

Council reference: Planning Proposal 0001/2019

31 October 2019

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Shellharbour Council response to rezoning review

Dear Graham

Thank you for the opportunity to provide comment on the rezoning review of this Planning Proposal.

Council confirms that the following documents provided by the Department on 16 October 2019 are the same as the ones submitted to Council by the proponent, Indesco, on 13 September 2019.

- Planning Proposal including Appendices 1 & 2 - September 2019
- Appendix 3 Layout Plan – 30 July 2019
- Appendix 4 Services Review - December 2018
- Appendix 5 Floodplain Risk Management Plan V1 – 9 September 2019
- Appendix 6 Traffic Report - 19 August 2019
- Appendix 7 Ecological Report - 21 August 2019
- Appendix 8 Preliminary Site Investigation Report (Contamination) - 7 December 2018
- Appendix 9 Geotech Assessment – 15 August 2019
- Appendix 10 Bush Fire Report – 6 September 2019
- Appendix 11 Aboriginal Heritage Review – 10 December 2018

These documents, other than Appendices 4, 8 & 11, are a revised version of those lodged with the initial Planning Proposal application on 8 January 2019. These revised documents were submitted in response to Council's initial review of the application dated 5 July 2019 and a meeting between the applicant, landowners and Council staff on 2 August 2019.

Summary

The application covers approximately 29 hectares and proposes minimum lot sizes ranging from 300m² to 4,000m², use of a local clause to limit the number of lots fronting Cooby Road and zoning a combination of R2 Low Density Residential, R5 Large Lot Residential, E4 Environmental Living, E3 Environmental Management and E2 Environmental Conservation.

ENGLISH

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GREEK

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An indicative concept plan has been included in the proponent's Bush Fire assessment and Ecological Constraints reports. Council acknowledges these are conceptual only and do not form part of the Planning Proposal however they do appear to assist in setting the zone and lot size mapping boundaries. The concept plans show about 113 residential zoned lots and about 24 rural residential lots.

The property contains important and significant vegetation communities as well as a number of hollow bearing trees. The property also has the potential to support residential development as well as a limited number of rural residential development that will assist in providing a custodianship to the remaining parts of the land.

The land with residential potential has some environmental attributes and Council's assessment has taken a balanced view of allowing residential development and the consequent loss of vegetation on that land whilst reducing the proposed "rural residential" component to ensure that the large stands of significant vegetation are retained in as large a holdings as possible.

For the purpose of this submission, Council has divided the property into five precincts:

- Precinct 1 – Plateau 1
- Precinct 2 – Plateau 2
- Precinct 3 – Cooby Road frontage
- Precinct 4 – Land on slopes of central plateau
- Precinct 5 – Land to east of the site

Council:

1. Supports a mix of zones and lot sizes generally as proposed on the plateau (Precincts 1 and 2) with a building height of 9.0m and not 9.5m as 9.0m is the standard building height for residential development in the LGA. This will provide a yield of about 56 lots. See locality in **Attachments 3 & 4**.
2. Does not support the extent of development as proposed along the Cooby Road frontage (Precinct 3). Council supports a maximum of four lots along this frontage with a building height of 9.0m and not 9.5m as 9.0m is the standard building height for residential development in the LGA. See locality in **Attachment 5**.
3. Does not support the extent of development as proposed along the slopes of the plateau land (Precinct 4). Council supports a maximum of two lots in this area with a building height of 9.0m and not 9.5m as 9.0m is the standard building height for residential development in the LGA. See locality **Attachments 6, 6a & 6b**.
4. Supports the proposed minor changes to the boundaries of the existing residential zoned land along the eastern part of the property (Precinct 5); the minimum lot size of 300m² for the southern area and a minimum lot size of 2,000m² for the northern area with a building height of 9.0m and not 9.5m as 9.0m is the standard building height for residential development in the LGA. This is about 49 lots. See locality in **Attachments 7 and 7B**.
5. Supports an approximate total lot yield in the Planning Proposal of about 111 lots, not 137 as outlined in the Planning Proposal.

Council Resolution

This Planning Proposal has not been considered at a Council meeting as the Rezoning Review has been submitted before Council considered the Proposal.

Background

The property is zoned part Residential 2(e) Mixed Use and part Rural 1(a) under Shellharbour LEP 2000.

The property is deferred from Shellharbour Local Environmental Plan (LEP) 2013. Council considered the report to adopt SLEP 2013 (the Standard Instrument LEP) at its meeting of 29 May 2012. At that meeting Council resolved

That the land identified in Map 1.4 in the Urban Fringe Local Environmental Study be deferred from the Draft Shellharbour LEP 2011 so that potential increases in residential densities can be studied/assessed.

Pre-lodgement Advice

A pre-lodgement meeting was held on 24 October 2018. The proponent was advised of the matters to be included in a future Planning Proposal and that the tabled proposal should take into account the relevant studies and from that information, development scenarios be considered. **Attachment 1** includes Council's letter to the proponent.

Illawarra Shoalhaven Regional Plan

The regional plan does not specifically identify or support rural residential development in the Shellharbour LGA. As such, Council considers that this is a local matter to determine the appropriate land use.

With regard to residential zoned land, the regional plan specifically states that:

"Evidence from the Urban Feasibility Model, Illawarra Urban Development Program and Shoalhaven Growth management Strategy show there is enough potential for the market to supply housing across a range of locations and housing types for the long term. Therefore, no new release areas are required for Wollongong, Shellharbour and Shoalhaven beyond those already identified under the Illawarra Urban Development Program and Shoalhaven Growth Management Strategy."

Based on the above, Council is of the view that no additional residential zoned land is required in the Shellharbour LGA. Notwithstanding the regional plan information, an area on this site has been identified in a Development Control Plan since 1999 as potentially suitable for residential development to assist in achieving a minimum density of 1500 dwellings in the Tullimbar locality. Also, Council's resolution of 29 May 2012 deferred the land so that potential increases in residential densities can be studied/assessed.

As such, it is recommended that a part of this site be considered for R2 Low Density Residential and R5 Large Lot Residential zoning. It is also recommended that it is appropriate to consider a small number of rural residential style properties to enable an end use for the remaining parts of the property to be finalised, whilst at the same time minimising the adverse impacts of development on the significant environmental land.

Illawarra Shoalhaven Urban Development Program

The land on this property currently zoned Residential 2(e) Mixed Use SLEP 2000, is in the current Illawarra Shoalhaven Urban Development Program (ISUDP). No other land on this property has been included in the ISUDP.

The Illawarra Shoalhaven Urban Development Program update 2016 (the most recent publicly available document) identified the greenfield potential for Tullimbar Village zoned and serviced land as 1400 lots (page 34).

The Update also identified that there were 9,925 zoned and service ready lots with a benchmark of 7,366 lots for the region (page 18).

As at June 2017, Shellharbour had 3,240 zoned and service ready lots. This is considered a reasonable number of lots for our LGA and our contribution to the region.

The Planning Proposal consists of two separate areas proposed to be zoned R2. One area is generally similar to existing residential zoned land in Shellharbour LEP 2000 and included in the ISUDP. The second area is currently zoned 1(a) Rural and this land is not in the ISUDP. Whilst this Rural 1(a) zoned land is not in the ISUDP, it is considered reasonable for some form of development to be permitted in this locality due to its proximity to existing residential zoned land, notwithstanding the environmental constraints on, and providing vehicular access to, that land.

Local Strategy

There has been no local strategy endorsed by the Department of Planning, Industry and Environment (DPIE) to support this Planning Proposal.

Even so, part of the land has an existing residential zone and another part is shown in Shellharbour DCP as potentially suitable for residential development.

Albion Park Local Environmental Study

The Albion Park Local Environmental Study (APLES) was completed in late 1992. The APLES identified areas suitable for rezoning to Residential as well as Environmental Living, Horticultural, Open Space and Rural/Scenic Protection.

For this site, the APLES included proposed zone changes to Mixed Density Residential 2(e), Environmental Living 1000m² average lot size and Environmental Living 1 hectare minimum lot size.

The residential zoning was generally completed in 1994 and that land is currently zoned Residential 2(e) Mixed Use SLEP 2000. The Environmental Living rezoning did not progress on this property but was introduced on nearby land to the north and south in the form of Schedule amendments to the relevant LEP at that time.

Urban Fringe Local Environmental Study

The Urban Fringe Local Environmental Study (UFLES) was completed in 2010 and included this site. The UFLES is still Council's current policy position for this land as no other information has been presented to Council to consider. However, it is acknowledged that Council's resolution of 29 May 2012 deferred the land so that potential increases in residential densities can be studied/assessed.

The UFLES recommended a slight change to the location of the existing residential zone and five lots over the remainder of the site.

The information provided in this Planning Proposal has provided more site specific detail than considered in the UFLES. For that reason and based on Council's resolution of 29 May 2012, changes to some of the recommendations of the UFLES is considered reasonable and these are outlined in the **Recommendation** section of this submission.

Surrounding Development

The site is located towards the southern end of the Tullimbar valley as shown in **Attachments 2A and 2B**.

The adjoining lot to the north, east and south is subject to a Planning Proposal for three different areas as shown in **Attachment 2C**. The remainder of that lot has conditional development consent for a 290 lot stage subdivision, comprising 283 residential lots, three open space lots, one riparian lot and three residual lots on the existing Residential 2(e) zoned land.

Land to the south of the site consists of a 16 lot subdivision with lot sizes ranging from 6034m² – 1.662ha, see **Attachments 2A and 2B**. This plan of subdivision was registered in 2003.

Land to the north west of the site consists of a five lot subdivision with lot sizes ranging from 6145m² – 1.096ha, see **Attachments 2A and 2B**. This plan of subdivision was registered in 2003.

Draft Shellharbour Housing Strategy

The key findings and recommendations for the Draft Shellharbour Local Housing Strategy (SLHS) are:

- The demand for housing in Shellharbour over the next 25 years can be met by existing residential zoned land through infill and greenfield development
- There is a need for greater housing diversity and choice
- There is a need for more affordable housing
- There is a need for more public housing
- Our Local Environmental Plans and Development Control Plan should be reviewed taking into consideration the more detailed findings of the Housing Strategy
- Prepare for consideration a range of non-planning mechanisms to facilitate housing diversity and affordability
- Consideration should be given to limiting any future application of the Low Rise Medium Density Housing Code to existing R3 Medium Density zoned areas and possible future additional R3 zoned areas; to help achieve housing diversity.

The draft SLHS has been on public exhibition. Outcomes of Council's current discussions with the Department of Planning, Industry and Environment regarding recommendations of a report commissioned by the Minister for Planning and Public Spaces on a review of the Low Rise Medium Density Housing Code, will inform the finalisation of SLHS and a report to Council to consider adopting the Strategy.

Based on the Draft SLHS, no additional residential zoned land is required. Notwithstanding this point, the rezoning of the Plateau part of this lot is considered reasonable based on Council's resolution of 29 May 2012, information provided in the Planning Proposal, proximity to nearby development and the need to provide a development end state for this property.

Shellharbour Development Control Plan

The Shellharbour Development Control Plan (DCP) includes provisions for Tullimbar, including this land. The DCP identifies a minimum dwelling yield of 1500 to help support a primary school and

other facilities. The primary school opened about 12 years ago and at this stage no retail or commercial uses have been constructed.

