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# PLANNING PROPOSAL

## GOSFORD CITY COUNCIL

**LOT 522 DP 1077907, LOT 1 DP 405510, LOT 51 DP 1028301,  
LOT 62 DP 838562, LOTS 155 & 156 DP 531710, LOTS 1-14, 18  
& 19 DP 23283, LOTS 1-8 DP 24187 AND LOTS 1-3 DP 101649  
CENTRAL COAST HIGHWAY, AND LOTS 1-4 DP 1000694,  
BAKALI 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 has been prepared for 37 lots in Forresters Beach with a total area of 10.602 ha. These lots are:

- part of Lot 522 DP 1077907, Central Coast Highway - area 3.204 ha;
- Lots 1-4 DP 1000694, Bakali Road - area 4.843 ha;
- Lot 51 DP 1028301, Central Coast Highway - area 1391 m<sup>2</sup> (0.139 ha)
- Lot 1 DP 405510, Central Coast Highway - area 904.2 m<sup>2</sup> (0.09 ha)
- Lot 62 DP 838562, Central Coast Highway - area 1106 m<sup>2</sup> (0.11 ha)
- Lots 155 and 156 DP 531710, Central Coast Highway - area 1169.7 m<sup>2</sup> (0.117 ha)
- Lots 1-14, 18 & 19 DP 23283, Central Coast Highway - area 0.976 ha
- Lots 1-8 DP 24187, Central Coast Highway - area 0.844 ha
- Lots 1-3 DP 101649, Central Coast Highway - area 0.279 ha

These lots are currently zoned 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings). Council support is sought for zoning these lots from 7(c2) to 2(a) Residential (or the equivalent zone: R2 Low Density Residential under the draft Gosford LEP 2009, depending upon timing).

Prior to 1997 the subject land was zoned 1(c) Rural (Rural Purposes) and subject to several development applications for mobile home estates which Council subsequently refused. One of these applications was subject to an unsuccessful appeal to the Land and Environment Court. In response Council initiated the zoning of the subject land to 7(c2) as the zone better reflected the land's natural attributes, whilst also being cognisant of the community's concern to protect Wamberal Lagoon and to maintain visual quality.

Upon notifying the then, Department of Urban Affairs and Planning of Council's intention to prepare a draft local environmental plan the land, Council was directed that an environmental study was required to justify the rezoning proposal. This study was undertaken in 1995 and the main findings were:

- The remnant vegetation is worthy of conservation and protection because of its scenic value, as a buffer between residential development and the conservation area and for habitat.
- The soils on the land are not suited to intensive development. (The soils exhibit such characteristics as high foundation hazard and seasonal waterlogging).
- The land is capable of being fully serviced with water, sewerage, power and telecommunications and is adjacent to a Main Road.
- Any new development should recognise the objective in the Lagoon Management Plan to filter the flow of nutrients into Wamberal Lagoon.
- Vehicular access to any significant development of the land should be via Bakali Road. Direct access to The Entrance Road should be strictly limited to infill development only.

Based on the environmental information and public policies for environmental protection, the study concluded that the land is best suited to the low intensity rural residential use proposed by Council. The resultant LEP No 331 was gazetted in 1997. Accompanying DCP No 90 also came into effect and set out controls for the rural-residential development of the 7(c2) zoned land. The rural-residential subdivision was approved in 1999 and 4 of the 5 lots were developed shortly afterwards.

The zoning of the subject land to 2(a) Residential (or R2 Low Density Residential depending on the timing of the Draft Gosford LEP 2009) as proposed would result in development of similar density to that of the previously refused mobile home estates and contrary to the findings of the environmental study as to the capability of the land. Whether the urban capability of the land has altered in the 18 years since the study was completed should be the basis of Council's assessment of the applicant's justification for the 2(a) Residential (or R2) zone, together with other relevant investigations.

Some physical constraints cannot be overcome and these generally affect the northern part of the subject land. This part of the land accommodates Endangered Ecological Communities (EECs) i.e. Estuarine Paperbark Scrub Forest also known as the Swamp Sclerophyll Forest on Coastal Floodplains, and/or is flood liable making it unsuitable for residential development. As was done in the Planning Proposal for the site immediately to the north, the most suitable zone for such land is 7(a) Conservation and Scenic Protection (Conservation) (or E2 Environmental Conservation depending on the timing of the Draft Gosford LEP 2009).

An area of the land fronting the Central Coast Highway (comprising Lot 1 DP 405510 and part of Lot 522 DP 1077907) as well as the southern part of the site, which accommodates the existing rural-residential dwelling-houses on a knoll, appears to be free of known physical constraints however this is subject to further detailed investigation regarding urban capability.

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The land to the south is already developed with four (4) substantial dwelling-houses together with outbuildings and structures on 1ha properties. These houses are in the vicinity of 13 years old so are not at the end of their economic life. Attempting to retro-fit a standard residential subdivision around these existing large dwelling-houses (approximately 350sqm to 600sqm in floor area) and curtilage could potentially result in a subdivision layout consisting of numerous battle-axe handles servicing 550sqm lots. Such a result would not enhance the character of the area for the existing or future residents.

One way to ameliorate the results of such fragmentation of ownership and existing capitalisation of the land would be to increase the minimum lot size of future residential lots, as is permitted under the Standard Instrument LEP and used in DLEP 2009. The largest residential lot size used in the R2 zone is 1850sqm and such a lot size could be a suitable option for addressing the issue of fragmentation. An 1850sqm lot size would also encourage new dwellings to be of a size similar to those already constructed thus retaining the character of the area. Furthermore, a subdivision comprising lot sizes of 1850sqm would be more likely to address the urban capability constraints identified in the 1995 study than a subdivision comprising 550sqm lot sizes. Such a subdivision represents less intensive residential development resulting in more favourable development given the existing soil characteristics. The minimum lot size for this area will able to be confirmed once all the required investigations have been completed.

Even though the 31 existing residential sized lots fronting the Central Coast Highway were exhibited as being zoned R2 (with a 550sqm minimum lot size) under the Draft Gosford LEP 2009, they are proposed to be deferred from the Draft Gosford LEP (Council resolution of 31/5/11) on the basis that they are currently zoned 7(c2), privately owned and located east of the Freeway. The intention of deferring the 7(c2) and 7(a) zoned land from the Draft Gosford LEP was to preserve the COSS provisions relating to the bonus lot subdivision of 7(c2) land. Even though these residential sized lots do not have any subdivision potential under the 7(c2) zone, they were unintentionally caught up in the Council resolution. As these 31 lots were exhibited as being in the proposed R2 zone it is therefore considered reasonable to include these lots in this Planning Proposal to be rezoned to Residential.

## **Part 2      Explanation of Provisions**

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

As mentioned in Part 1 above the proposed zoning of *all* the 7(c2) zoned land to Residential 2(a)/R2 is not supported due to existing known constraints, namely flood liability and the presence of EECs. The EEC comprises Estuarine Paperbark Scrub Forest also known as the Swamp Sclerophyll Forest on Coastal Floodplains. The northern part of the site that accommodates EECs and is flood liable is unsuitable to be zoned 2(a)/R2. A zone that reflects the physical constraints of the land would be 7(a)/E2 which was the approach taken in the Planning Proposal immediately to the north of this site, as well as elsewhere in the broader DLEP 2009.

The 31 residential sized lots fronting the Central Coast Highway were proposed to be rezoned from 7(c2) to R2 (with a minimum lots size of 550sqm) under the Draft Gosford LEP 2009 as exhibited, so including them in this Planning Proposal reflects Council's intention for the land.

An area of land fronting the Central Coast Highway, comprising Lot 1 DP 405510 and part of Lot 522 DP 1077907, is located between the 31 lots and land immediately to the north which is the subject of a previous Planning Proposal seeking to zone the land primarily to 2(a)/R2 and supported by Council in 2012. Hence the inclusion of this area is a rationalisation of the intended residential boundary.

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The existing rural-residential sized lots are a buffer between the residential sized lots and the area west of Bakali Road zoned 7(a) Conservation. However there may be potential for land on the knoll to the south to be zoned Residential subject to detailed assessment of the land's capability.

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

1 Subject Land

This clause applies to Lot 522 DP 1077907, Lot 1 DP 405510, Lot 51 DP 1028301, Lot 62 DP 838562, Lots 155 & 156 DP 531710, Lots 1-14, 18 & 19 DP 23283, Lots 1-8 DP 24187 and Lots 1-3 DP 101649, Central Coast Highway, and Lots 1-4 DP 1000694, Bakali 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:

- (a) zone certain land to a zone that appropriately reflects the land's location and existing residential character;
- (b) zone certain land to a zone that appropriately reflects the physical constraints of the land; and
- (c) zone certain land and apply an appropriate minimum lot size which accounts for the existing development on, and the urban capability of, such land.

*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 Lot 522 DP 1077907, Lot 1 DP 405510, Lot 51 DP 1028301, Lot 62 DP 838562, Lots 155 and 156 DP 531710, Lots 1-14, 18 and 19 DP 23283, Lots 1-8 DP 24187 and Lots 1-3 DP 101649, Central Coast Highway, and Lots 1-4 DP 1000694 Bakali 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:

- (a) by inserting under **Scheme map** in clause 3(1):

Gosford Local Environmental Plan No XXX

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Should the LEP be made after the Gosford LEP 2009 has come into effect then the maps will be amended as shown in Appendices 14 to 17:

- Appendix 14      Proposed Land Zoning Map showing the land zoned R2 Low Density Residential and E2 Environmental Conservation.
- Appendix 15      Proposed Lot Size Map showing the minimum lots size for land in the E2 zone being 40ha. Minimum lot size in the R2 zone will either be 550sqm or 1850sqm however is awaiting completion of the studies before being determined.
- Appendix 16      Proposed Height of Building Map showing the maximum building height being 8.5m.
- Appendix 17      Proposed Floor Space Ratio Map showing the maximum FSR for development in the R2 zone being 0.5:1.

*Explanation: As the 7(c2) zoned land is deferred from the Draft Gosford LEP, IDO No 122 will have to be amended to exclude the land being rezoned. Should this PP proceed to gazettal it is likely that the Gosford LEP will be in effect (not the GPSO) and will therefore require amending to include the subject land.*

**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 17 of this report contain all relevant mapping to the Planning Proposal. Such maps comprise:

- Locality Map
- Lot Descriptions
- Aerial Photograph
- Existing Zoning map
- Exhibited Zoning under DLEP 2009
- Exhibited Minimum Lot Size under DLEP 2009
- Exhibited Height of Building under DLEP 2009
- Exhibited Floor Space Ratio under DLEP 2009
- Significant Vegetation
- Lagoon Catchment
- Bushfire Hazard
- Topography
- DCP No 90
- Proposed Land Zoning Map
- Proposed Minimum Lot Size Map
- Proposed Height of Building Map
- Proposed Floor Space Ratio Map

### **Part 3      Justification for objectives & outcomes**

**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 inclusion of the 31 residential sized lots fronting the Central Coast Highway is consistent with Council's strategic direction as these lots were shown zoned R2 in the publicly exhibited Draft Gosford LEP 2009. As Council has previously considered these existing lots to be residential in character, it is reasonable to include them in this Planning Proposal.

