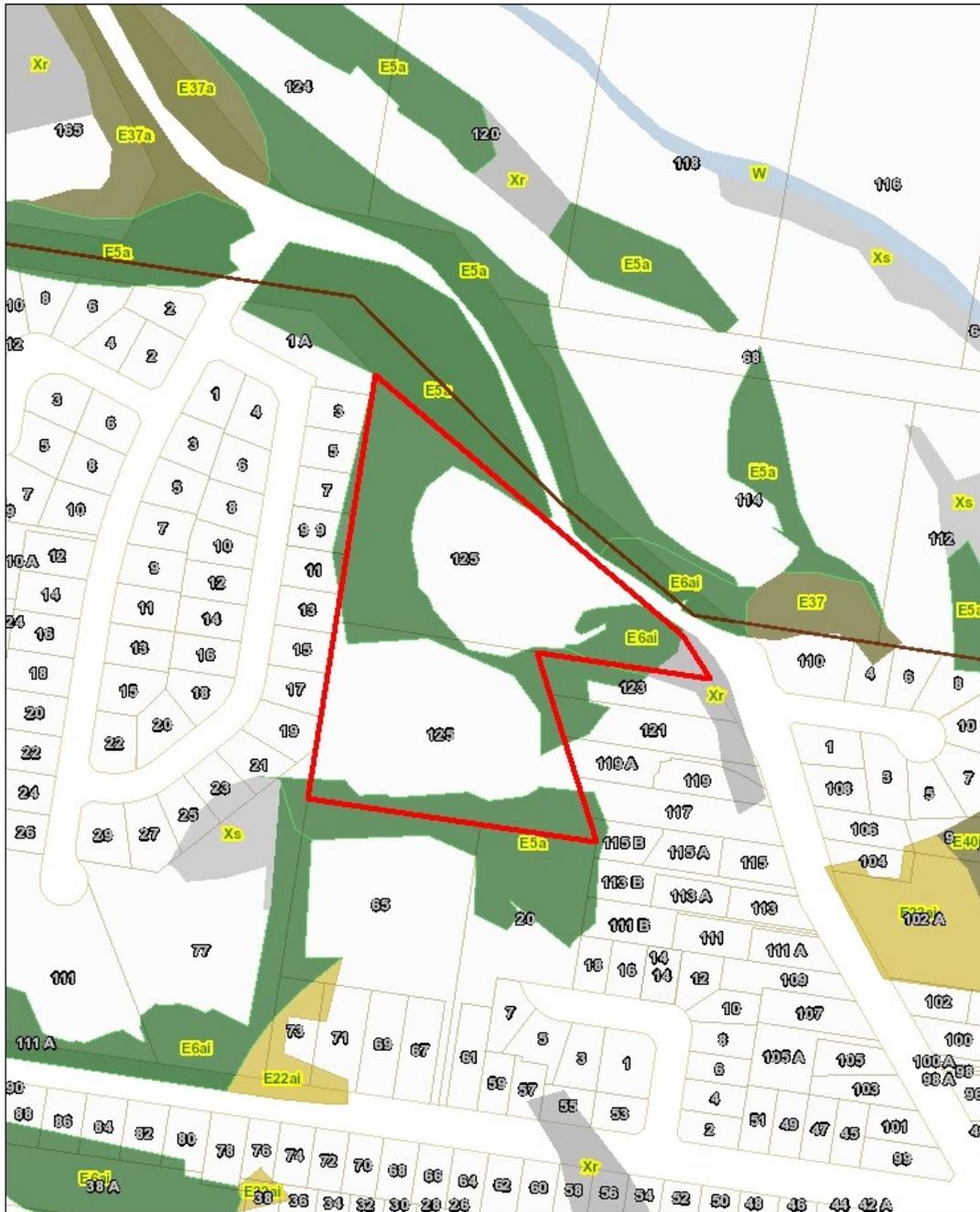


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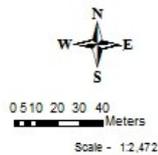