The DCP divides the Tullimbar Village locality into precincts and allocates a minimum dwelling yield for each precinct in order to achieve the 1500 dwellings within the locality, see **Attachment 3**. This site falls within part of the south precinct which is zoned Residential 2(e) and wholly within the south west precinct that is zoned Rural 1(a).

The south precinct has been identified to achieve a minimum of 244 dwellings and the south west precinct 52 dwellings.

Approximate dwelling yield in Tullimbar

The numbers below are approximate and are subject to some land being rezoned and approval of development applications. The number may also increase if land is further subdivided as part of dual occupancy and multi dwelling housing development.

Based on existing dwellings, development consents and estimated lot yields, there will be about 1556 dwellings on the existing Residential zoned land in the Tullimbar locality. When land subject to Planning Proposals is included, there would be about 1661 dwellings. This figure includes this Planning Proposal.

When land immediately to the west of Tullimbar that was rezoned in 2016 & 2017 (but outside the land identified for minimum dwelling yield in the Shellharbour DCP) is included, the number increases to about 1820 dwellings.

Flora and Fauna/Environmental Assessment

Summary of Biodiversity Values

The subject site includes:

- Illawarra Lowlands Grassy Woodland – listed as Endangered under the *Biodiversity Conservation Act* and Critically Endangered under the *Environmental Protection and Biodiversity Conservation Act*.
- Illawarra Subtropical Rainforest – listed as Endangered under the *Biodiversity Conservation Act* and as of 5 September 2019, Critically Endangered under the *Environmental Protection and Biodiversity Conservation Act*.
- Areas of native vegetation include habitat for a range of flora and fauna species listed under the *Biodiversity Conservation Act* and *Environmental Protection and Biodiversity Conservation Act* (EPBC Act).
- The site is listed as having threatened flora.
- The site has listed Serious and Irreversible Impact entities under the *Biodiversity Conservation Act*.
- The site has 1st and 2nd order streams flowing to Yellow Rock Creek crossing the subject site.

Referrals

The site is mapped as Bushfire prone land and will require a referral to the NSW Rural Fire Service as part of the rezoning process

Any future Development application will require referral to the Department of Primary Industries as the site has 1st and 2nd order streams on it.

Summary of potential impacts

Potential impacts of the proposal on biodiversity include;

- Clearing for Asset Protection Zone (APZ) establishment and maintenance and following subdivision clearing to establish dwelling and outbuilding sites and fence lines.
- Impacts associated with urban development along the bushland interface such as spread of weeds, domestic animals, light pollution etc.
- Impacts to the riparian area and catchment associated with future residential developments and infrastructure such as changed hydrology, impacts of construction activities, increased nutrients.

Environmental Assessment

Council recognises that the proponent is working through the environmental constraints of the site and avoiding impacts where possible. An assessment of the impacts of the proposal on biodiversity issues are outlined below.

Biodiversity

- Council does not support the subdivision of areas of native vegetation, in particular Endangered Ecological Communities (EECs) as identified in the Ecoplanning, Ecological Constraints Assessment, 21 August 2019 and areas identified in the Urbano Concept Layout Plan, 31 July 2019 as Environmental Living. As identified in the Ecoplanning Report the area has considerable constraints due to the vegetation type and conservation status.

The area also has good connectivity to the surrounding vegetation, which would be considerably compromised if the Planning Proposal was approved in the current format. Subdividing the Environmental Living land would require further vegetation clearance by individual land owners to accommodate built structures and fences and provide an inconsistent maintenance regime.

A positive outcome would be to have the residual vegetation retained by one owner. There is also opportunity to apply the site as a Biodiversity Stewardship site under the *Biodiversity Conservation Act* (BC Act).

- It is also recommended that the remnant vegetation be combined with the riparian corridor and be retained by one owner.
- If the proposal were to be approved, a Biodiversity Development Report (BDAR) consistent with the BC Act and would be required to demonstrate how the proposal avoids, minimises impacts and shows offsets as well as calculating offset requirements under the BC Act. Part of this assessment would require consideration of Serious and Irreversible Impacts (SII).
- Illawarra Subtropical Rainforest is now listed as a potentially SII under the BC Act. *Rhodamnia rubescens* and *Daphnandra johnsonii* have both been listed as potential SII which is a typical species of Illawarra Subtropical Rainforest. *Chorizema parviflorum* has also been listed as a potential SII and are located within 5 kilometres of the site. *Zieria granulata* has been identified on-site as documented in Ecoplanning, Ecological Constraints Assessment, 21 August 2019 and is listed as a SII. Targeted surveys would be required for these species, particularly in areas proposed to be cleared. Following the targeted surveys for the above species, a report will be required. The report is to be consistent with the BC Act and the Biodiversity Assessment Method.

These surveys could be completed after the approval of a Planning Proposal but if species are found, they have the potential to limit clearing required for the development. This is because the

State government have legislated that Council is responsible for deciding whether an impact is serious and irreversible (*Biodiversity Conservation Act 2016*, Part 7, Division 4, 7.16 - Proposed development or activity that has a serious and irreversible impacts on biodiversity). In particular, section 7.16(2) of the BC Act, *the consent authority must refuse to grant consent under part 4 of the Environmental Planning & Assessment Act in the case of an application for development consent to which the Division applies, if it is of the opinion that the proposed development is likely to have Serious and Irreversible Impacts on biodiversity values.*

In the case of a development application lodged similar to the concept plans and minimum lot size map shown in this Planning Proposal, Council would need to review the documentation to identify whether this proposal constitutes a SAI and would potentially be refused or warrant a redesign.

- Any potential impact to areas that meet the criteria for Illawarra Subtropical Rainforest recently listed under *the Environmental Protection and Biodiversity Conservation Act* (EPBC) would require assessment under the EPBC Significant Impact Criteria. The Illawarra Lowlands Grassy Woodland – listed under the EPBC Act as identified in the Ecoplanning Report, will require an assessment against the EPBC Significant Impact Criteria to assess whether a referral the Commonwealth Department is required.

Riparian Area

- Council does not support the subdivision of the riparian corridor into individual lots with separate owners. This is not a positive outcome for the vegetation and operation of the riparian corridor. It will also provide inconsistent maintenance into the future. A positive outcome would be to have the riparian corridor retained by one owner
- Assessment of the riparian corridor and any potential impacts consistent with the Biodiversity Assessment Method would be required
- Any future subdivision proposal would need to include a Vegetation Management Plan prepared according to the DPI Guidelines and implemented over a 3 year period.
- DPI Office of Water may require a controlled activity approval.

Water Quality

- It is unclear where the water quality basin adjacent to the residential development on the plateau drains to. Any basins are required to drain to an existing stream with the least disturbance as possible.

Residual lands

Residual lands need to be clearly identified and ownership resolved. Council does not accept residual land. If funds are provided in perpetuity for the maintenance of the lands, Council may consider having discussions on ownership of the land.

Bushfire

The Bushfire assessment report (September 2019) has been modified from the original report (December 2018) in a number of ways. One is the removal of text that indicated that vegetation modification would be required to meet Asset Protection Zone requirements (APZ). There does not appear to be any reasoning for this omission in the 2019 report.

Figure 5 of the proponents September 2019 report shows APZs and an indicative lot layout that includes 10m x 15m building envelopes. A number of these building envelopes are covered in part or completely by the APZ. Whilst this is an indicative layout, the layout does correspond with the zone and lot size boundaries.

The minimum lot size map should be sufficient to ensure lots can be created outside of the APZ without requiring vegetation removal within that APZ.

The concept includes a fire trail on private land in the south east of the lot. This fire trail will most likely require vegetation removal that does not appear to have been taken into account in the concept.

Should Gateway determination for public exhibition be received, the Planning Proposal will be required to be referred to the NSW Rural Fire Service in accordance with Local Planning Direction 4.4 Planning for Bush Fire Protection. The lot size map may require revision if a redesign is required as a result of the comments from the NSW Rural Fire Service.

Building Envelopes

The concept plan includes a building envelope of 10m x 15m (300m²) for lots constrained by APZs. This is not large enough for land not zoned Low Density Residential R2 and in particular those larger lots that are likely to require space and structures for equipment to maintain the land. Building envelopes on adjoining land zoned R5 Large Lot Residential and E3 Environmental Management/E4 Environmental Living, (see **Attachments 2A and 2B**) range from 20m x 30m up to about 30m x 50m.

Except as discussed under the **Bushfire** heading above, the proposed building envelopes have been shown to generally fit outside the APZ for that lot. If that envelope is made larger and a more practical size for that location, some of the building envelopes are likely to be within the APZ which isn't appropriate.

Such a situation indicates that the lot size needs to be larger than shown on the concept plan to include more existing cleared areas within each proposed lot. This will allow a range of structures to be considered on the lot with minimal impacts on vegetation.

Development Contributions and Local Infrastructure

The DCP for Tullimbar envisaged at least 1500 lots and the approximate number, at last count, that has been or will be developed, is about 1661. Although this is slightly in excess of the number envisaged by the DCP, it is Council's view that infrastructure for the site can mostly be provided through the application of the Shellharbour Local Infrastructure Contributions Plan 2019 (9th review) (Contributions Plan), although it may also be provided by a Voluntary Planning Agreement (VPA) to accommodate some additional infrastructure requirements.

1. Open Space

Open space will need to be provided in accordance with Council's Open Space Recreation and Community Facilities Needs Study and the standards in the Contributions Plan. As the land has not been specifically identified in the Contributions Plan, a VPA will be required to authorise the dedication. If it is to be dedicated through a VPA, the location and size will need to be agreed between the applicant and Council and included in the VPA. A contribution for embellishment may also be required.

2. Drainage

A detailed drainage design has not to be finalised for this site. Ultimately, the drainage works will need to be approved by Council, and Council needs to be satisfied that the proposed drainage system can adequately cater for the development without compromising the ability of existing and future developments within the area of the DCP to use the existing drainage network. Should it be intended that any drainage structures such as On-Site Detention basins are to be dedicated to Council, then this should also occur by way of a VPA. Any decision to accept drainage structures however is at the discretion of Council. The VPA may also provide for a maintenance contribution for the drainage structures.

3. Traffic

As a result of the cumulative impact of this proposal along with other proposals there is a need for upgrades of Yellow Rock Rd between the Illawarra Highway and Wongawilli Street. It is suggested that a precinct based approach to funding the upgrades be adopted. As a result, the contribution payable for this development should be 6.1% of the total cost of the road upgrades, this being a cost proportional to the number of lots involved with this proposal (111) as a proportion of the total number of lots developed, or likely to be developed (1820). It is noted that the applicant in the Planning Proposal application has agreed in principle to make a contribution to upgrade Yellow Rock Rd and it is considered that the methodology described above is a reasonable basis for which the applicant could pay a contribution. Council notes that the final percentage will be calculated on the anticipated lot yield based on the Gateway determination.

Summary

The infrastructure requirements for this proposal can be based on the Contributions Plan, though subject to some relatively minor variations which may be done through a VPA, noting that a VPA will probably be required in any case to manage the dedication of the open space land.