That part of the Planning Proposal application seeking to zone the remainder of the 7(c2) land to Residential 2(a)/R2 is not the result of a strategic study or report. In fact it is contrary to Council's previous environmental study (1995) identifying the land capability as being consistent with rural-residential development and culminating in LEP No 331 which zoned the land to 7(c2) in 1997. However, as the study is 18 years old the urban capability findings of land unaffected by physical constraints should be re-evaluated to ensure rigour and consider modern methods regarding advancements in urbanisation on constrained lands.

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

A Planning Proposal process is the only means of achieving the objectives/intended outcomes of rezoning the suitable and capable land to Residential and physically constrained land to Conservation.

## **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)?**

The Central Coast Regional Strategy (CCRS) includes outcomes and specific actions for a range of different matters relevant to the region. In all cases the strategy includes 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 would, to a minimal degree, assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of housing should the land be suitable and capable to support housing.

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

- 4.4 Councils are to investigate the potential for land located within and around centres for future housing opportunities, consistent with the centres hierarchy and the dwelling and employment capacity targets through the preparation of LEPs and local planning 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 principle LEPs.
- 4.6 Land to be rezoned for housing during the life of this Strategy is to be located within existing urban areas.
- 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.
- 7.2 Local environmental plans will zone areas subject to high hazard to reflect the capabilities of the land.

**Action 4.4** requires Council to investigate the potential for land located within and around centres for future housing, consistent with the centres hierarchy and dwelling capacity targets through the preparation of LEPs and local strategies. As Forresters Beach Shopping Centre is classified as a Neighbourhood Centre under the centres hierarchy, the distance around such a centre for additional housing is generally within a 150 metre radius. The existing rural residential lots with access of Bakali Road are further than 150 metres from the centre. The only 7(c2) land that is within 150 metres of the shopping centre is that land which fronts the Central Coast Highway and comprises Lot 1 DP 405510 and part of Lot 522 DP 1077907. 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.

In relation to **Action 4.5**, the then Department of Planning, in September 2009, advised Council that the following matters will have to be undertaken following the gazettal of the Draft Gosford LEP 2009.

- Review of urban fringe zonings in accordance with CCRS
- Address consistency with the E zone practice note (PN 09-002) and amend zones and other planning provisions as required.

As this application has been submitted it is reasonable to undertake this strategic assessment now, as is occurring under the Planning Proposal for the land immediately to the north.

**Action 4.6** requires land zoned for housing to be located within urban areas. The subject land is not within an urban area as it is zoned 7(c2) which is a non-urban zone under Council's planning instruments. However 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 18). However, the physical suitability of the land for residential development cannot be finally ascertained until the appropriate studies have been completed.

The Planning Proposal is consistent with **Actions 6.3, 6.5 and 7.2** as it proposes to zone that part of the site with high environmental values (i.e. EECs) and land subject to high hazard (i.e. flood liable) in an appropriate zone, that being 7(a)/E2. These physical attributes of the land make it unsuitable for residential development.

**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 CCRS has been addressed in Question 3 and Section 117 Directions are addressed in Question 6.

**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**

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**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 Planning Proposal to include the residential sized lots fronting the Central Coast Highway in zone 2(a)/R2 will have no adverse impact on the amenity of the locality as the residential zone merely reflects the development already existing on the land and was identified as such under the Draft Gosford LEP 2009. There is an area of the subject land fronting the Central Coast Highway located to the north of the existing residential sized lots which is able to be supported for rezoning to 2(a)/R2 as it is consistent with the proposed R2 zoning of the adjoining residential sized lots.

Land that exhibits significant environmental values (i.e. accommodates EECs) and/or land that is affected by hazards (i.e. flooding) is proposed to be zoned 7(a)/E2 which is the most suitable zone for such physically constrained land.

The remainder of the 7(c2) land acts as a buffer between the residential lots fronting the Central Coast Highway and the 7(a) Conservation zoned land to the west of Bakali Road. Even though a previous Council investigation identified this land as being unsuitable for intensive development, a residential subdivision may be suitable subject to further urban capability studies being carried out. If the land is found to be capable, any future subdivision should not reduce the function of the land acting as a buffer to the 7(a) land to the west.

The Planning Proposal would not create a precedent and alter expectations of landowners as it is compatible with the existing and proposed surrounding land uses. There is no other similarly zoned land in the precinct, so it is unlikely that any other spot rezoning applications will be received for this locality.

**4 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 basis for strategy B1.2 is to protect areas zoned 7(a) Conservation or with characteristics of such land. The vegetation on the subject land comprising an Endangered Ecological Community (EEC) under the *Threatened Species Conservation Act* is to be preserved under this Planning Proposal.

The basis for strategy B6.3 is to locate additional population in urban areas where they are close to required facilities and are able to be serviced by existing utility systems. Even though that part of the subject land comprising the rural residential lots with

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access via Bakali Road is not within the existing developed footprint it is adjacent to the urban area and hence easily accessible to the necessary facilities.

### **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 along the Central Coast Highway frontage and protect the isolated stands of EECs under an appropriate environmental zone. The existing rural residential land with access off Bakali Road is zoned 7(c2) and is therefore not within the urban footprint. However, this land is adjacent to urban land and subdivision/development controls are able to ensure that future development does not adversely impact on the conservation value of the 7(a) zoned land on the western side of Bakali Road.

### **COSS Strategy**

The COSS Strategy does not identify any part of the subject site as being required for the Coastal Open Space System. However, the 7(a) zoned land on the western side of Bakali Road has been identified as Proposed COSS.

### **Residential Strategy**

On page 41 of the Residential Strategy it is stated that:

Rural Scenic Protection [7(c2)] and Rural Conservation [7(a)] zoned land are key components in creating the character of the area, as well as being significant ecological elements of Gosford. These areas should not be seen as holding zones for residential subdivision or zones that allow more intense development. The quality of the areas themselves is important with the retention of the existing balance between natural bushland and man-made rural environment a key to this quality.

Regarding this statement the following Actions are specified:

The determination of proposed rezonings involving Rural Scenic Protection and Conservation zoned land should be assessed for its affects on those aspects which are important to the natural characteristics of Gosford. These include water quality, retention of visually important and species significant flora, the protection of significant faunal habitats and maintenance on non-urban buffers between urban areas.

Rural Conservation and Scenic Protection areas are an acknowledged important element in the natural characteristics of Gosford and should not be seen as "future" residential land.

The proposed Residential zoning of the land fronting the Central Coast Highway reflects the existing residential character of the area. The proposed zoning of flood liable land and/or land exhibiting a significant flora species to 7(a)/E2 reflects the natural characteristics of the land and is thus consistent with this strategy.

The 7(c2) zoned land to the west of the existing houses fronting the Central Coast Highway is a buffer between the urban area and the natural bushland on the western side of Bakali Road. Following the completion of the required urban capability studies a buffer may be able to be retained by way of subdivision/development controls. Furthermore, any stormwater runoff would have to be restricted to pre-development flows so as not to adversely impact on the water quality of Wamberal Lagoon. However, a further study is required to be carried out to address this issue.

### **Draft Residential Strategy**

The Draft Residential Strategy identifies the following objective and goal relevant to the Planning Proposal:

Objective - Ensure adequate supply of land and sites for residential development.

Goal - locating housing supply to minimise impact on physical characteristics and infrastructure capabilities.

This objective and goal is explained on page 27 of the Draft Residential Strategy:

The depletion of natural resources has led to the adoption of sustainable development policies by government. These policies promote, as its ideal solution, the use and renewal of existing resources. This ideal as it relates to housing translates to a primary emphasis upon redevelopment of existing urban areas within the existing 'urban footprint'.

The land fronting the Central Coast Highway is already developed on residential sized lots and is serviced by existing infrastructure. Hence zoning such land to residential is a rationalisation of the existing urban footprint, not an expansion of it. The zoning of the rural residential land on the knoll to the west of these houses is outside the urban footprint however it may have a minimal effect on the physical characteristics of the locality subject to further urban capability studies being undertaken.

### **Coastal Lagoons Management Plan**

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 proposed residential zoning of the land fronting the Central Coast Highway reflects the existing character and development density of the area. The extended residential zone to the west of the existing row of houses represents an increase in density hence a land capability study should be carried out to assess whether such development will adversely affect Wamberal Lagoon.

To place this consideration in context, it should be noted that the Land and Environment Court (LEC) has recently approved additional development densities within the Wamberal Lagoon catchment. In 2007 the LEC granted consent for the

development of housing for older people on the land immediately to the north of the subject site. In 2012 the LEC approved a 3 x 1ha lot subdivision on the western side of Bakali Road which is zoned 7(a). The remainder of the 7(a) land is to be dedicated to Council. Evidently if development can be managed in an environmentally sensitive manner there is no objection from the LEC to increasing densities in the Lagoon catchment.

## **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 No 19 - Bushland in Urban Areas**

Clause 10 of State Environment Planning Policy 19 applies to 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,
- to protect bushland as a natural stabiliser of the soil surface,
- to protect existing landforms, such as natural drainage lines, watercourses and foreshores.

There are vegetation stands on the subject land that are identified as Ecologically Endangered Communities (EECs). In accordance with SEPP 19 these stands are proposed to be protected by being included in zone 7(a)/E2 and retained in parcels of a size which will enable this community to survive in the long term. The existing drainage line is also proposed to be included in the 7(a)/E2 zone as the land is not conducive to further development.

### **(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. Even though the land contains tree species listed in the SEPP Council's previous environmental study considered the stands not to be a core 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 rural-residential 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 is identified as being in the coastal zone.

Under SEPP 71 most of the "matters for consideration" relate to land that directly fronts 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 proposed residential zoning of land fronting the Central Coast Highway is considered suitable as it generally reflects the current development along this road frontage and is thus consistent with SEPP No 71. The Planning Proposal seeks to conserve land accommodating EECs in a 7(a)/E2 zone which is consistent with the SEPP. The 7(a)/E2 zone also applies to flood liable land hence the natural drainage area will be free from further development meaning the quality of stormwater traversing the site will be naturally filtered as it is now. The extension of the residential zone to the west of the existing houses fronting the Highway is considered satisfactory provided future development complies with Council's requirement to detain stormwater on-site so runoff is released at pre-development flows thus ensuring no adverse effect on Wamberal Lagoon. However a land capability study is to be carried out to address this matter.

**(vi) 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 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 2.1 - Environmental Protection Zones**

This Direction requires a Planning Proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land.