APPENDIX 11: Bells Vegetation

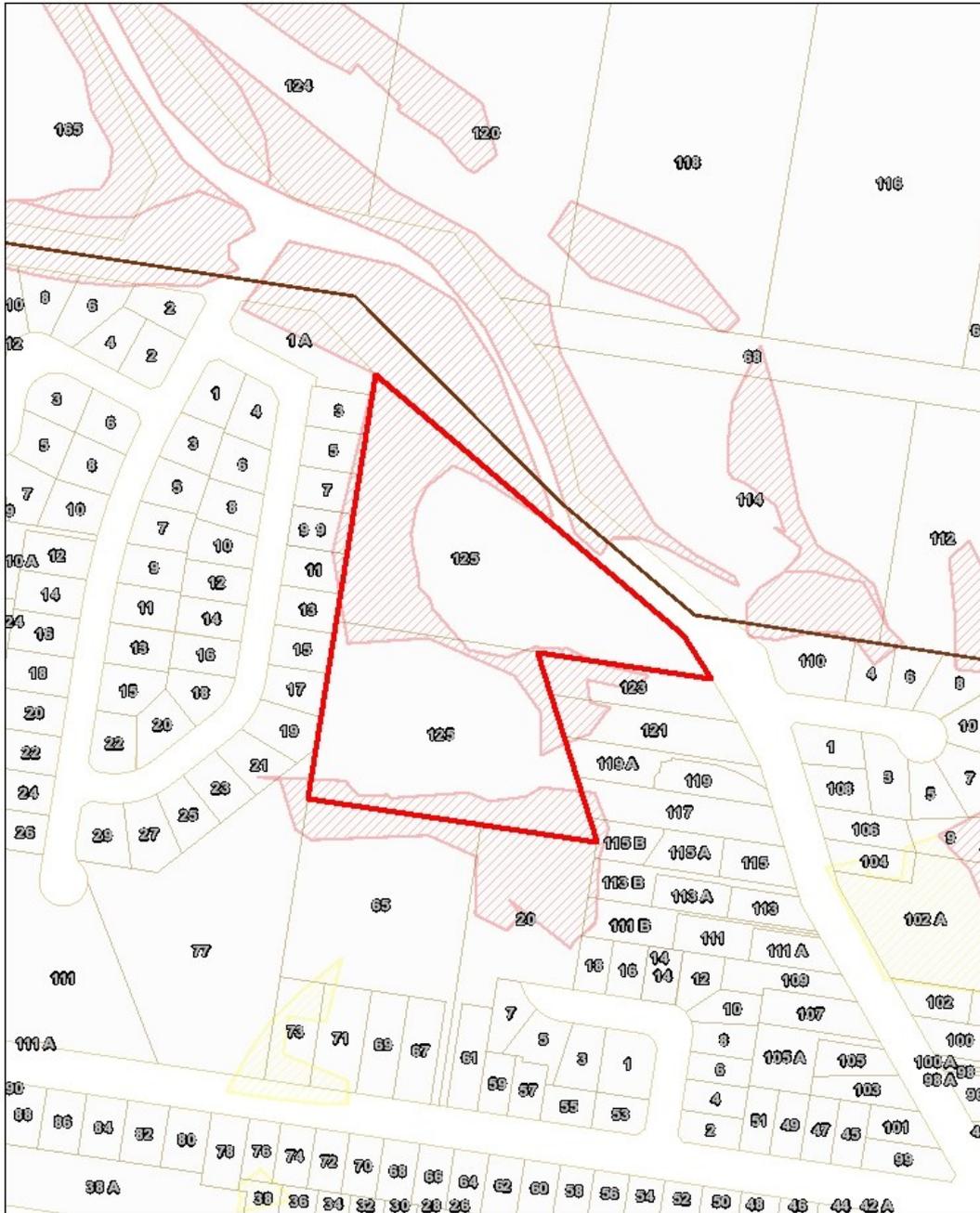


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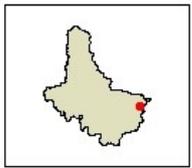
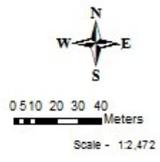