It is recommended that a commitment to enter a VPA be made a requirement of the Gateway determination to provide certainty that the required infrastructure will be delivered. It should preferably be prepared so that it is suitable for exhibition with the Planning Proposal, as leaving it until the DA stage does not provide a sufficient level of certainty that it will be prepared and concluded. The VPA could be structured to provide for the delivery (amongst other matters) of the following benefits:

- Open space land once approved by Council and possibly an embellishment contribution
- Drainage structures (subject to Council approval) and possibly a maintenance contribution
- Contribution for the upgrade of Yellow Rock Rd between the Illawarra Highway and Wongawilli Street at approximately 6.1% of the total cost
- Monetary Contribution for other facilities included in the Contributions Plan; this could be based on the \$20,000 per lot that is usually payable for developments in Tullimbar, and offsets could be considered for drainage and road contributions
- Other contributions as considered appropriate – for example money for biodiversity offsets

Open Space/Recreation

The Concept plan identifies the location of parks. The specific location will need to be determined as part of a VPA that is co-ordinated prior to the finalisation of the rezoning process. The location of the open space needs to have regard to the following comments.

- Council will not accept land that includes high ecological constraints or detention basins in the calculations of/for useable open space. The concept plan shows a site that includes land having high ecological constraints. Any future plans will need to address this issue.

- The provision of open space must be in accordance with:
 - The standards within the Shellharbour Local Infrastructure Contributions Plan 2019 (9th review). *The contribution plan requires land dedication and open space embellishment for subdivisions with a development site covering 2 or more hectares or that proposes to develop 40 lots or greater*
 - The Shellharbour Development Control Plan and
 - Shellharbour Open Space Recreation and Community Facilities Needs Study report (Appendix B)
- That the proposed zone has *Recreation Areas* as a permissible use in accordance with Shellharbour LEP 2013
- The proposed area for useable passive open space is separate from riparian areas.

Flooding

The submitted Floodplain Management Report has been assessed under Local Planning Direction 4.3 - Flood Prone Land.

The Planning Proposal is generally consistent with Direction 4.3 except for the following minor matters:

- Part 4

A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).

The Planning Proposal has not demonstrated how sections G6.3, G6.4, J2.1 and L6.8 that relate to maintaining access to flood prone land or how the provisions of Shellharbour Development Control Plan that relate to timely, orderly and safe access for emergency personnel to the site during times of flood can be complied with.

This inconsistency is considered minor:

1. due to the existing surrounding development being subject to similar circumstances and
2. if the provisions for timely, orderly and safe access for emergency personnel to the site during times of flood can be demonstrated by the applicant as part of any future development application.

- Part 6(c)

*(6) A planning proposal must not contain provisions that apply to the flood planning areas which:
(c) permit a significant increase in the development of that land*

The Planning Proposal contains a small portion of land located in proposed zone E4 Environmental Living, E3 Environmental Management and E2 Environmental Conservation which are affected by 1% AEP event with slight increase in the peak flood depth (about 50-300mm) during the 1% AEP event. The amount of development proposed in these locations is considered minor and is not a significant increase in development in the locality.

In conclusion, Council considers that it could be argued that the provisions of the planning proposal that are inconsistent with this direction are of minor significance, if the applicant can demonstrate there are provisions within the proposal for timely, orderly and safe access for emergency personnel to the site during times of flood. Other matters that relate to the principles of the

Floodplain Development Manual (2005) and the objectives and performance criteria of the DCP and LEP could be addressed through good development design of the land.

Traffic

The variables associated with future development in Tullimbar and Calderwood makes a definitive assessment on the impacts of the Planning Proposal on the intersections of Yellow Rock Road and the Illawarra Highway and Broughton Avenue and the Illawarra Highway difficult.

One impact that can be quantified is the increased volume on Yellow Rock Road and its effect on the section between the Illawarra Highway and Wongawilli Street.

The Tullimbar component of the Shellharbour DCP intended for the Yellow Rock Road intersection with the Illawarra Highway to be closed. This has been the case since 1999 when the original Tullimbah DCP was adopted.

The decision to not close Yellow Rock Road at its intersection with the Illawarra Highway was based on:

- the approval of the Calderwood development and the use of a roundabout at that intersection to provide vehicle access to that development and
- the work undertaken by the Roads and Maritime Services to improve the road alignment of the Illawarra Highway which improved the sight distance to/from Yellow Rock Road.

As the original decision was to close the Yellow Rock Road intersection with the Illawarra Highway, the section of Yellow Rock Road between Illawarra Highway and Wongawilli Street was envisaged to be a local street cul-de-sac and retained a carriageway width of only 6m with no provision for parking adjacent to the eastern side of the road. This section of road still retains its rural geometric design which creates road safety and traffic management issues.

To address the issue, Council is proposing to reconstruct the section of road between Wongawilli Street and the Illawarra Highway to an urban road standard with the provision of on-street parking on the eastern side of the road.

As part of this Planning Proposal, it is considered reasonable to require a proportional contribution to the upgrade.

The proposed lots fronting Cooby Road are not considered to have a significant impact on the road network.

Recommendations

1. **Precinct 1 - Plateau 1** see **Attachment 3A**, about 16,974m² (12,745m² if east lot excluded)

Proposed Zoning: R5 Large Lot Residential
Proposed Lot Size: 2,000m², about 8 lots
Proposed Building Height: 9.5m

Council position

Zoning: R5 Large Lot Residential

Lot Size: 2,000m² and local clause to limit development to a maximum of one dwelling house and secondary dwelling per lot. About 7 lots

Building Height: 9.0m

FSR: 0

Council is endeavouring to provide a transition in lot size and residential density from existing zoned land and proposed development to the north and east of this site, to land to the south.

This land adjoins an existing 'rural residential' development to the south. The three lots that share this boundary range from 1.04ha – 1.57ha and average 1.23ha.

Council supports the proposed R5 Large Lot Residential zone as it minimises the additional residential uses permitted in this locality. The use of a local clause will further minimise the impact of additional dwellings in this area that is acting as a transition to the larger lot development to the south.

The proposed minimum lot size of 2,000m² is less than identified in Council's UFLES but higher than the APLES of an average of 1,000m². However when the other part of the plateau (see Point 2 **Attachment 4**) is included, the average falls below 1,000m² to about 841m². This figure reduces to about 781m² if land to the east (**Attachment 3B**) as outlined below is not included in Precinct 1 and added to Precinct 4.

The land in Precinct 1 includes hollow bearing trees and Endangered Ecological Communities as well as APZs. All these site attributes/constraints will need to be considered in any future development application, which may result in a modified lot layout to that shown on the concept plan.

Figures 14 & 15 of the proponents Ecological Constraints Assessment August 2019 identifies significant site constraints, including part of a fire trail on private land, to the east of this area leaving a small area for the 10m x 15m building envelope. As such, this land (about 4,229m²) should not be included in the development area for this part of the site and the land added to precinct to the north – Precinct 4. As part of this outcome, Council acknowledges that the two hollow bearing trees to the west could be removed to provide a more practical lot layout and development yield.

The minimum lot size of 2,000m² is considered reasonable but not include the land generally shown in **Attachment 3B**.

2. **Precinct 2 - Plateau 2** see **Attachment 4**, about 31,005m²

Proposed Zoning: R2 Low Density Residential

Proposed Lot Size: 300m² about 49 lots

Proposed Building Height: 9.5m

Council position

Zoning: R2 Low Density Residential

Lot Size: 300m². About 49 lots

Building Height: 9.0m

FSR: 0.5:1

Access to this part of the lot is likely to require the removal of vegetation containing EECs (Figure 4 proponents Ecological Constraints Assessment August 2019) to meet road construction standards as well possible removal of hollow bearing tree/s to create dwelling sites and/or residential lots.

Despite these environmental attributes, Council acknowledges that the DCP includes an indicative dwelling yield for this part of the site to assist in achieving the minimum dwelling yield for the Tullimbar locality.

To achieve the minimum lot yield outlined in the DCP, an R2 zone is appropriate. The proposed lot size of 300m² is satisfactory, as it will permit no more than one dwelling on the land. Those lots that are larger as part of the detailed development application process will not be significant in number and site constraints may limit the number of dwellings on each lot to one.

The concept plan shows a total lot area on the plateau (**Attachments 3A & 4**) of about 47,979m². There are 57 lots proposed over the whole plateau, which gives an average lot size of about 841m². This figure reduces to about 781m² if land to the east (**Attachment 3B**) as outlined above is not included in Precinct 1 and is added to Precinct 4. This lot yield includes some lots that are very close to APZs on small lots and may require redesign and possible consolidation with other lots, thereby increasing the average lot size.

3. **Precinct 3 - Cooby Road frontage** see **Attachment 5**, about 120,175m²

Proposed Zoning: E2 Environmental Conservation and E4 Environmental Living

Proposed Lot Size: 4,000m² which is about 8 lots with another 2 to the east with access from within the site.

Proposed local clause: Despite the minimum lot size, a maximum of 8 lots along Cooby Road

Proposed Building Height: 9.5m

Council position

Zoning: E4 Environmental Living

Lot Size: Local clause that permits a maximum of 4 lots with a dwelling house on each lot.

Building Height: 9.0m

FSR: Nil

Terrestrial Biodiversity: Applies to land mapped as EEC, hollow bearing trees and water courses

No Development map: Applies to land mapped as EEC & hollow bearing trees

Council has not used the E2 Environmental Management zone for watercourses on other land in SLEP 2013. For this reason, Council does not support the use of this zone on this property. The use of the E4 Environmental Living zone is considered appropriate.

Zoning of watercourses throughout the LGA will be reviewed after the Department of Planning, Industry and Environment & Office of Environment & Heritage complete the riparian corridor review outlined in the ISRP.

This part of the lot has significant vegetation and topographical constraints. When combined with the required APZs from vegetation outside and within the property boundaries, development opportunities are limited. The matter for consideration is; what is the appropriate lot yield for the locality taking into account the site constraints?

Constraint mapping shown in Figures 14 & 15 of the proponents Ecological Constraints Assessment August 2019 shows small areas of land having development potential. These maps also include 10m x 15m building envelopes on land mapped as having high ecological constraints. These envelopes appear to be located very close to or within APZs which leads to a conclusion that the proposed lot size is too small. It is also unclear if vegetation will need to be removed to create the appropriate APZs. This statement is made because the original December 2018

Ecological report stated that vegetation would be removed however the September 2019 report has deleted those references and does not appear to justify the change in approach.

Council acknowledges the importance of the land having custodianship to assist in maintaining its significant ecological attributes as well as maintain APZs. Any development in this location needs to minimise the adverse impact of structures including dwelling house, outbuildings and fencing in the high ecological constrained land but still provides opportunities for housing on land outside the APZs. Based on the information lodged with the Planning Proposal, the lot yield in this locality should be four and therefore a minimum lot size of 3ha is appropriate.

An alternative to the minimum lot size, is the use of a Local clause that identifies the maximum number of lots, with a dwelling house, that can be created on this part of the land. This option will provide flexibility in lot size and subdivision design at a future development application. Due to the topographical and ecological constraints of this part of the site, this is Council staff's preferred option as it provides flexibility in design but still limits the number of lots in this locality.

4. **Precinct 4 - Land on slopes of central plateau** see **Attachment 6**, about 87,262m²

Proposed Zoning: E3 Environmental Management & E4 Environmental Living

Proposed Lot Size: 4,000m² which is about 14 lots

Proposed Building Height: 9.5m

Council position

Zoning: E3 Environmental Management

Lot Size: Local clause that permits a maximum of 2 lots with a dwelling house on each lot.