Even though the land fronting the Central Coast Highway is zoned 7(c2) it comprises 31 residential sized lots thus not having the character of an Environmental Protection zone. Conversely the western part of the 7(c2) zoned area on Lot 522 DP 1077907 contains an Estuarine Paperbark Scrub Forest community which is identified as an EEC. The objective of this Direction is to protect and conserve environmentally sensitive areas. To be consistent with this Direction this environmentally sensitive area is to be protected by being zoned to 7(a)/E2.

The land on the knoll to the west of the existing houses fronting the Highway does not exhibit any environmentally significant vegetation hence the Planning Proposal would not reduce the environmental protection standards applying to the land. However, zoning the land to a more intensive zone has the potential to adversely impact the adjacent vegetation on the western side of Bakali Road if runoff was to be un-detained. However, it is Council's policy that all stormwater runoff is detained and released at pre-development flows. Also, the larger the lot size, the more likely that the natural infiltration of rainwater will be able to continue. Such assessment is to be made as part of the required land capability study.

## **(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 *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.

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.

Zoning the land fronting the Central Coast Highway to Residential is consistent with the existing visual characteristics of the locality. Also the zoning of the EECs and flood liable land to 7(a)/E2 will protect the ecological characteristics of the area. Zoning the land on the knoll to Residential will require a land capability study to determine whether such a zone is appropriately located in terms of the physical character of the land.

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

This Direction applies when a planning proposal affects land within an existing or proposed residential zone. The Direction requires that 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.

Although rezoning of land fronting the Central Coast Highway will also permit the range of housing permitted in the 2(a)/R2 zone, the individual residential sized lots already exist making it unlikely that more intensive residential development would occur. The 2(a)/R2 zone is consistent with the zoning of residential land in the locality and will make efficient use of existing infrastructure and services in the locality. The low density residential zone will not permit the broad range of housing types as is permitted in the medium density residential zones. However, such housing is considered unsuitable for this site as the site is not located close to centres as specified in the CCRS.

The Planning Proposal to rezone the land to the west of the existing houses fronting the Highway to 2(a)/R2 will permit the range of housing permitted in the 2(a)/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). However, given the fragmented nature of the existing land ownership and the existing dwellings on the land it is unlikely that the land would be used for substantial development such as seniors housing.

#### **(v) 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.

The Direction requires that 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 Planning Proposal is located with easy access to 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 City Centre. Whilst future residents could use their private vehicles, the option to use public transport would be available.

#### **(vi) 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 zoning of the land fronting the Central Coast Highway reflects the residential scale development currently in existence. However, a drainage easement is located on the northern boundary of one of the residential sized lots (No 971) fronting the Central Coast Highway and carries stormwater from the Highway to the easement located on the larger 7(c2) lots to the west. This residential sized lot and others may be subject to secondary flows. Whilst zoning these lots to Residential will not affect the existing development on the lots, the 2(a)/R2 zone does permit additional uses which will not be able to be approved if the land is affected by flooding, hence providing a false expectation to landowners. Consequently a comprehensive flood study will have to be undertaken to determine the extent of flooding and the result may be that the affected residential-sized lots remain zoned 7(c2)/E3.

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 drainage easement consisting of an overgrown, open channel commences at the rear of No 971 Central Coast Highway and ends at the unformed section of Bakali Road to the west. The open channel passes through three 7(c2) zoned lots before spilling out onto the unformed section of the Bakali Road. Even though there is a drainage reserve on the western side of Bakali Road, there is no system within the drainage reserve to convey stormwater flows. The owners of the land on the western side of Bakali Road have previously complained to Council regarding the surrounding properties and the open channel drainage easement concentrating flows onto their property which does not drain away and causes the property to become swampy.

The open drainage channel conveys stormwater from a substantial urban catchment on the eastern side on the Central Coast Highway. For urbanisation to be investigated consideration would need to be given to all overland flows affecting the subject site and ultimately being captured by the existing open channel drainage easement. The area of land available for residential development on this site may be restricted due to the extent of overland flow generated from the upper catchment. Any filling of the 7(c2) zoned land as a whole is likely to have a major impact on the rest of the site and/or adjacent properties. Council does not permit the diversion or concentration of overland flow paths onto other properties or an increase in discharge from a site.

Until a catchment study looking at all overland flow directed toward and through the site has been undertaken, a full impact assessment on any future development potential on the site is

not possible. The applicant should submit this hydrologic and hydraulic information should the Gateway Determination be received.

#### **vii) 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 Category 1 Vegetation and Bushfire Buffer. Consequently the Planning Proposal will have to be referred to the Rural Fire Service for comment should a Gateway Determination be received.

##### **(i) 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.

See the response to Question 3 above.

##### **(ii) 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.

##### **(iii) 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**

- 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?**

The current land use of the rural-residential holdings acts as a buffer or transition zone between conservation areas to the west of Bakali Road and a strip of residential development fringing the Central Coast Highway.

The subject land sits wholly within the Wamberal Lagoon catchment and is currently zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings). These lands not only act as a transitional area to existing conservation zoned lands but they also provide a filtering role for stormwater overland flows to Wamberal lagoon due to the low density development potential and large area of permeable ground surfaces. Any rezoning to residential will greatly increase impermeable ground surfaces leading to potential increased

runoffs and changes to the Wamberal Lagoon hydrological cycle, however a future subdivision with minimum lot size of 1850sqm would be preferable to a standard residential subdivision.

In respect to ecological matters and section 5A of the EP&A Act 1979, it is noted that the planning proposal will not result in the net loss of the endangered ecological community (EEC) listed as Swamp Sclerophyll Forest on Coastal Floodplain as this vegetation is proposed to be included in the 7(a)/E2 zone.

No objection is raised to the rezoning of the eastern portion of Lot 522 DP 1077907 to residential that would be consistent with the existing residential pattern fronting the Central Coast Highway.

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

#### **Coastal Zone Management Study for Gosford Lagoons**

The Management Study was on public exhibition from 1 December 2012 to 1 March 2013 and it presents the information that will ultimately inform the Management Plan. With regards to Wamberal Lagoon the following threats were identified which have application to this Planning Proposal:

- Pollutants entering the lagoon via stormwater as a result of existing catchment activities
- Faecal contamination leading to impacts on recreational opportunities and increased nutrients
- Increased density of development into the future and reduction in undeveloped land contributing to increased runoff to the lagoon
- Algal blooms as a result of nutrient inputs resulting in a decline in recreational opportunities
- Decreased extents of Melaleuca forests as a result of land clearing for development leading to a loss in biodiversity

The zoning of the land fronting the Central Coast Highway reflects the residential scale development currently in existence. The additional area fronting the Highway which is proposed to be included is of sufficient area to accommodate any on-site stormwater detention works in any future development, should they be required.

The rezoning of the knoll west of the existing residential sized lots to 2(a)/R2 would increase development density potentially resulting in increased runoff to Wamberal Lagoon. Such a proposal would exacerbate the identified threats to Wamberal Lagoon and therefore a study should be prepared investigating the quality and quantity of potential runoff and any mitigation measures required for treatment to current standards and detention to current flows.

#### **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.

The proposed 2(a)/R2 zoning of the land fronting the Central Coast Highway reflects the residential scale of development currently in existence. It therefore maintains and consolidates the existing land use pattern in the locality rather than pre-empting a linear extension to the residential zone along the main road.

The subject land accommodating EECs and/or physically constrained by flooding is proposed to be zoned 7(a)/E2 thus protecting the existing landscape.

Even though the land on the knoll to the west of the houses fronting the Highway is zoned 7(c2) it is not visually constrained as it cannot be seen from the main road. To offset the proposed residential zone, the land accommodating EECs and/or is flood liable is proposed to be zoned 7(a)/E2 thus protecting the character of the area.

### **Character**

Under DCP No 159 - Character, the land zoned 7(c2) is 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 existing development along the Central Coast Highway is residential in character and does not exhibit the scenically distinctive semi-rural qualities of the 7(c2) zone. Hence zoning this area to 2(a)/R2 zone to reflect this residential character is consistent with DCP 159. The zoning of EECs on the site to 7(a)/E2 will mean that these significant bushland remnants will be retained and continue to serve as a scenically distinctive natural backdrop when viewed from nearby properties. The knoll which accommodates the existing dwelling houses is generally cleared and permitting residential development on this land would not intrude upon the landscape.

### **DCP 90 - The Entrance Road, Forresters Beach**

The purpose of this DCP was to provide more details for the development and possible subdivision of the land zoned 7(a) and 7(c2) in 1997 (Appendix 13). This rural-residential subdivision has now been completed.

The objectives are:

- a To enable development to proceed in a manner which is sensitive to the environmental characteristics of the site and its environs;
- b To protect the environment of Wamberal Lagoon from the adverse effects of development;
- c To ensure development does not have an adverse impact on flooding and to ensure development is designed to ameliorate any potential flooding;
- d To facilitate vehicular access to the site and to ensure development does not have an adverse impact on the existing road network;
- e To ensure development design is sensitive to the visual and scenic character of the surrounding rural area and compatible with nearby urban development so as not to compromise residential amenity.

The DCP identifies specific requirements to satisfy these objectives. The requirements relevant to the current proposal are discussed below.

#### **Objective (a) To enable development to proceed in a manner which is sensitive to the environmental characteristics of the site and its environs**

- (a)(i) All woodland vegetation identified on the Development Control Plan map (see Appendix 13 of this report) must be retained, including understorey vegetation. No building works are to be undertaken in this area. Clearing or underscrubbing is only to be undertaken for bushfire hazard control and only when required by Council's Bushfire Control Officer or for the removal of weeds. Council's Environmental Officer must also be consulted prior to any clearing or underscrubbing.

#### Comment

The land fronting the Central Coast Highway comprises residential sized lots with accompanying dwelling-houses. The DCP map does not show there being any significant vegetation stands on these lots or that part of Lot 522 DP 1077907 and Lot 1 DP 405510 fronting the Highway.

The DCP plan shows the vegetation located in the 7(c2) zone, including the EECs, as being retained. This is consistent with the planning proposal which proposes the rezoning of significant vegetation identified as EEC to 7(a)/E2. The remaining vegetation shown on the DCP, which is not EEC, is generally located within the existing 30m building setback to Bakali Road and is very much thinner than when the DCP was prepared. By varying minimum lot sizes or building setbacks along Bakali Road it is likely that any future dwellings could be located clear of these trees.

**Objective (b) To protect the environment of Wamberal Lagoon from the adverse effects of development**

- (b)(i) In order to prevent further nutrification and sedimentation of Wamberal Lagoon caused by development and runoff from the subject land, nutrient filter measures must be implemented to filter nutrients so as to prevent them from entering Wamberal Lagoon. Details must be provided at the development or building application stage to the satisfaction of Council's Environmental Control and Planning, and Flooding and Drainage Activities.
- (b)(ii) Development proposals must ensure they do not contribute to the degradation of Wamberal Lagoon environs through water and sediment pollution. In order to protect the environs of Wamberal Lagoon high intensity development is discouraged. Should a development application for high intensity uses be submitted (i.e.: places of public worship, stock homes), then detailed supporting information must be submitted with the development application to demonstrate that adequate on site detention and nutrient control measures will be implemented.
- (b)(iii) The placement of fill on the site is to be minimised to maintain groundwater characteristics to ensure the long term survival of vegetation to the west of the site.