APPENDIX 12 Endangered Ecological Communities



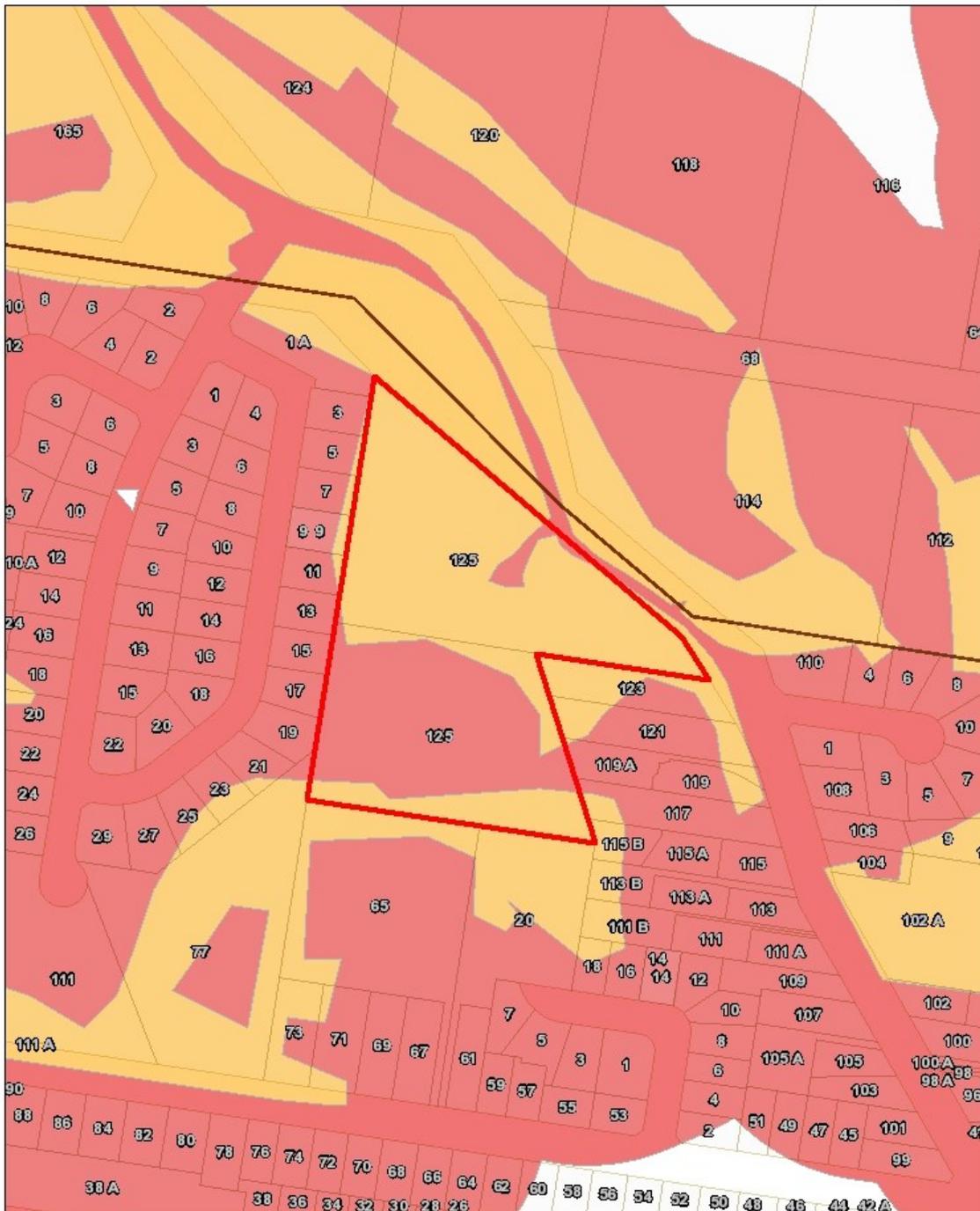
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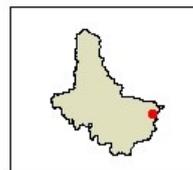
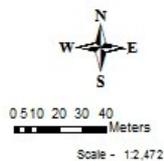
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APPENDIX 13 Bushfire Hazard