Alternatively a minimum lot size for the area either side of the proposed access road could be used to define the lot boundaries.

Building Height: 9.0m

FSR: Nil

Terrestrial Biodiversity: Applies to land mapped as EEC & hollow bearing trees

No Development map: Applies to land mapped as EEC & hollow bearing trees

Due to the limited area available for development in this part of the site, use of the E4 Environmental Living zone and having a split zone on land is considered a potential hindrance for any future development as the zoning line is not based on any cadastre. Council is also of the view that limited development is appropriate and as a dwelling house is a permitted use in the E3 Environmental Management zone; the E3 zone is suitable for the entire locality.

A 2,000m² lot size in this locality is inappropriate due to the adverse impact future development such as buildings and fence lines and related APZs will have on the EEC land identified as having high ecological constraints in Figure 15 of the proponents Ecological Constraints Assessment August 2019.

Vegetation removal will more than likely be required to create APZs around potential dwelling sites as well as to clear property boundaries for fencing. Based on the concept lot layout shown in Figures 14 & 15 of the proponents Ecological Constraints Assessment August 2019, this will result in a significant loss of vegetation and breaks in tree cover.

Council acknowledges the importance of custodianship of the land and the ability for it to be held in private ownership with a dwelling. For this reason, two dwellings in this area is considered a reasonable balance between the need for a dwelling on the land and the importance of the vegetation. A dwelling could be located on either side of the road access to the plateau. See **Attachments 6a** about 47,213m² and **6b** about 40,049m² for indicative location.

5. **Precinct 5 - Land to east of the site** see **Attachment 7**, about 36,307m²

Proposed Zoning: R2 Low Density Residential
Proposed Lot Size: 300m². About 52 lots
Proposed Building Height: 9.5m

Council position

Zoning: R2 Low Density Residential
Lot Size: Northern area shown in **Attachment 7B** – 2,000m², about 4 lots; Southern area 300m² about 45 lots
Building Height: 9.0m
FSR: 0.5:1

The existing Residential 2(e) zoned land has an area of about 34,000m². The proposed R2 Low Residential Density zone has an area of about 32,720m².

Shellharbour DCP identifies this Precinct into two areas (see **Attachment 7A**): MDR6 – average lot size 390m² and LDR9 – average lot size 540m². The exact location of these two areas are difficult to identify on SLEP 2000 and this Planning Proposal due to mapping changes and scale. However, it would appear that most of the southern area is LDR9 and the northern area both but predominantly MDR6.

The location of the northern area is shown approximately in **Attachment 7B**.

The Geotechnical report dated August 2019 lodged with the Planning Proposal identifies the northern part of this Precinct as Area 4 and Terrain Unit 3A. The Geotechnical report states that *Development within Terrain Unit 3A is also deemed possible but should be limited to larger environmental living and rural interface allotments*, (page 11).

The Planning Proposal proposes a minimum lot size of 300m² which is contrary to the Geotechnical report. The Geotechnical report identifies larger environmental living and rural interface allotments. These terms are shown on the Concept Plan in Appendix 3 of the Planning Proposal. That Plan shows an indicative lot size of 2,000 – 4,000m² for the environmental living lots and an average of 1 hectare for the rural interface lots.

Based on the information in the August 2019 Geotechnical report a lot size of 300m² is not appropriate for the northern area of Precinct 5.

Council staff recommends that the northern area of Precinct 5 have a minimum lot size of 2,000m² in accordance with the concept plan lodged with the Planning Proposal and, if a smaller lot size is considered appropriate, an additional Geotechnical report be prepared to justify that lot size as part of any Gateway determination.

Post Gateway information

Should a Gateway determination be received to exhibit the Planning Proposal it is recommended that the following studies/agreements and referrals be required prior to public exhibition:

Studies/agreements

- To provide a more definitive development yield and minimise potential refusal at development application stage, a flora assessment consistent with the *Biodiversity Conservation Act* and the Biodiversity Assessment Method be undertaken. The assessment

- Is to be of the riparian corridors and the Illawarra Subtropical Rainforest and Illawarra Grassy Woodland communities due to the listing of these communities as critically endangered under the Federal *Environment Protection and Biodiversity Conservation Act*. Illawarra Subtropical Rainforest is now listed as a potentially Serious and Irreversible Impact (SII) under the *Biodiversity Conservation Act* and therefore assessment as soon as possible will assist in understanding the development yield of the site.

The assessment should include targeted surveys for *Rhodamnia rubescens*, *Daphnandra johnsonii*, *Chorizema parviflorum* and *Zieria granulata*

- A detailed Geotechnical report be prepared that justifies the minimum lot size of 300m² for that land shown in **Attachment 7B**, if a lot size less than 2,000m² is considered appropriate.
- A detailed drainage design to inform a Voluntary Planning Agreement. This drainage design will need to show that the system can adequately cater for the proposed development without compromising the ability of existing and future developments within the area shown zoned Residential 2(e) within the DCP to use the existing drainage network. The design shall also show the location of any proposed On-Site Detention basins. Such basins shall not be located on private land.
- A commitment to enter a Voluntary Planning Agreement that provides for the delivery (amongst other matters) of the following benefits:
 - i) Open space land once approved by Council and possibly an embellishment contribution; Drainage structures (subject to Council approval) and possibly a maintenance contribution
 - ii) Contribution for the upgrade of Yellow Rock Rd between the Illawarra Highway and Wongawilli Street at approximately 6.1% of the total cost (the percentage to be determined following the Gateway determination);
 - iii) Monetary Contribution for other facilities included in the Contributions Plan; this could be based on the \$20,000 per lot that is usually payable for developments in Tullimbar, and offsets could be considered for drainage and road contributions
 - iv) Other contributions as considered appropriate – for example money for biodiversity offsets
 - v) The Voluntary Planning Agreement to publically exhibited with the Planning Proposal

Referrals

- NSW Rural Fire Service

Should a Gateway determination be issued to exhibit the Planning Proposal, it is recommended that the following referrals be undertaken as part of the public exhibition process:

- Office of Environment & Heritage
- Department of Primary Industries (Office of Water)
- Sydney Water
- Endeavour Energy
- Roads & Maritime Services
- Lake Illawarra Estuary Management Authority

Conclusion

Shellharbour Council staff generally supports those parts of the Planning Proposal that propose land to be zoned R2 Low Density Residential and R5 Large Lot Residential.

Due to the significant environmental attributes and consequent development constraints on the remaining parts of the site, Council supports a reduced development outcome.

Council's staff support to the Planning Proposal, is considered a balanced view between providing residential development on part of the land and ensuring the remaining parts of the land have an "end" state that takes into account the significant environmental attributes of the land for future generations.

Should you require more information regarding Council's submission, can you please contact Ian Rankine on 4221 6136 or at ian.rankine@shellharbour.nsw.gov.au in the first instance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Geoff Hoynes', with a long, sweeping horizontal stroke extending to the right.

Geoff Hoynes
Group Manager City Planning

Attach 1 - 7

Attachment 1

FileMessageTell me what you want to do...

Ignore

Junk

Delete

Reply

Reply All

Forward

More

Meeting

More

Move

Move

Rules

OneNote

Actions

Mark Unread

Categorize

Follow Up

Translate

Find

Related

Select

Zoom

Zoom

Send to OneNote

Send to OneNote

Insights

Insights

Lot 240 DP 828854, 105 Cooby Road Tullimbar - T Hulme - Message (HTML)

402/11/2018

Ian Rankine

☐ Ryhan Thomson (ryhan.thomson@indesco.com.au)

Lot 240 DP 828854, 105 Cooby Road Tullimbar - T Hulme

Lodging a Planning Proposal V5.pdf

209 KB

Planning Proposal Lodgement Form v4.pdf

215 KB

PP Info checklist.pdf

91 KB

FEES-CHARGES_1819.pdf

102 KB

Hello Ryhan

Thank you for meeting with us and providing your consultant teams initial concept for this property.

Please find attached our Guide to Lodging a Planning Proposal, Planning Proposal Lodgement Form, Planning Proposal checklist and current Fees & Charges. We would consider this concept a Major Planning Proposal. The checklist includes the information that we require to be provided in the Planning Proposal. We understand that there is not a specific design at this stage and this is a rezoning process and not a development application and so the level of detail will reflect this stage of the process. Even so, we will require sufficient detail to enable us to undertake a thorough assessment and report to Council.

We have not indicated a preference for zoning or a lot size for any future development of the land as we are of the view that the relevant studies should be completed first and from that information, relevant development scenarios may be considered. Generally, our first impression of the tabled concept was that it appeared to be ambitious in terms of the amount of development but understand that at that time you didn't have the opportunity to undertake a site inspection. We would be happy to meet with you again once you have refined your proposal, particularly to discuss planning controls that may result in different scenarios on the property.

Please contact me on 4221 6136 if you would like to meet to discuss the information required in the Planning Proposal or the outcomes of the initial studies prior to progressing your Proposal.

Thanks, regards Ian

Ian Rankine | Senior Strategic Planner

76 Cygnet Avenue, Shellharbour City Centre
Locked Bag 155, Shellharbour City Centre, NSW 2529
p. (02) 4221 6136
www.shellharbour.nsw.gov.au

COLLABORATION

ACCOUNTABILITY

INTEGRITY

RESPECT

SUSTAINABILITY

SHELLHARBOUR CITY COUNCIL

PLANNING PROPOSAL INFORMATION CHECKLIST

-
- Objectives and intended outcome

You will need to include your information

- Explanation of provisions

You will need to include your information

- Mapping (including current and proposed zones)

Please provide relevant proposed mapping details

- Justification and process for implementation (including compliance assessment against relevant section 9.1 direction/s)

Include your assessment against the relevant State and local government requirements

- Community consultation (agencies to be consulted)

You will need to include your information

MATTERS TO BE CONSIDERED

PLANNING MATTERS OR ISSUES	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			Urban Design Considerations		
<ul style="list-style-type: none"> Consistent with the relevant regional plan, district plan, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Existing site plan (buildings vegetation, roads, etc) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Consistent with a relevant local council strategy that has been endorsed by the Department; or 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Building mass/block diagram study (changes in building height and FSR) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls; or 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Lighting impact 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Seeking to update the current planning controls if they have not been amended in the last 5 years. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Development yield analysis (potential yield of lots, houses, employment generation) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Site Description/Context			Economic Considerations		
<ul style="list-style-type: none"> Aerial photographs 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Economic impact assessment 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Site photos/photomontage 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Retail centres hierarchy 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Traffic and Transport Considerations			<ul style="list-style-type: none"> Employment land 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Local traffic and transport 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Social and Cultural Considerations		
<ul style="list-style-type: none"> TMAP 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<ul style="list-style-type: none"> Heritage impact 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Public transport 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Aboriginal archaeology 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Cycle and pedestrian movement 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Open space management 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Environmental Considerations			<ul style="list-style-type: none"> European archaeology 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Bushfire hazard 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Social and cultural impacts 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Acid Sulphate Soil 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Stakeholder engagement 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Noise impact 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Infrastructure Considerations		
<ul style="list-style-type: none"> Flora and/or fauna 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> Infrastructure servicing and potential funding arrangements 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Soil stability, erosion, sediment, landslip assessment, and subsidence 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Miscellaneous/Additional Considerations		
<ul style="list-style-type: none"> Water quality 	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

• Stormwater management	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Flooding	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Land/site contamination (SEPP55)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Sea level rise	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- *List any additional studies that should be undertaken post Gateway determination*

NOTES:

General

The Urban Fringe Local Environmental Study is still the adopted position of the Council in relation to this land and that document should be referenced as part of the Planning Proposal.