Comment

The proposed residential zoning of the residential sized lots fronting the Central Coast Highway reflects the existing character of the area as does the extended residential zone to the north of the residential sized lots.

This DCP applies to land that was zoned 7(c2) in 1997 as it was considered to be the most suitable zone for the characteristics of the land. Rezoning of the knoll to permit a residential development will lead to an inevitable increase in overall impermeable ground surfaces resulting in potential increased runoff and changes to the Wamberal Lagoon hydrological cycle. A study regarding the potential runoff generation and any mitigation measures should be undertaken prior to consultation.

**Objective (c) To ensure development does not have an adverse impact on flooding and to ensure development is designed to ameliorate any potential flooding**

- (c)(i) Engineering and hydraulic calculations and survey information are to be submitted with any development applications for subdivision of the site or proposed development in order to determine whether the land is affected by the 1% Annual Exceedance Probability flood event line for post development flows. No dwellings, other buildings or the placement of fill is to be undertaken below the 1% AEP flood event line.

Comment

The existing 31 residential sized lots are already developed. That part of Lot 522 DP 1077907 and Lot 1 DP 405510 fronting the Central Coast Highway is of sufficient area to include stormwater detention works in any future development, should they be required.

This requirement suggests that some of the land, at least, is flood liable and unsuitable for residential buildings. A flood study is required to ascertain the extent of the 1%AEP flood event. This will determine the extent of the land to be zoned 7(a)/E2.

**Objective (d) To facilitate vehicular access to the site and to ensure development does not have an adverse impact on the existing road network**

- (d)(i) All development applications shall be referred to Council's Traffic Section for their comments. Vehicular access to the land shall be to the satisfaction of Council's Development Traffic Committee. It is noted that any major traffic generating developments are considered inappropriate on this land.
- (d)(ii) Direct vehicular access to The Entrance Road is denied except for the existing residential sized allotments and [current Lot 522 DP 1077907].
- (d)(iii) Access to [current Lots 1-4 DP 1000694] is to be by way of the southern section of Bakali Road. This road is to be upgraded to the satisfaction of Council. Intersection improvements, to be determined at the Development Application stage, may also be required at this intersection.

Comment

The 31 residential sized lots already have access to the Central Coast Highway, whether directly or via the service road. The zoning of the land to residential will not alter this situation. The additional area of land at the northern part of the highway frontage land will generate additional traffic thus making direct vehicle access to the Highway unsatisfactory. The preferred alternative would be for this area to gain access to the Central Coast Highway via the land to the north (i.e. land subject to a previous Planning Proposal).

The land comprising the existing rural-residential lots would continue to gain access to Bakali Road. Access via the service road parallel to the Central Coast Highway is considered unsatisfactory due to the impact on adjoining owners. The impact of this traffic on the Central Coast Highway is unknown and will have to be ascertained by a Traffic Study, should the Gateway Determination be issued.

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

The Planning Proposal to rezone the unconstrained land to low density residential lots will provide social benefits to the community in the form of a small number of additional low density housing in an accessible location. As the Planning Proposal is for a residential zone and does not have the potential to develop into a centre. The implication of not proceeding with this Planning Proposal now is that it will be delayed until the broader urban fringe study is undertaken in accordance with directions from the Department of Planning and Infrastructure.

**Section D State and Commonwealth interests**

**10 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/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 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. Consequently a traffic study is required to be undertaken.

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.

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.

The proposal will not impact on Government infrastructure or services. Should the development proceed, the proponent will have to upgrade any infrastructure as required.

**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.

It is envisaged that the following agencies will be consulted:

- Office of Environment and Heritage
- Hunter Central Rivers Catchment Management Authority
- Roads and Maritime Service
- Rural Fire Service

**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.**

Appendices 1 to 17 contain 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 for rezoning the Highway frontage to Residential, 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.

## **Part 6 Project Timeline**

The timeframe for the completion of the planning proposal is envisaged to be:

Date of Gateway Determination	August 2013
Completion of required technical studies	August - December 2013
Government agency consultation	January - February 2014
Preparation of DCP and/or CP	February - March 2014
Report to Council re approve preparation of DCP/CP	April 2014
Public exhibition of PP and DCP/CP	May 2014
Consideration of submissions	June - July 2014
Consideration of submissions by Council	August 2014
Submission to Department to finalise	August 2014

## **Conclusion**

Prior to 1997 the subject land was zoned 1(c) Rural (Rural Purposes) and subject to several development applications for mobile home estates which Council subsequently refused. In response Council initiated the zoning of the subject land to 7(c2) as the zone better reflected the physical attributes of the land, the community's concern to protect Wamberal Lagoon and to

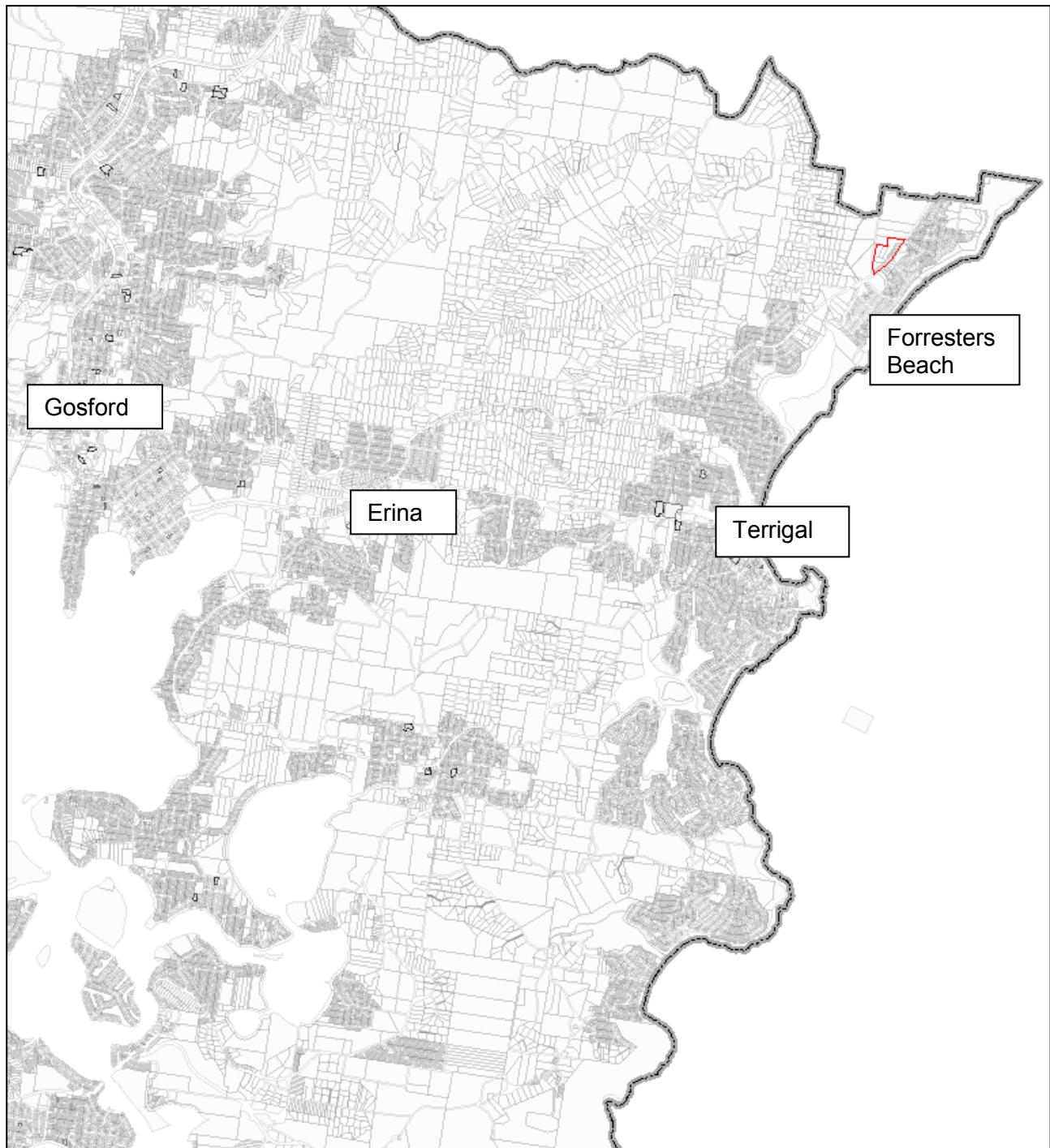
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maintain visual quality. The resultant LEP No 331 was gazetted in 1997. The accompanying DCP No 90 also came into effect and set out controls for the development of the 7(c2) zoned land.