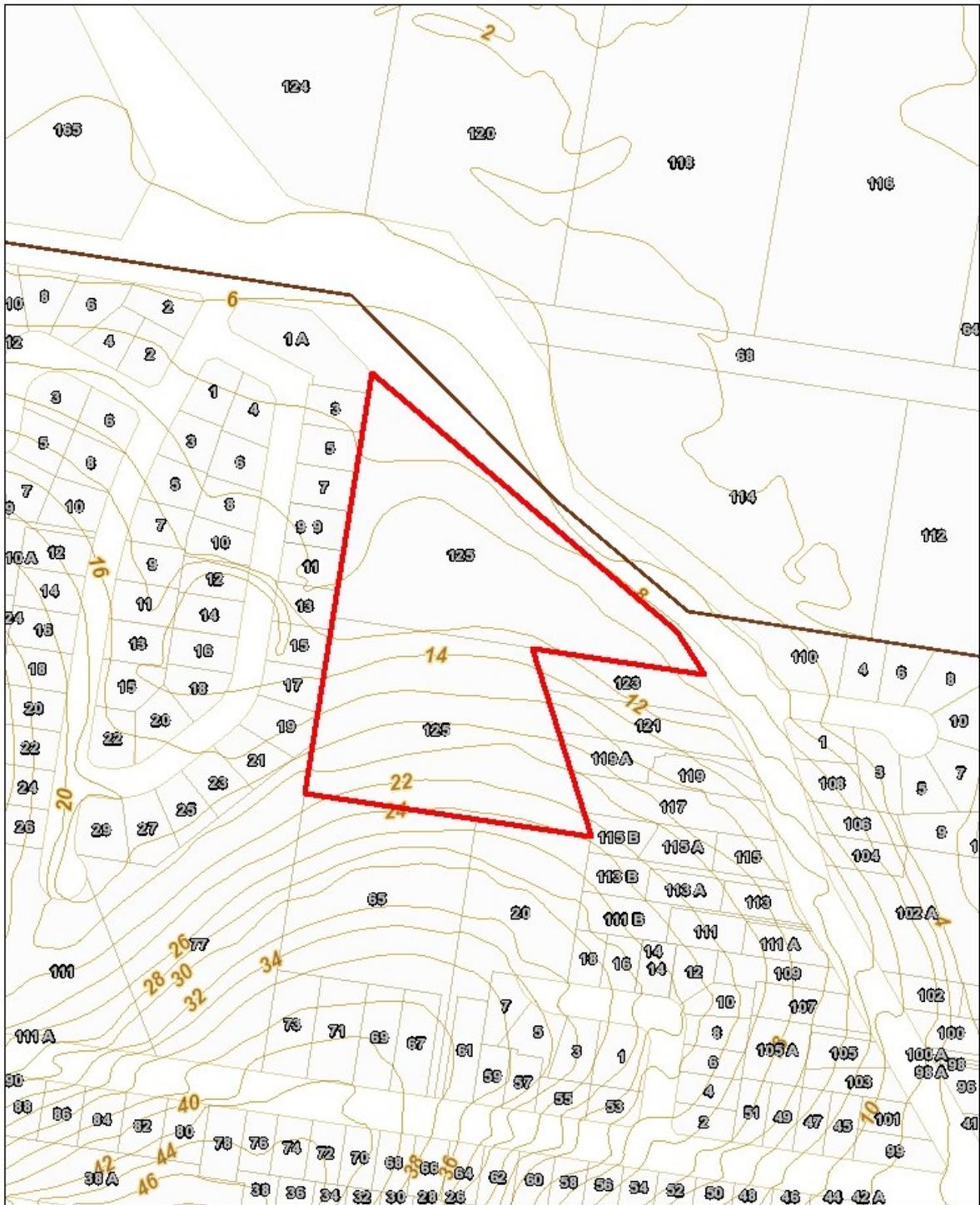
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Projection: GDA_1994_Transverse_Mercator_GCS_GDA_1994

APPENDIX 14 Topography

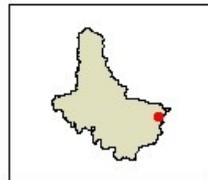


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0 10 20 30 40
Meters
Scale - 1:2,472



Source: Gosford City Council
Projection: GDA_1994_Transverse_Mercator_GCS_GDA_1994