We have included a number of items in the Planning Matters & Issues to be considered that would be required to be considered as part of the assessment of local Planning Directions, State Environmental Planning Policies and the Illawarra – Shoalhaven Regional Plan. We have included these for the purpose of completeness. In some cases, the matters to be considered may not require significant detail, whilst others will.

Our comments are not based on a specific concept but are an attempt to address the desk-top analysis and concept plan tabled, but not left, at our meeting on 24 October 2018.

Flora and Fauna

The Flora & Fauna report must be prepared to assess the biodiversity on site and its ecological value.

The report should include but is not limited to –

- An assessment of vegetation on the site including presence and type of Endangered Ecological Communities, Threatened Species, Threatened Populations, and Critical Habitat
- An assessment of fauna habitat and likely species supported by this habitat, including location of Hollow Bearing Trees/Stags. Species specific surveys are not required at Planning Proposal stag.
- Recovery Potential and Conservation Significance.

The proposed lot layout and location of the road should take the findings of the Flora and Fauna report into consideration.

Flooding and Stormwater

A Flood Study must be prepared that demonstrates how the proposal satisfies the objectives and standards of Local Planning Direction 4.3 – Flood Prone Land (Section 117(2) of the *Environmental Planning & Assessment Act*). The Flood Study must:

- Be prepared and meet the submission requirements in accordance with the Floodplain Development Manual
- Include an assessment of the likely impacts on flood behaviour outside of the subject site and the changes in hydrology downstream of the site, due to the site location and topography, the nature of flooding in the area and the significant existing and downstream residential development
- Show how the impacts on increased flow rates outside of the subject site must be able to be offset by measures within the subject site. These measures must be designed in such a way to restrict stormwater rates to predevelopment conditions for all storm events, up to and including the Probable Maximum Flood.

Council's Macquarie Rivulet Flood Study information may assist you.

Section 94 Plan/Developer Contributions

The Shellharbour Section 94 Contributions Plan 2016 Amendment 1 applies to site and the property falls within Precinct 7, Albion Park. As the majority of the land is not zoned for residential development, any re-zoning may have an impact on the public infrastructure requirements and may trigger a review of the Section 94 Contributions Plan.

The Shellharbour Section 94 Contributions Plan 2016 Amendment 1 is based on the current zonings within the LGA and any rezoning that increases the dwelling yield will need to consider the impact that development will have on the demand for infrastructure.

The main areas of concern in relation to development contributions for this proposal are:

- The impact on the social infrastructure required – library facilities, community centre, open space (both active and passive). In this regard a Planning Proposal will need to demonstrate how the passive open space needs of the future residents are to be addressed in the future development of the site as well as demonstrating how the other social infrastructure needs are to be met either on or off site.
- The need for additional/upgraded traffic management facilities especially at, but not limited to, the intersection of Yellow Rock and the Illawarra Highway and potentially the intersection of the Illawarra Highway and Broughton Avenue, depending on the

location and scale of additional residential development and the road network that will be relied upon to reach the Illawarra Highway.

- The impact on required drainage works within the catchments and how this is to be addressed. In this regard it is noted that the subject property falls within multiple drainage catchments and as such a comprehensive drainage study would be critical.

Should the planning proposal proceed, detailed information will need to be provided identifying the impact on these areas and identifying how they are to be addressed, including details of any proposed amendments to the development contributions plan. This should include an assessment of the estimated cost of works and the identification of how they are to be funded.

If the proponent is seeking to have these works included in Council's contributions plan a detailed review of the plan with a full assessment of the practical and financial implications of the changes would be required. In this regard it should be noted that the inclusion of works in the contributions plan is at Council's discretion.

Due to the scope of work that would be required and the legislative requirements relating to development contributions, such a review would be expected to take more than 6 months to complete. It will also need to be completed prior to rezoning to ensure that adequate arrangements are in place to provide the necessary infrastructure prior to land being available for development.

Mapping & Instrument

The Planning Proposal will need to include your thoughts on how the LEP should be amended to permit the proposal. For example, the Minimum Lot Size Map, Zoning Map, Building Height Map, Floor Space Ratio Map, Terrestrial Biodiversity Map and local clause such as 6.14. Please note that Shellharbour LEP 2013 now includes a clause 4.1C Minimum lot size for certain split zone lots and Clause 6.13 Restricted development area and an associated Restricted Development Map that may be of assistance.

Fees & Charges applicable to a Planning Proposal

Applicant Name: Indesco

Applicant Address: Ryhan.Thomson@indesco.com.au

Application No: NA

Quick Code: 801

Account No: 10610 23201 1027

Location: 105 Cooby Road, Tullimbar - Lot 240 DP 828854

Brief Description of Proposal: Consider amending Shellharbour LEP 2013 to permit subdivision for the purpose of constructing dwellings

Planning Proposal Category: Major

Pre-lodgement Contact Name & Telephone No: Ryhan Thomson 02 4288 4401

Major Fee Lodgement:

Council Officer: Ian Rankine

Date: 25 October 2018

Financial Year:

Note: The fee shown on this form is valid until 30 June 2018. If you lodge your Planning Proposal after this date, you need to seek another fee quote.

Please submit this form with your Planning Proposal Lodgement Form or your Stage 2 fee

Fees & Charges Form Updated: 18 February 2016 v2

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
12.8 Key for Airside Access			
Key for Airside Access			
Key for Airside Access	Yes	40.00	Mkt

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
13. Trees & Nursery			
13.1 Tree Removal Inspection Approval			
<i>Inspection request for application to remove or lop trees in accordance with Councils tree management order</i>			
1-5 Trees	No	58.00	Mkt
6-10 Trees	No	87.00	Mkt
Over 10 Trees - rate per 10 trees inspected [For inspections of over 10 trees, the rate applies for up to or per 10 trees]	No	115.00	Mkt
Pensioner 1- 10 trees [Fee applies for up to 10 trees]	No	42.00	Sub
Pensioner over 10 trees [Fee applies for over 10 Trees - no limit]	No	78.00	Sub
13.2 Tree Removal			
The pricing structure for tree removal is based on site inspection where a site specific quotation will be given	No	-	Mkt
The pricing structure for tree removal is based on cost price plus a profit margin	No	-	Mkt
13.3 Wholesale Nursery Price Structure			
<i>No Council subsidy will be incorporated into the sale price</i>			
The pricing structure for nursery stock is based on cost price plus a profit margin plus GST	Yes	-	Mkt
The profit margin is determined by the cost of production / handling fees	Yes	-	Mkt
13.4 Bush Regeneration			
The pricing structure for bush regeneration is based on site inspection where a site specific quotation will be given	Yes	-	Mkt
The pricing structure for bush regeneration is based on cost price plus a profit margin plus GST	Yes	-	Mkt

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
14. Planning Proposals			
<i>There are two fee options for the preparation, processing and consideration of Planning Proposals that amend Local Environmental Plan 2013. The first is when the entire application is processed in house; the second is where Council contracts out the administration and assessment of the application. The decision as to whether an application is to be processed in house or contracted out is made by the Council and is dependent upon staff workloads</i>			

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
14.1 Option 1 - When Processed By Council			
<i>The decision as to whether a Planning Proposal is considered Minor or Major is made by Council upon review of the information submitted. Fees have been determined on a substantial cost recovery basis established from the processing of typical proposals</i>			
Fee for initial investigation and report to Council as to whether to prepare a planning proposal			
<i>A decision to prepare does not commit the Council to ultimately supporting the proposal but is for the purposes of investigation only</i>			
Minor Planning Proposal [Minor is where a proposal is small scale in terms of both the land area and the range of issues to be addressed and that is likely to be generally consistent with state and regional policies, directions, circulars, other policies and surrounding land uses]	No	3,480.00	Sub
Major Planning Proposal [Major is where a proposal is large scale in terms of both land area and the range of issues to be addressed and has the potential for land use conflict and/or policy inconsistencies]	No	8,117.00	Sub
Fee for the statutory processing of the plan			
<i>This includes advertising, exhibition, referrals, assessment of submissions and reporting to Council</i>			
Minor Planning Proposal [Minor is where a proposal is small scale in terms of both the land area and the range of issues to be addressed and that is likely to be generally consistent with state and regional policies, directions, circulars, other policies and surrounding land uses]	No	9,277.00	Sub
Major Planning Proposal [Major is where a proposal is large scale in terms of both land area and the range of issues to be addressed and has the potential for land use conflict and/or policy inconsistencies]	No	17,391.00	Sub
Fee for Public Hearing			
<i>Public hearings are held when the planning proposal includes reclassifying land or when Council considers issues raised in submissions on any planning proposal are of such significance that they should be subject of a public hearing</i>			
Public Hearing [Fee is exclusive of other planning proposal fees]	No	5,150.00	Sub
14.2 Option 2 - When Council Contracts Out Part of the Planning Proposal			
<i>The decision as to whether a Planning Proposal is considered Minor or Major is made by Council upon review of the information submitted. Fees have been determined on a substantial cost recovery basis established from the processing of typical proposals</i>			
Fee for the initial investigation and report to Council as to whether to prepare a local environmental plan.			
<i>A decision to prepare does not commit the Council to ultimately supporting the plan but is for the purposes of investigation only</i>			
Minor Planning Proposal [Minor is where a proposal is small scale in terms of both the land area and the range of issues to be addressed and that is likely to be generally consistent with state and regional policies, directions, circulars, other policies and surrounding land uses]	No	3,480.00	Sub
Major Planning Proposal [Major is where a proposal is large scale in terms of both land area and the range of issues to be addressed and has the potential for land use conflict and/or policy inconsistencies]	No	8,117.00	Sub
Fee for the statutory processing of the plan			
<i>This includes advertising, exhibition, referrals, assessment of submissions and reporting to Council</i>			
Minor Planning Proposal [Fee is exclusive of processing costs. Processing costs include the cost of employing external consultants (GST inclusive)]	No	3,480.00	Sub

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
Major Planning Proposal [Fee is exclusive of processing costs. Processing costs include the cost of employing external consultants (GST inclusive)]	No	3,480.00	Sub
14.3 Planning Proposal Pre-Lodgement Consultation Fee			
Planning Proposal Pre-Lodgement Fee - Minor Planning Proposal NEW FEE	Yes	307.00	Mkt
Planning Proposal Pre-Lodgement Fee - Major Planning Proposal NEW FEE	Yes	417.00	Mkt
Follow up Meeting NEW FEE	Yes	111.00	Mkt

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
15. Development Control Plans (DCP)			
<i>There are two separate fees relating to the preparation, review and amendment to Councils Development Control Plan. A decision as to whether the proposal is considered Minor or Major is made by Council upon review of the information submitted. Fees have been based on a cost recovery basis established from the processing of typical proposals</i>			
15.1 Fee for assessing and processing amendments to DCP			
<i>The fee includes report to Council, public exhibition, referrals, consideration of submissions and final report to Council. A decision to accept an application does not commit Council to ultimately supporting the DCP amendments</i>			
Minor DCP Amendments	No	5,220.00	Sub
Major DCP Amendments - (\$9,006 + consultancy costs - GST inclusive)	No	9,277.00	Sub

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
16. Environmental Planning & Assessment Regulation			
16.1 Section 149 Certificates			
<i>The following fees are prescribed under the Environmental Planning and Assessment Regulation 2000:</i>			
Section 149 (2) Certificate	No	53.00	Stat
Section 149 (2 & 5) Certificate	No	133.00	Stat
Urgency Fee for Section 149 Certificates	No	76.00	Min

Fee / Charge	GST	2018/19 Fee \$ <i>GST inclusive if applicable</i>	Pricing Structure
17. Town Planning Enquiries			
17.1 Property Searches			
Detailed property search requiring file search or report to Council	No	930.00	Sub
17.2 Land Use Enquiries			
Investigation requiring report and resolution of Council	No	930.00	Sub

Guide to Lodging a Planning Proposal

This guide has been prepared to assist you in preparing a Planning Proposal. It outlines what details should be provided in your Proposal and if you need more information, please contact City Planning on 4221 6246.