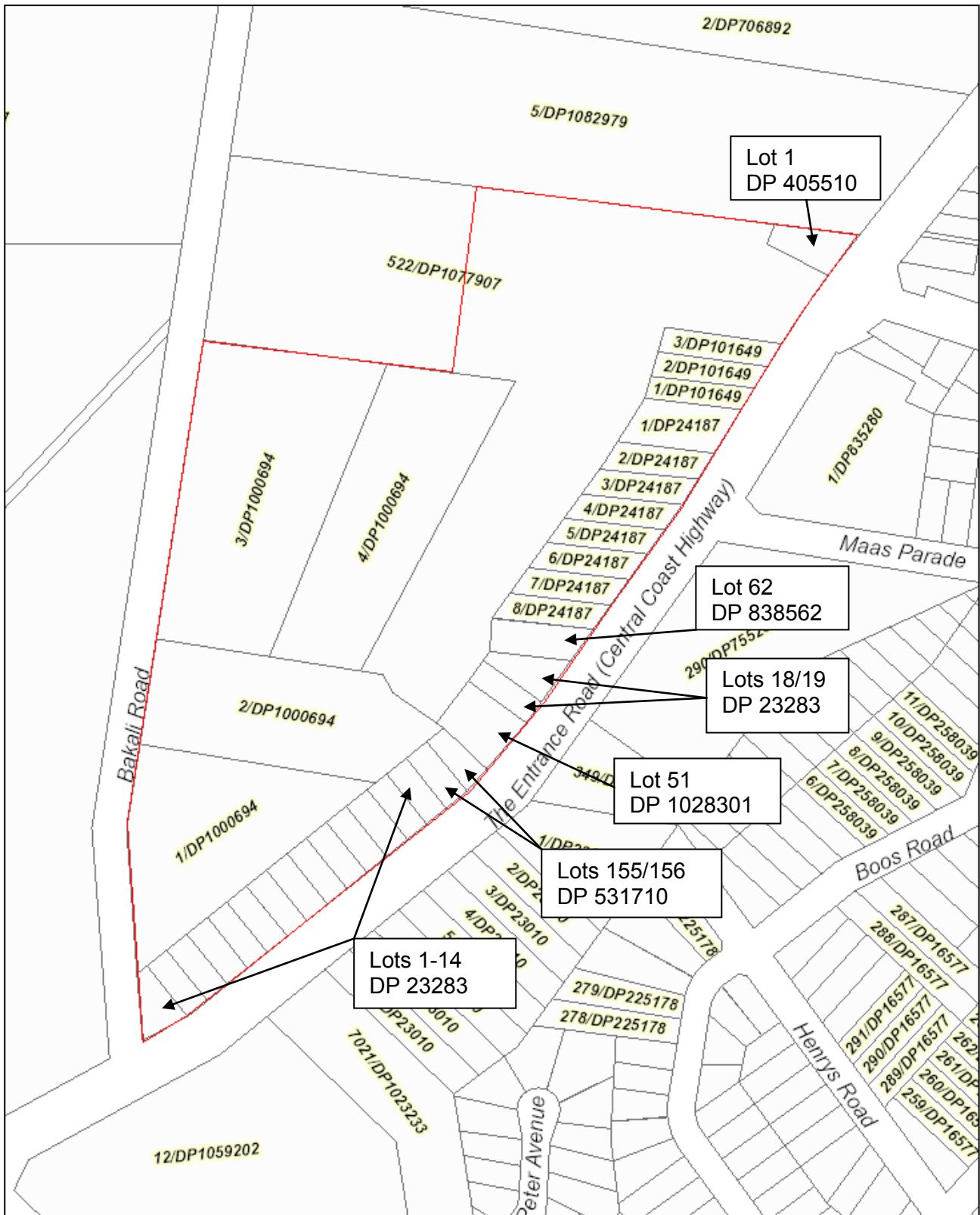
The zoning of the land fronting the Central Coast Highway to Residential in this Planning Proposal is a recognition of the historical residential subdivision pattern and a rounding off of this existing situation. There is an area to the north of these lots comprising Lot 1 DP 405510 and part of Lot 522 DP 1077907 also fronting the Central Coast Highway, which is able to be supported. The reason is that it is located between 31 residential sized lots proposed to be zoned R2 under the Draft Gosford LEP 2009 and the land immediately to the north which is the subject of a Planning Proposal seeking to zone the land primarily to 2(a)/R2. Hence the inclusion of this area is simply a rationalisation of the future 2(a)/R2 zone boundary based on Council's past decisions. Some of these small lots adjacent to the drainage easement may be flood-affected and if verified by a flood study may ultimately be unsuitable for zoning to Residential.

Some of the land accommodates EECs and/or is flood liable. Due to these physical constraints such land is unsuitable for any development and should be zoned 7(a)/E2. This approach is consistent with that taken for the Planning Proposal to the north and in the Draft Gosford LEP 2009 in general. The required flood study will determine the extent of the 7(a)/E2 zone boundary. The 7(a)/E2 zone will retain the land's filtering role for stormwater overland flows to Wamberal Lagoon.

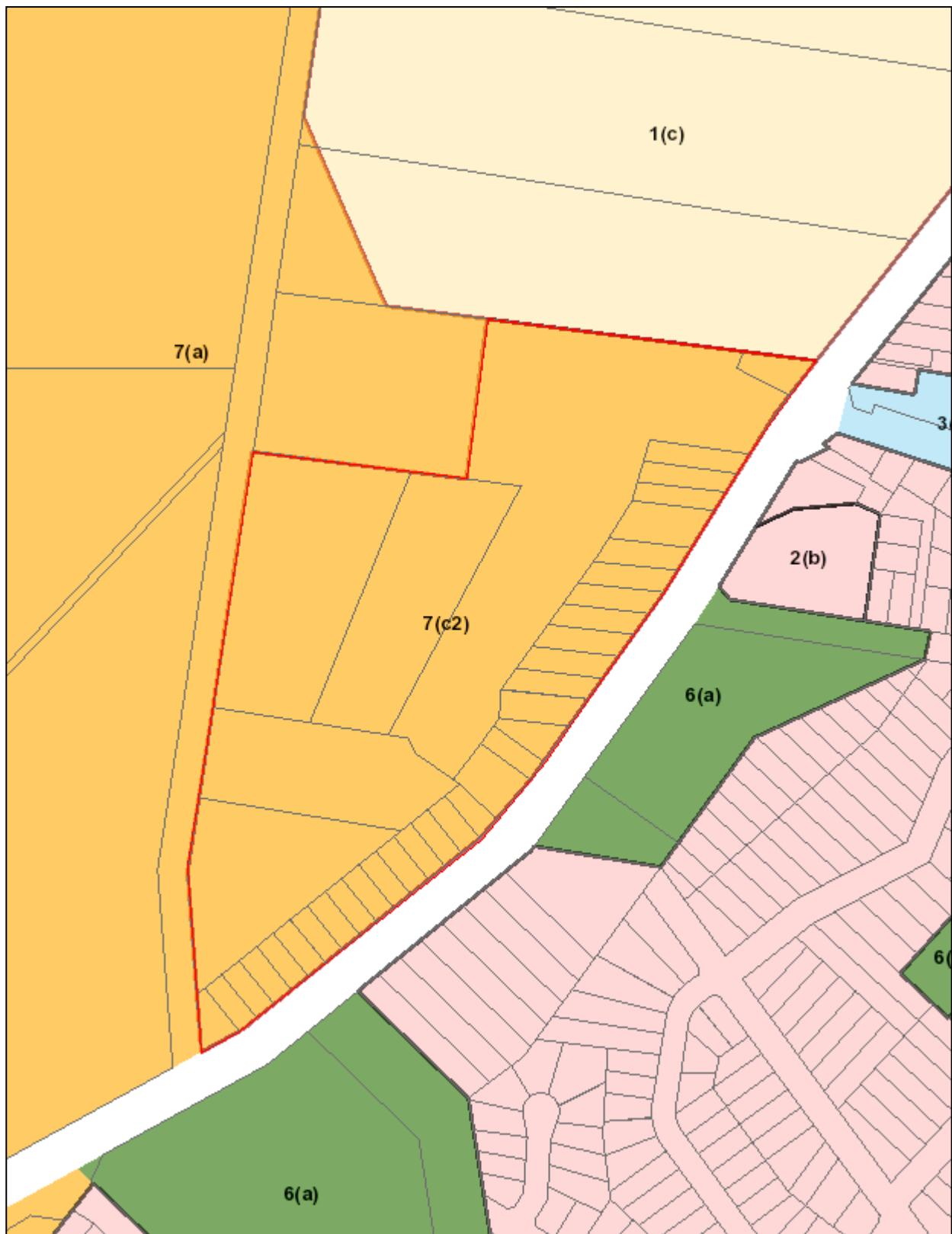
The zoning of flood-free land to the west of the existing houses fronting the Highway to 2(a)/R2 may have some potential subject to the findings of the urban capability and environmental studies required to be undertaken. Based on the information contained in the studies, Council will have to investigate the need for a Development Control Plan and/or a Contributions Plan.