SUPPORTING INFORMATION

The Department of Planning & Environment have produced a Guide to Preparing Planning Proposals and a Guide to Local Environmental Plans.

These documents will assist you in preparing your Planning Proposal and can be found on the Department of Planning & Environment website www.planning.nsw.gov.au/

What needs to be submitted with your Planning Proposal?

1. Justification for your proposal. This includes:
 - The need for the Planning Proposal
 - Relationship to strategic planning framework. We have prepared two documents to assist you in the preparation of your Planning Proposal. These are *A summary of planning issues checklist* and a *Planning Proposal template*. They should be used as a guide to make sure that you have considered the State & regional planning issues that apply to your proposal within our City. Copies need to be lodged with your Planning Proposal application. Copies of these documents can be obtained from City Planning.
2. Relevant supporting information may be required to justify your proposal. Some of these may be outlined following your pre-lodgement meeting with Council. The level of detail required will depend on the impact the proposal may have. The supporting information may include:
 - Environmental considerations
 - Urban design
 - Population details – current and forecast
 - Social and cultural
 - Relationship to S94 Contributions Plan
 - Traffic and transport
 - Infrastructure required – utilities & roads
 - Road & Rail noise
 - Industry impacts
 - Employment land studies
 - Heritage studies
3. The Planning Proposal lodgement form. This is available from City Planning.
4. One electronic and three hard copies of your Application form, Planning Proposal and supporting information. One Word version of the Planning Proposal. The electronic version needs to be provided on a USB flash drive.
5. Digital mapping for all zones and controls that don't follow existing property boundaries. Format: Digital Mapping Data DWG/DXF – MGA 1994 Zone 56(GDA94).

6. If you have met and discussed your Planning Proposal with Council staff, you need to include the Pre-lodgement checklist and relevant information provided by Council to you after your meeting. The checklist provided by Council will include the matters and/or issues required to be included in the Planning Proposal.
7. The application fee. The applicable fee can be found on our website www.shellharbour.nsw.gov.au Please check with City Planning on 4221 6246 for the applicable fee before lodging your Planning Proposal. Please lodge the fee quote provided by Council with your application.
8. Under the *Government Information (Public Access) Act 2009*, approval is required from the authors of all supporting documentation giving consent to put their documents on public exhibition, including on our website. This is required so that Council doesn't infringe the copyright of the authors.

BACKGROUND INFORMATION

GIPAA

Under the *Government Information (Public Access) Act 2009* we may be required to publicly release any correspondence or information we have on this matter, which means your personal information may not be confidential and may appear on Council's website.

Your Privacy

Shellharbour City Council respects your privacy at all times. When processing your application we collect personal information about you for the primary purpose of providing you with a high level of customer service.

For more information please see our *Privacy Management Plan* on our website www.shellharbour.nsw.gov.au or contact our Privacy Officer on 4221 6111. Information leaflets are also available at all of our offices and libraries.

Political Donations & Gifts

Under the *Local Government and Planning Legislation Amendment (Political Donations) Act 2008* if you have a financial interest in a Planning Proposal you are required to publicly disclose any political donations or gifts to a Councillor or Council employee that have been made. This law has been introduced by the State government to improve the transparency of the planning system.

The disclosure requirements apply for the period commencing two years before the proposal is lodged with Council and concludes at the time the Proposal is finalised. It is the responsibility of every person to ensure that they comply with any obligations under the disclosure requirements.

Further information is available on the [NSW Government Department of Planning](http://www.nsw.gov.au/planning) website.

All Political Donations and Gifts Disclosure Statements will be public documents and all information contained in them will be available to the public and government agencies. You can find the Political Donations disclosure form on our website. For more information, contact Council on 4221 6111.

Political Donations and Gifts Disclosure Statement forms will be kept in a public register held at Council's Administration Building and may also be available on our website.

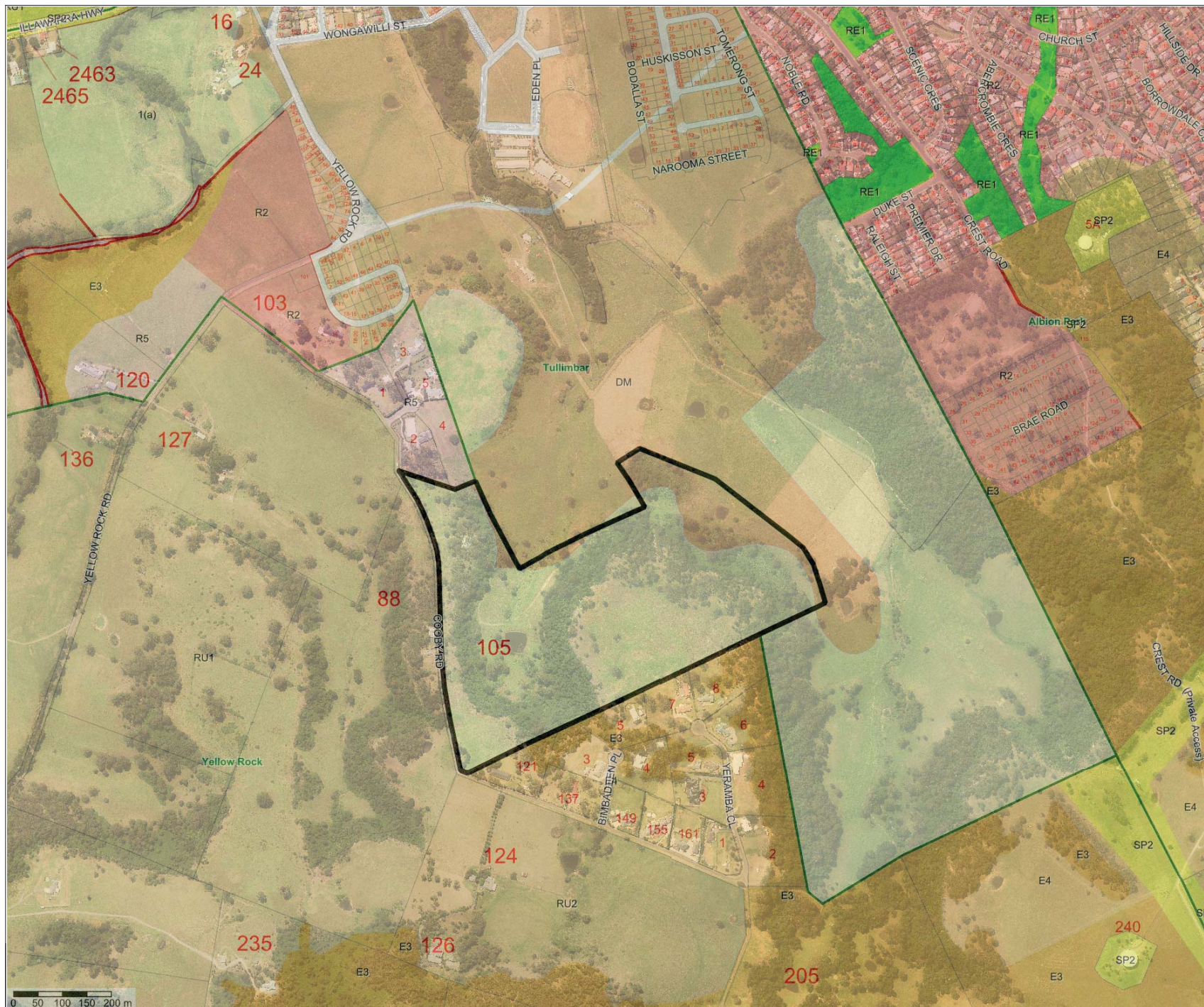
5 Planning Proposal Controls		
Control	Existing	Proposed
Zone		
Floor Space Ratio		
Lot Size		
Building Height		
Terrestrial Biodiversity		
Acid Sulfate Soils		
Heritage		
Land Reservation Layer		
Mineral Resource Layer		
Additional Permitted Uses		
Development Area		

6 Lodgement Checklist
<input type="checkbox"/> Completed Lodgement Form <input type="checkbox"/> Owner's Consent <input type="checkbox"/> Pre-lodgement Meeting Advice from Council including letter and any reports/studies identified. <input type="checkbox"/> Planning Proposal Report (3 copies) (the report must contain the parts of a planning proposal in accordance with the Department of Planning & Environment's Guide to Preparing Planning Proposals <input type="checkbox"/> One word version of Planning Proposal <input type="checkbox"/> One electronic copy (pdf) USB drive <input type="checkbox"/> Digital Mapping Data DWG/DXF – MGA 1994 Zone 56(GDA94) <input type="checkbox"/> Lodgement Fees (Provide fee form supplied by Council) <p>Please note that the Planning Proposal may not be accepted for lodgement unless all of the above has been included.</p>

7 Disclosure of Political Donations & Gifts
<p>Have you or any persons with a financial interest in this Planning Proposal in the last 2 years, made any political donations or given any gifts to any local Councillor or Council employee?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If yes, complete the Political Donation and Gifts Disclosure Statement and lodge it with this application. If no, in signing this application you undertake to advise the Council in writing if you become aware of any person with a financial interest in this application who has made a political donation or has given a gift in the period from the date of lodgement of this application and the date of finalisation.</p>

8 Privacy & Personal Information Protection
<p>The information on this form is being collected by Shellharbour City Council for the purpose of recording and assessing your Planning Proposal. Your personal information will be used by Council staff for the purpose of assessing your Planning Proposal and corresponding with you. This completed form will be stored in Council's electronic records management system. You may apply to Council for access and correct this information. Please see Council's Privacy Management Plan or contact the Council's Privacy Officer on 42216111 for more information.</p>

Planning Proposal No: _____	Receipt No: _____	Amount Paid: _____	Date: _____
Paid by CHEQUE <input type="checkbox"/>		EFT <input type="checkbox"/>	CASH <input type="checkbox"/>
Mail <input type="checkbox"/>	Counter <input type="checkbox"/>		



Shellharbour Local Environmental Plan 2013 - Land Zoning Map

Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
B5	Business Development
B7	Business Park
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
RU6	Transition
SP1	Special Activities
SP2	Infrastructure
W1	Natural Waterways
W2	Recreational Waterways
DM	Deferred Matter
MD	SEPP (Major Development) 2005

This map is an extract copy from Shellharbour City Council records. Reference should also be made to the NSW Legislation website www.legislation.nsw.gov.au for full details regarding this LEP.