**APPENDIX 1 - Locality Map**

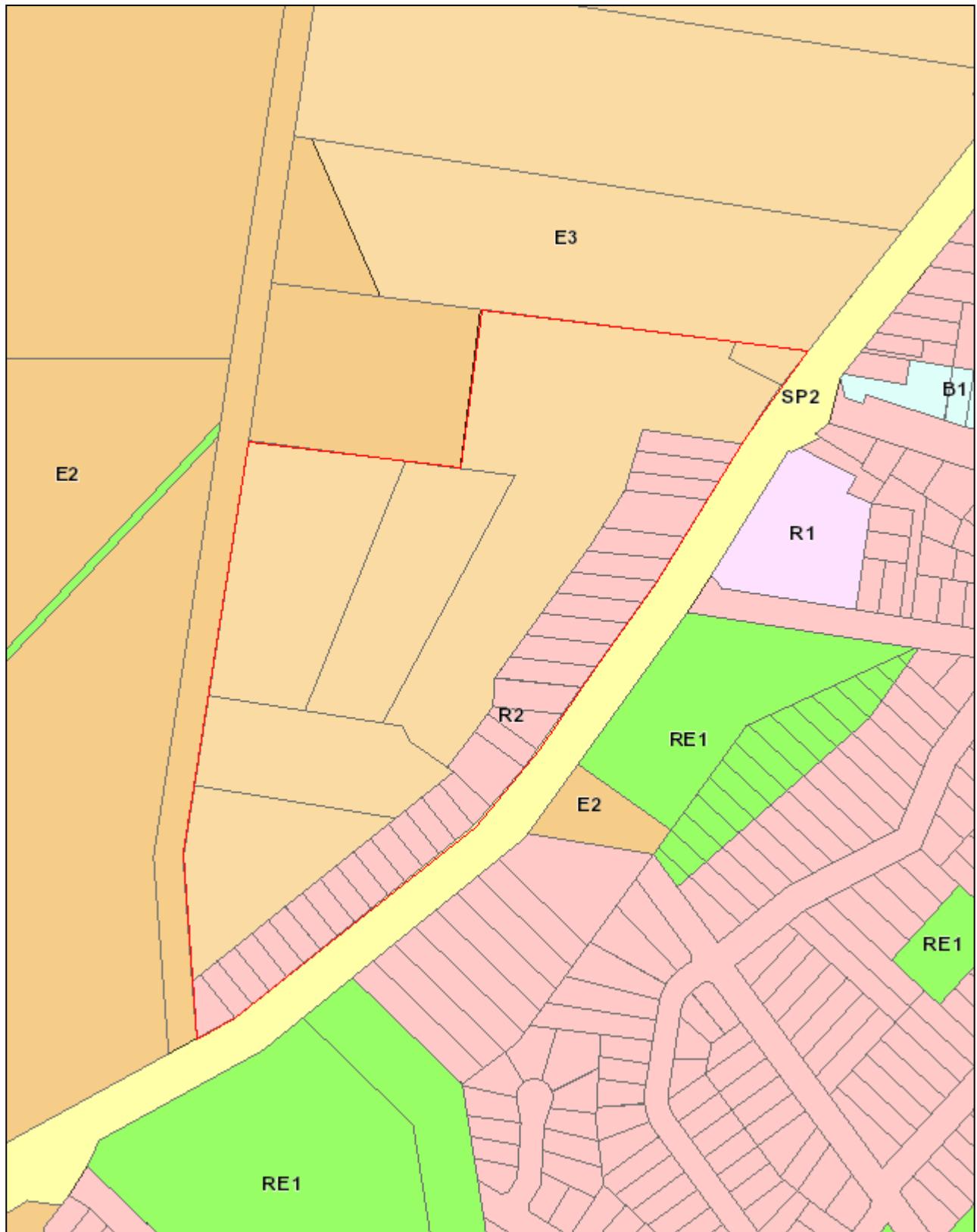
## APPENDIX 2 - Lot Descriptions



**APPENDIX 3 - Aerial Photograph**

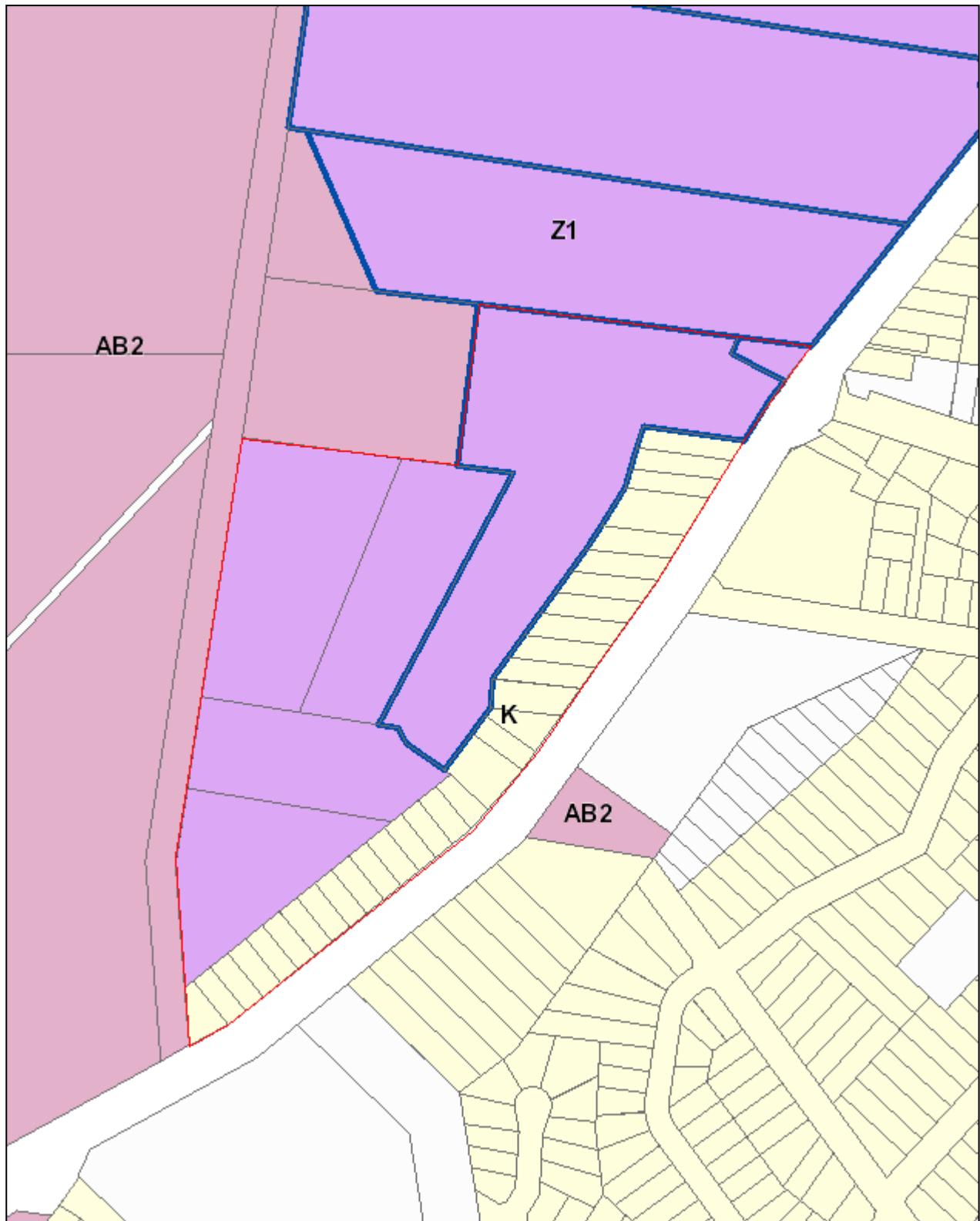
**APPENDIX 4 - Existing Zoning Map**

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

**APPENDIX 5 - Exhibited Zoning under Draft Gosford LEP 2009**

R2 = Low Density Residential

E3 = Environmental Management

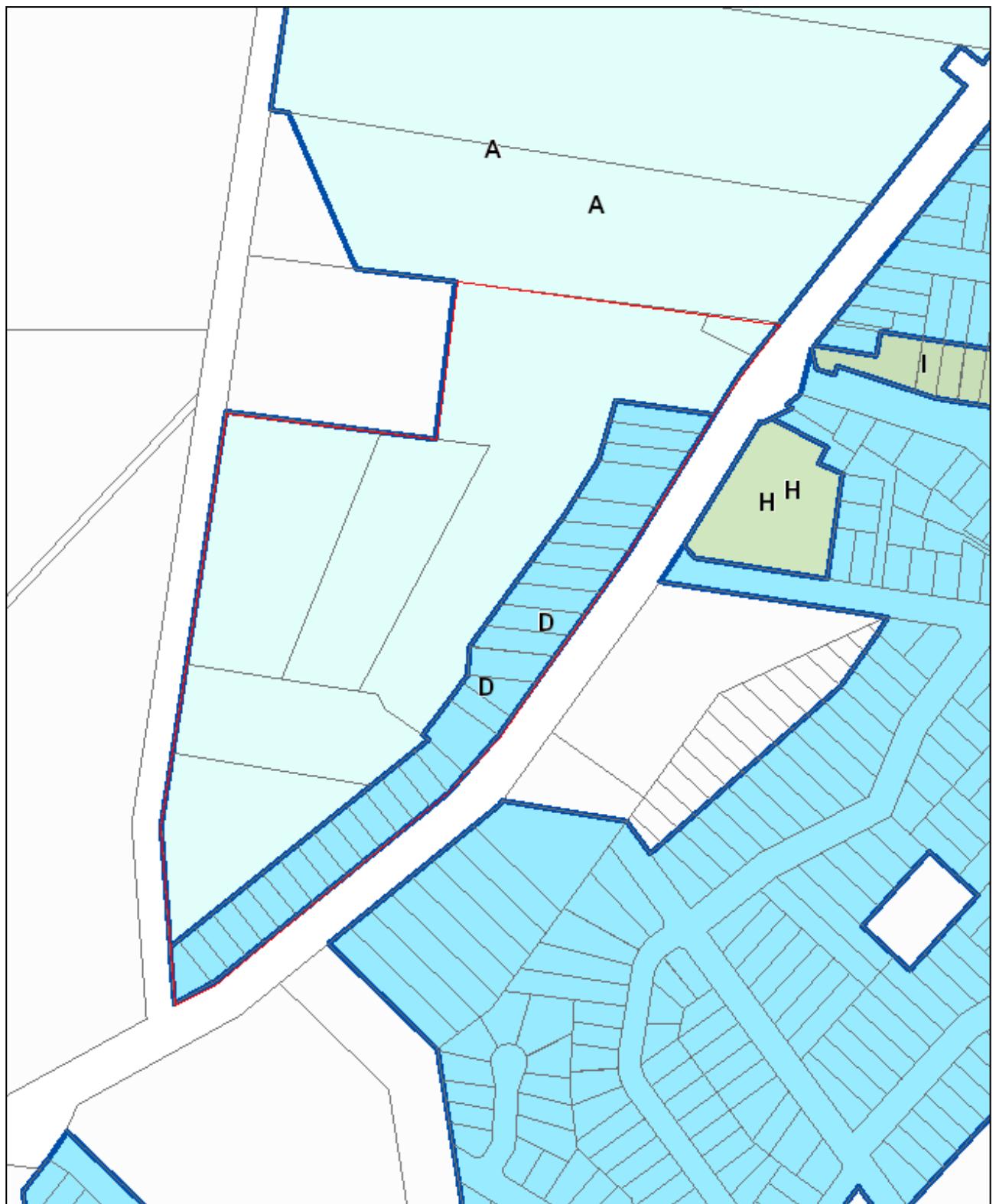
**APPENDIX 6 - Exhibited Minimum Lot Size under Draft Gosford LEP 2009**

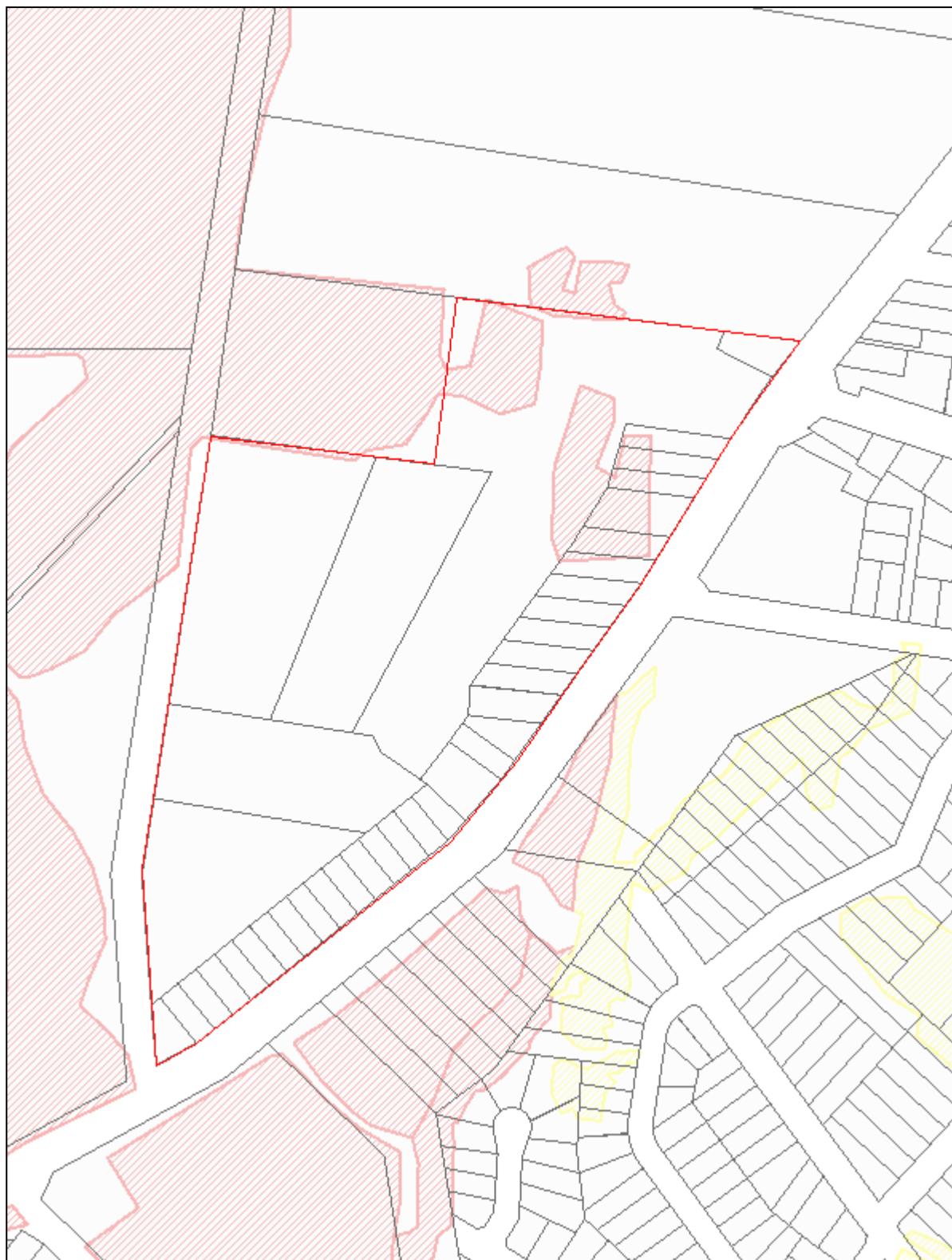
K = 550 sqm

Z1 = 2 ha

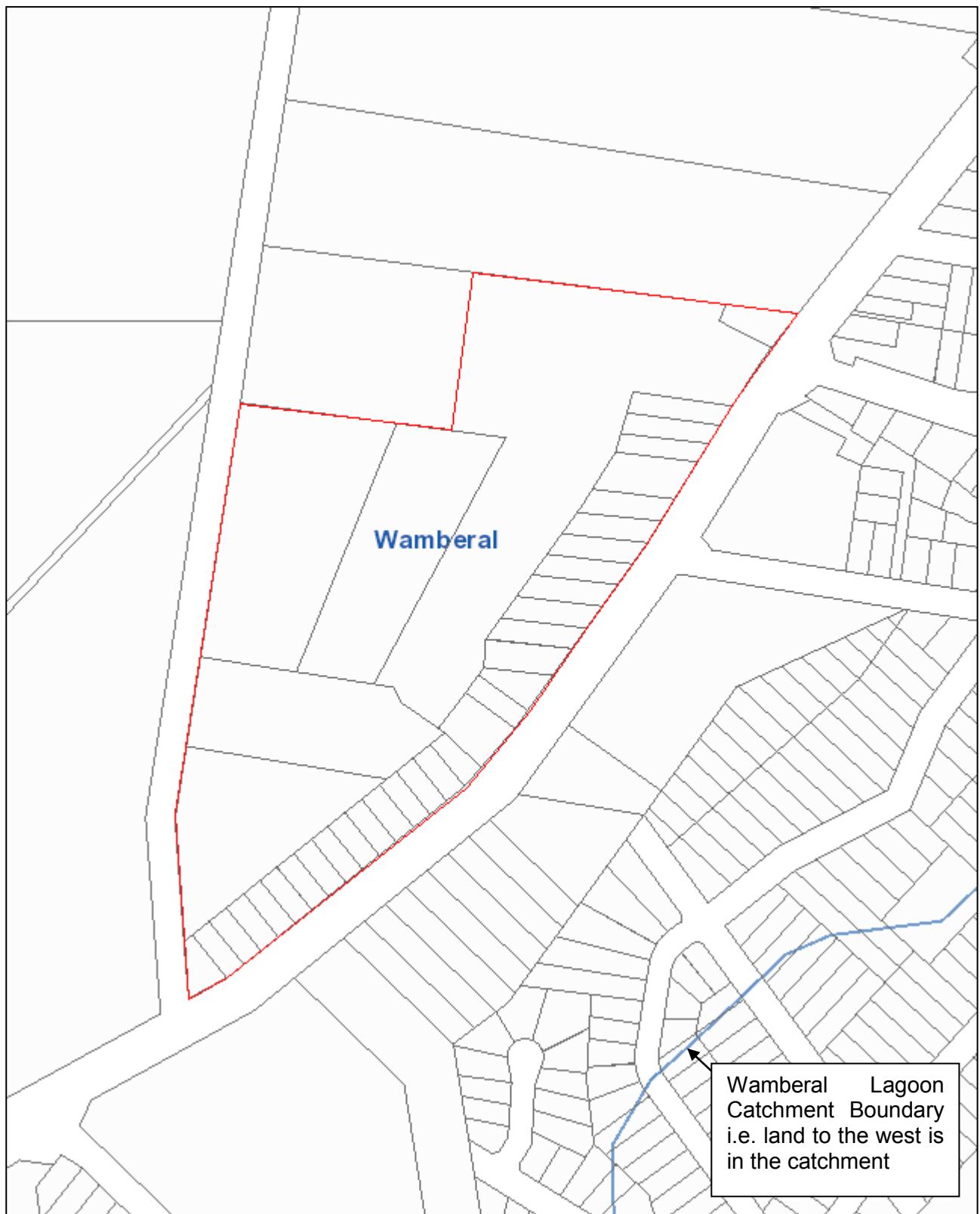
**APPENDIX 7 - Exhibited Height of Building under Draft Gosford LEP 2009**

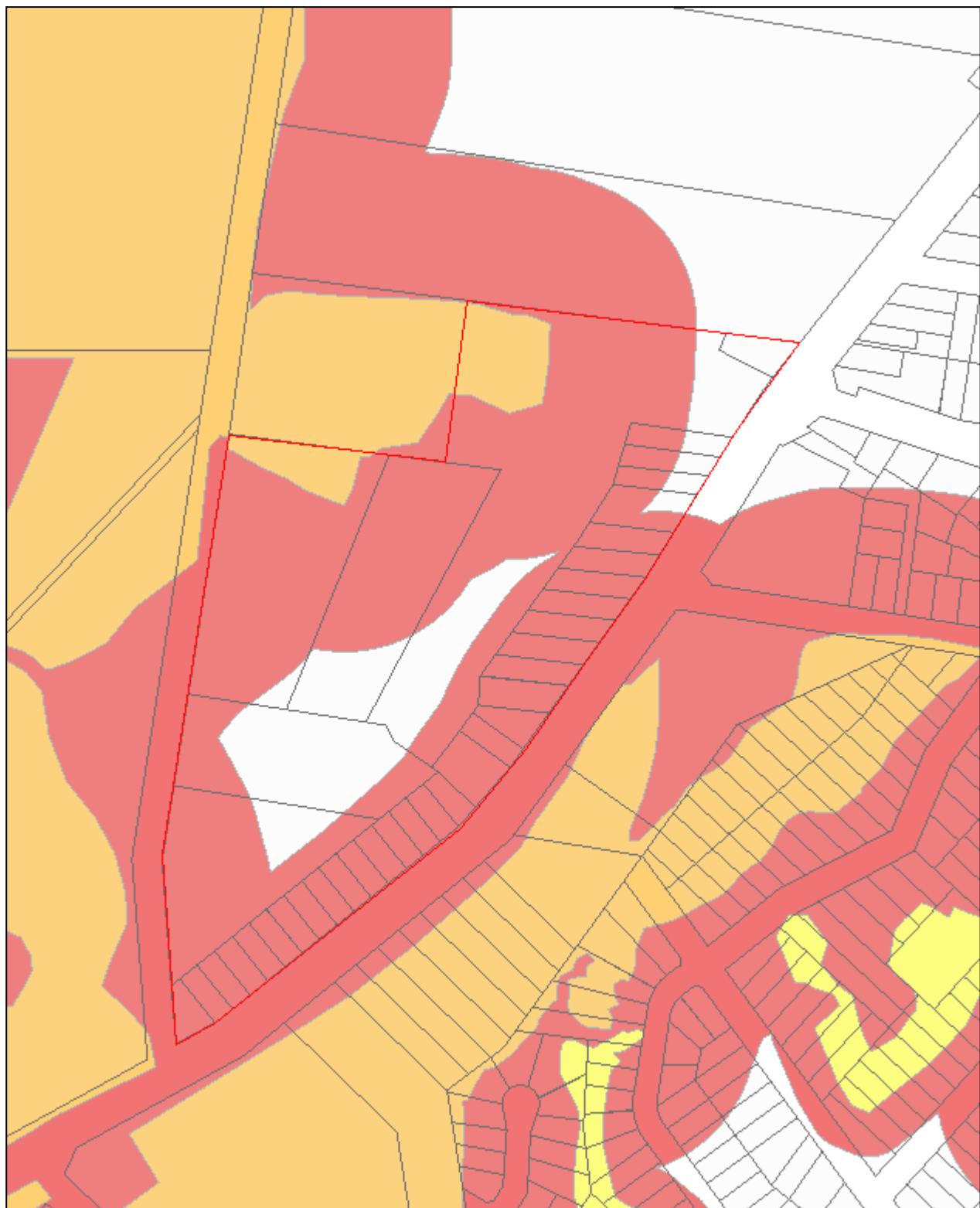
I = 8.5m

**APPENDIX 8 - Exhibited Floor Space Ratio under Draft Gosford LEP 2009**

**APPENDIX 9 - Significant Vegetation**

Red Shading - Endangered Ecological Community  
Yellow Shading - Regionally Significant Vegetation