Attachment 2A 105 Cooby Road Tullimbar

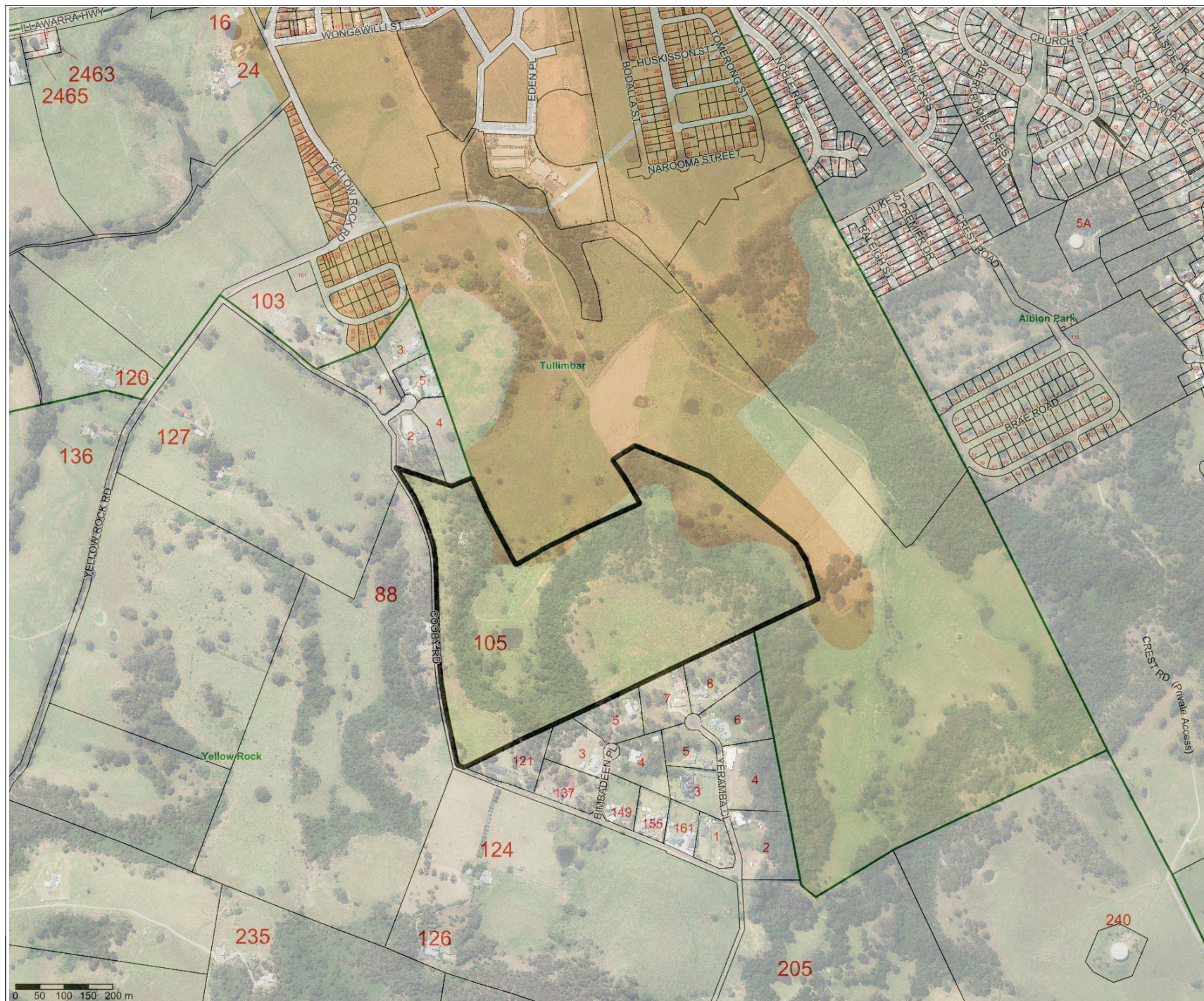
16/10/2019

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Shellharbour Local Environmental Plan 2000

Legend

- 1 (a) RURAL 'A'
- 1 (c) RURAL 'C'
- 1 (d) RURAL 'D' (Horticulture)
- 2 (a) RESIDENTIAL 'A'
- 2 (b1) RESIDENTIAL 'B1'
- 2 (b2) RESIDENTIAL 'B2'
- 2 (e) MIXED USE RESIDENTIAL 'E'
- 2 (f) MIXED USE RESIDENTIAL 'F'
- 3 (a) MIXED USE COMMERCIAL
- 3 (d) NEIGHBOURHOOD BUSINESS
- 4 (a) LIGHT INDUSTRIAL
- 4 (a3) AIRPORT LIGHT INDUSTRIAL
- 4 (c) EXTRACTIVE INDUSTRIAL
- 4 (f) SPECIAL INDUSTRIAL
- 5 (a) SPECIAL USES
- 5 (b) SPECIAL RAILWAY USES
- 6 (a) PUBLIC OPEN SPACE
- 6 (b) PRIVATE OPEN SPACE
- 7 (a) ENVIRONMENTAL PROTECTION (Wetlands)
- 7 (d) ENVIRONMENTAL PROTECTION (Scenic)
- 7 (e) ENVIRONMENTAL PROTECTION (Escarpment)
- 7 (f2) ENVIRONMENTAL PROTECTION (Foreshire)
- 7 (g) ENVIRONMENTAL PROTECTION (Living Area 1)
- 7 (h) ENVIRONMENTAL PROTECTION (Living Area 2)
- 8 NATIONAL PARKS & NATURE RESERVES
- 9 (b) ARTERIAL ROADS RESERVATION
- 9 (c) LOCAL ROADS RESERVATION
- 9 (d) OPEN SPACE RESERVATION

General

- 1. Land Referred to in Schedule 5/6 as Labelled
- 2. Existing Arterial Roads
- 3. City - Plan Boundary
- 4. Parish Boundary
- 5. Heritage Conservation Area (Refer to Schedule 2)
- 6. Heritage Item (Refer to Schedule 3 for Item index)
- 7. Jamberoo Valley Escarpment Area
- 8. Jamberoo Valley Rural Conservation Area
- 9. Quarry Buffer Area
- 10. Dunmore Wetland Catchment Protection Area

This map is an extract copy from Shellharbour City Council records. Reference should also be made to the NSW Legislation website www.legislation.nsw.gov.au for full details regarding this LEP.

Attachment 2B LEP 2000

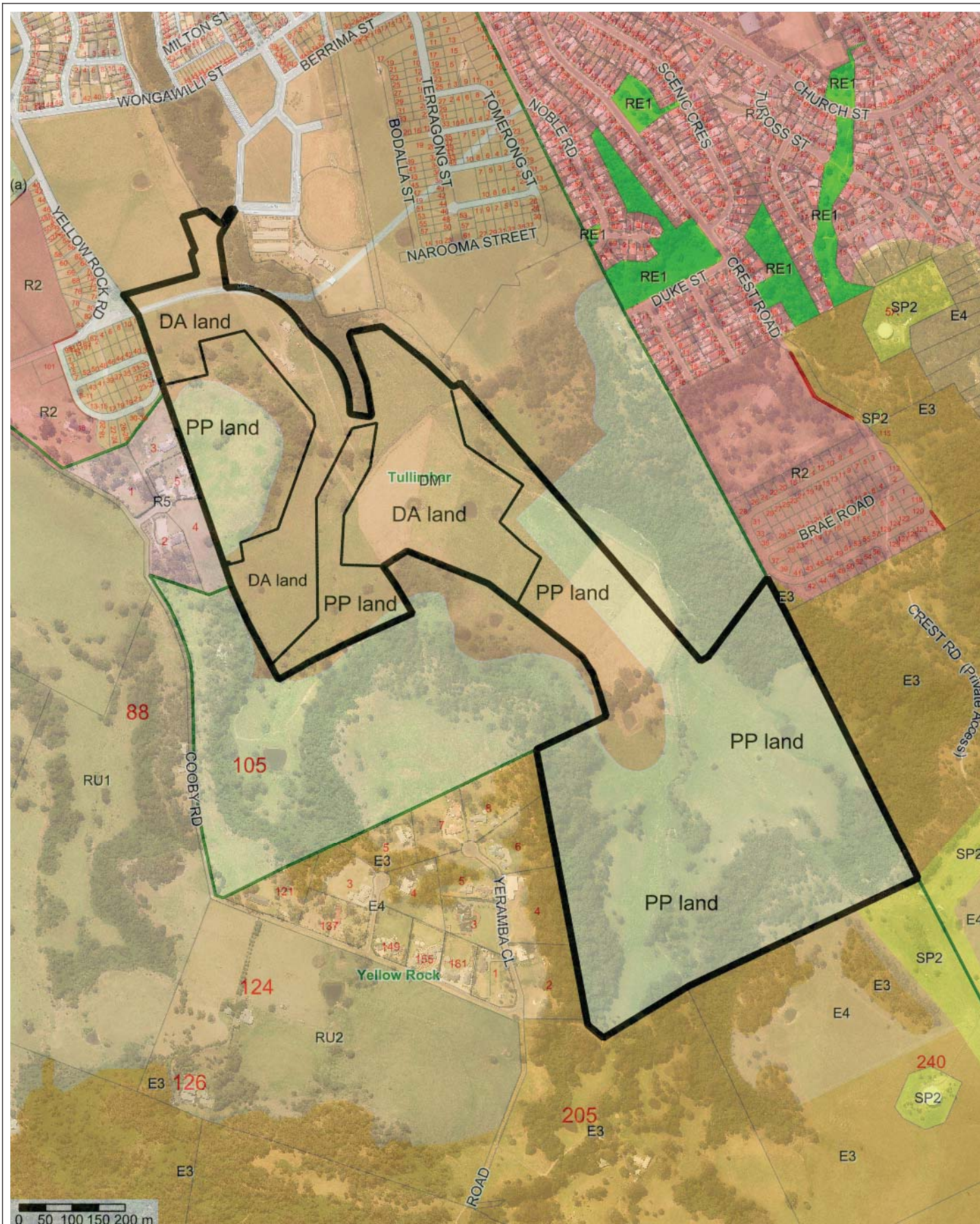
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Attachment 2C

Proposed development adjoining lot SHELLHARBOUR LOCAL ENVIRONMENTAL PLAN 2013

Attachment 2C
Proposed development
adjoining lot
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16/10/2019