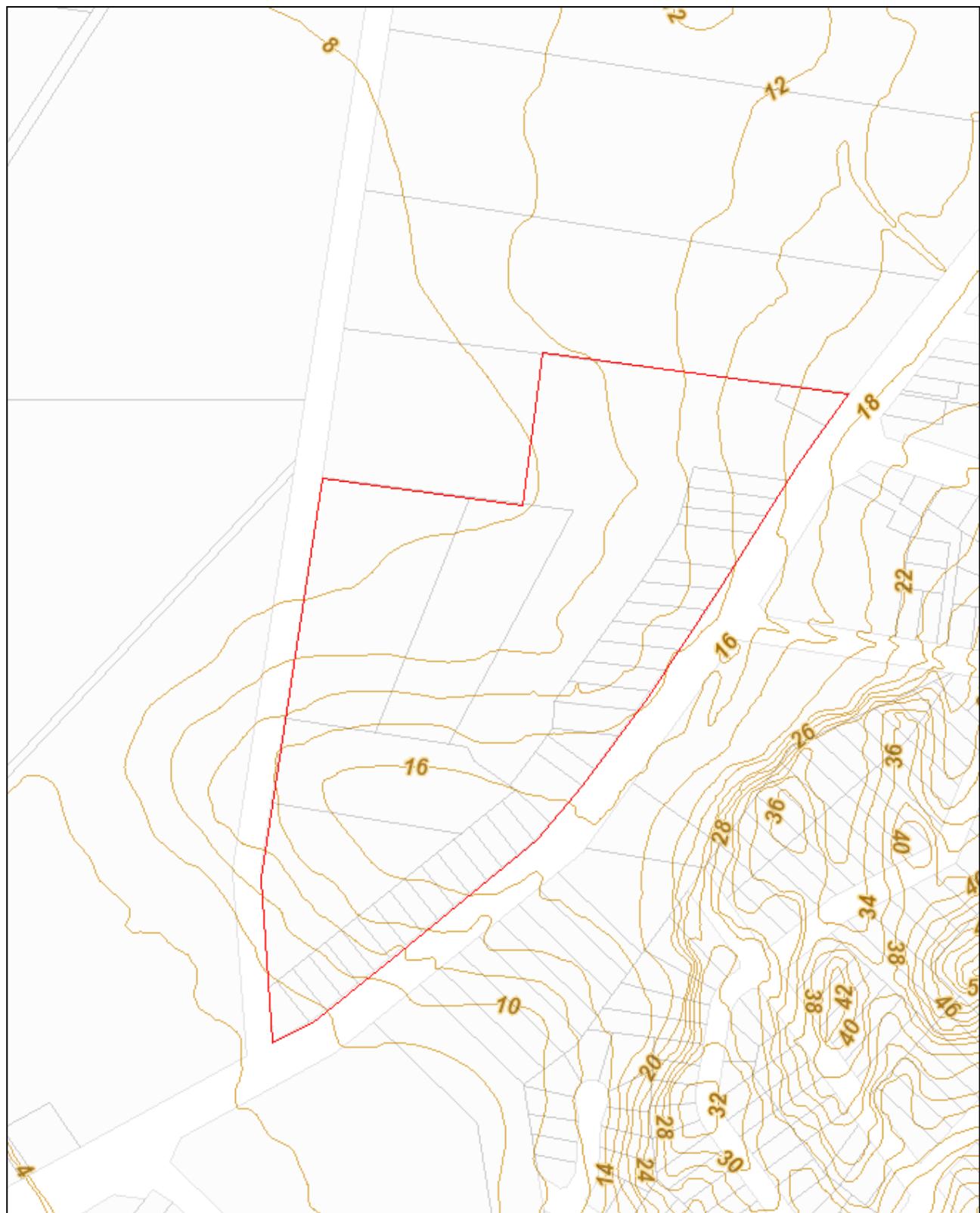
**APPENDIX 10 - Lagoon Catchment**

**APPENDIX 11 - Bushfire Hazard**

Orange Shading - Category 1 Vegetation

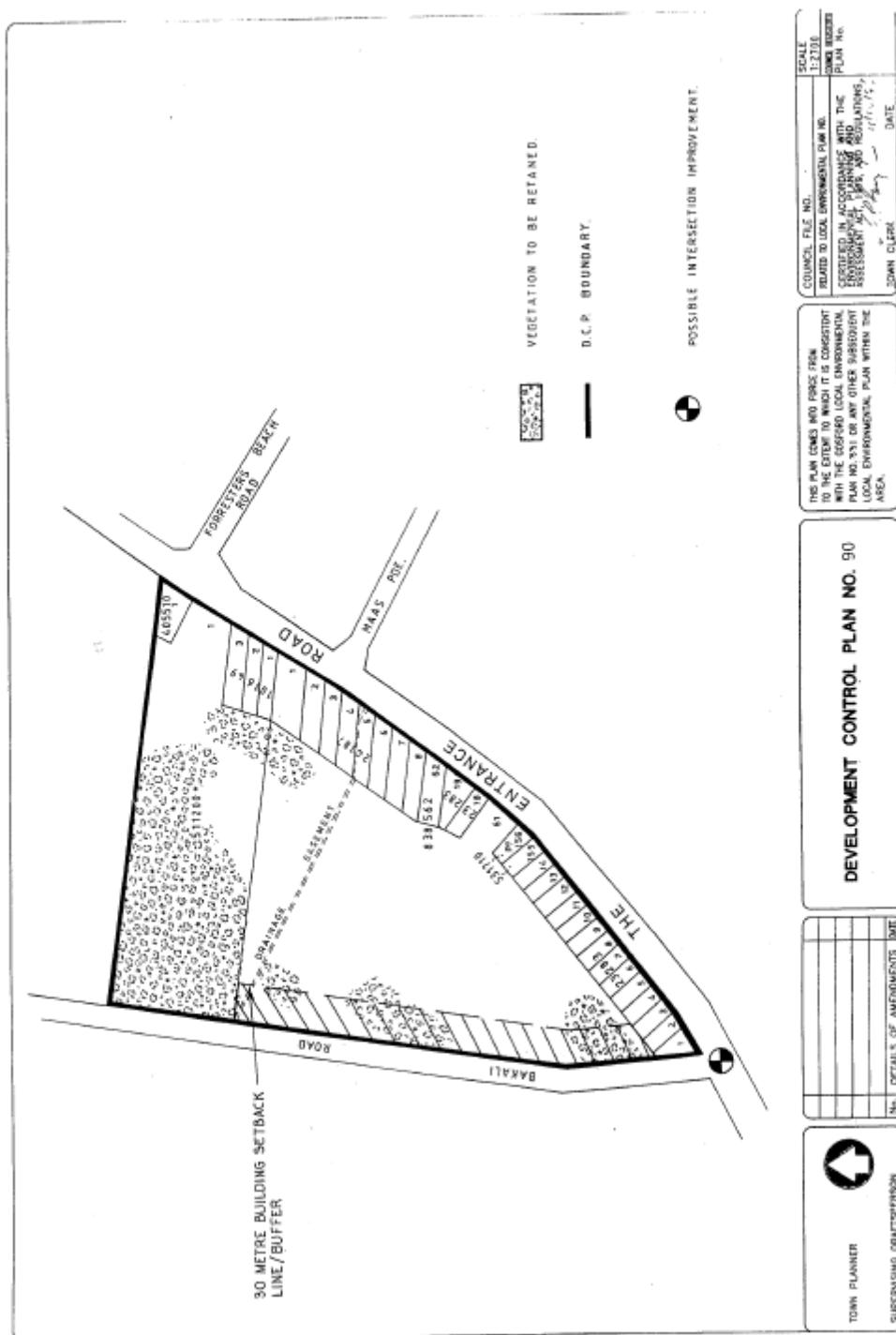
Red Shading - Buffer Area

## **APPENDIX 12 - Topography**

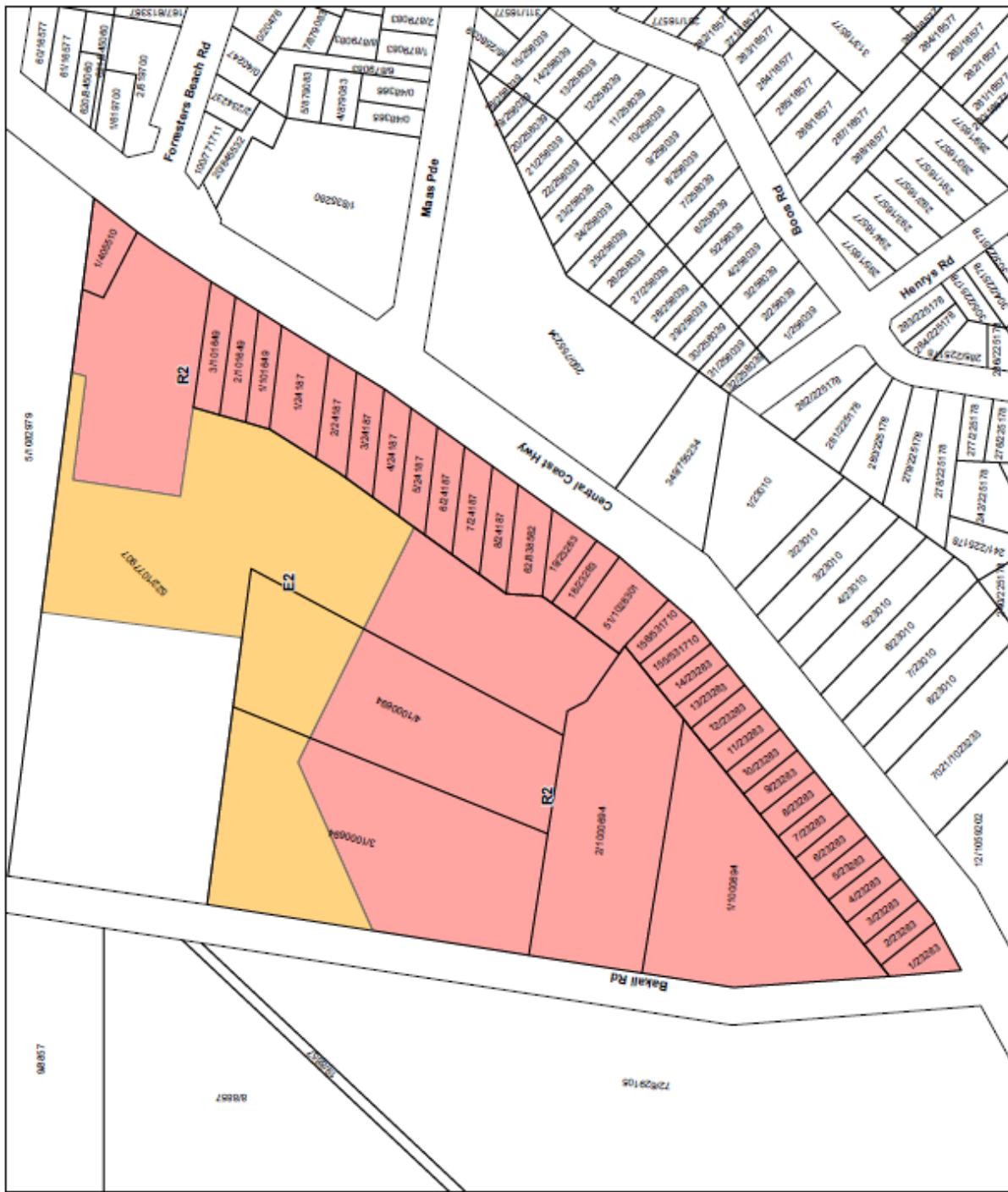


## 2m Contours

**APPENDIX 13 - DCP No 90 The Entrance Road, Forresters Beach**



## APPENDIX 14 - Draft LEP Zoning Map



## APPENDIX 15 - Draft LEP Minimum Lot Size Map



## **APPENDIX 16 - Draft LEP Height of Building Map**



## APPENDIX 17 - Draft LEP Floor Space Ratio Map



## APPENDIX 18

### Sustainability Criteria for New Land Release - Central Coast

**Lot 522 DP 1077907, Lot 1 DP 405510, Lot 51 DP 1028301, Lot 62 DP 838562, Lots 155 & 156 DP 531710, Lots 1-14, 18 & 19 DP 23283, Lots 1-8 DP 24187 and Lots 1-3 DP 101649, Central Coast Highway, and Lots 1-4 DP 1000694, Bakali Road, Forresters Beach.**

#### 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.

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 potentially 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

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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 on Lot 522 DP 1077907 which will be protected by zoning the land to E2 Environmental Conservation.

The environmental footprint will 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 within the E2 zone 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 (e.g. Terrigal, Erina and Gosford) where an extensive range of health, education, legal, government, recreational, cultural and community services are available.