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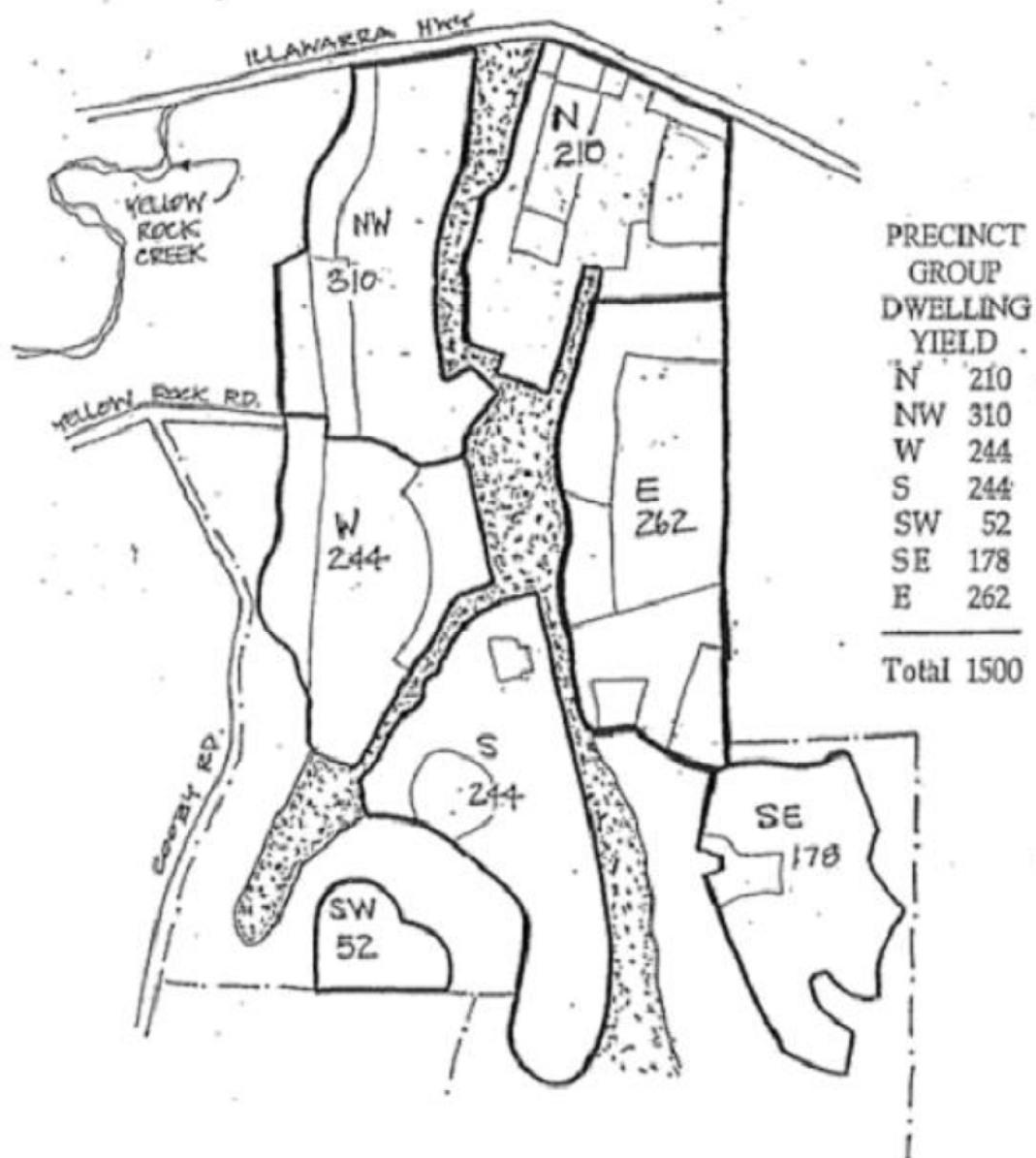
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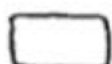



Attachment 3

Figure A13.14 - Minimum Dwelling Yield for Each Precinct to Ensure a Minimum Yield of 1500 Dwellings for the Valley (NB This plan includes lands to which this Appendix does not apply)

NOTE: Much greater development potential will be possible in some precincts.



-  PRECINCT GROUP BOUNDARY
-  INDIVIDUAL PRECINCT BOUNDARY
(refer to figure A33 and Advice 1 of this section to determine indicative lot sizes to achieve yield indicated)

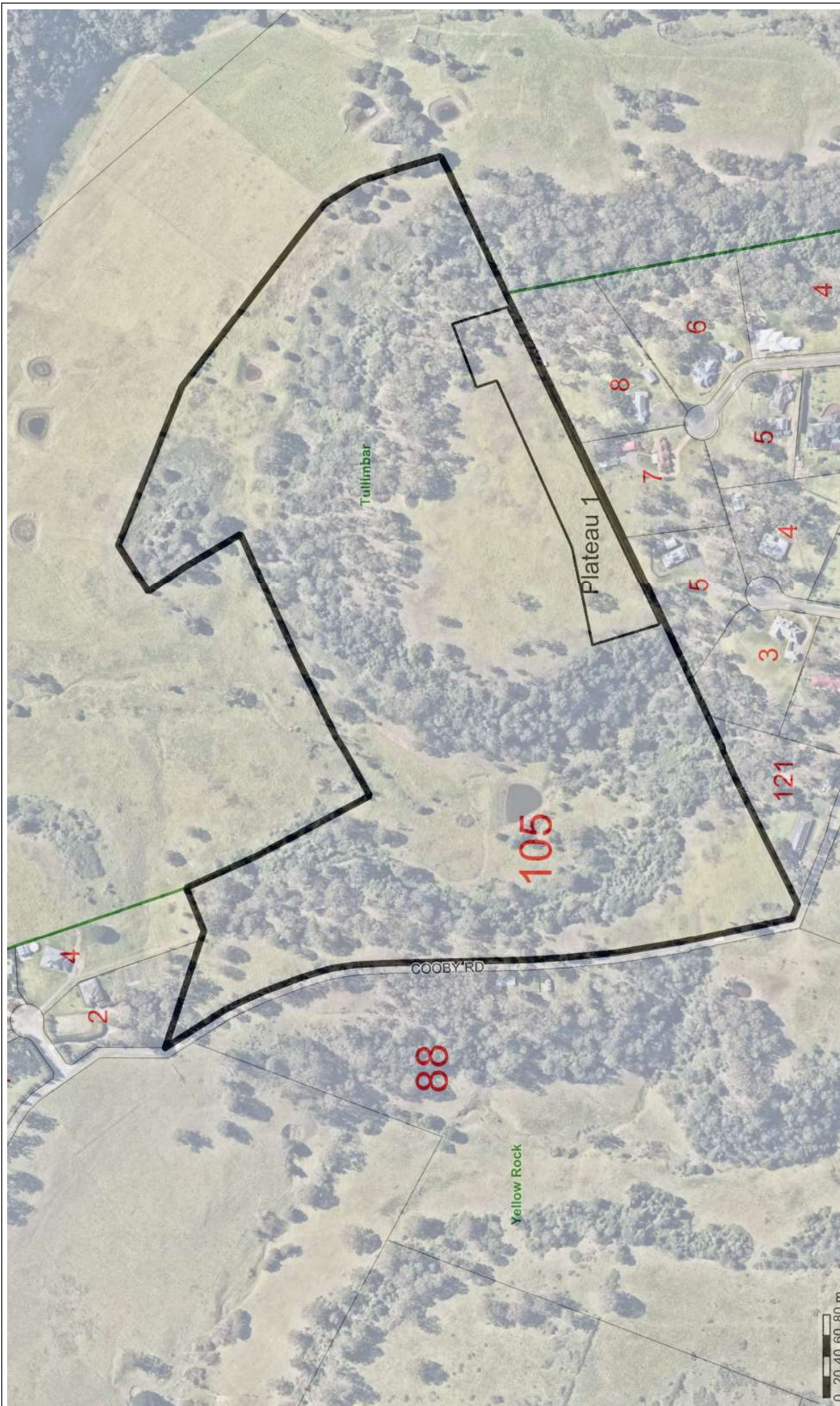


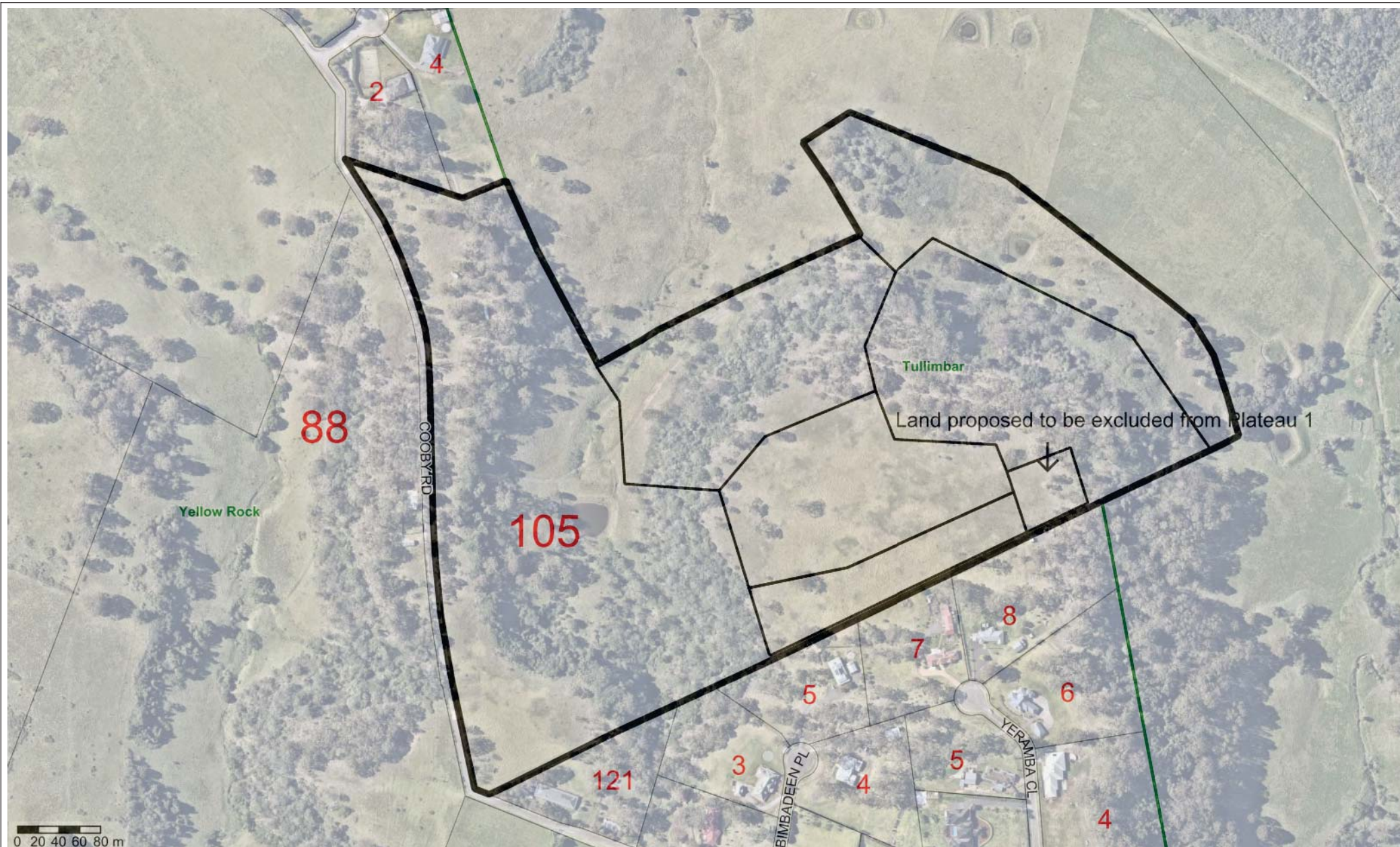
Attachment 3A **Plateau 1**

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Attachment 3B
Land proposed to be excluded from Plateau 1



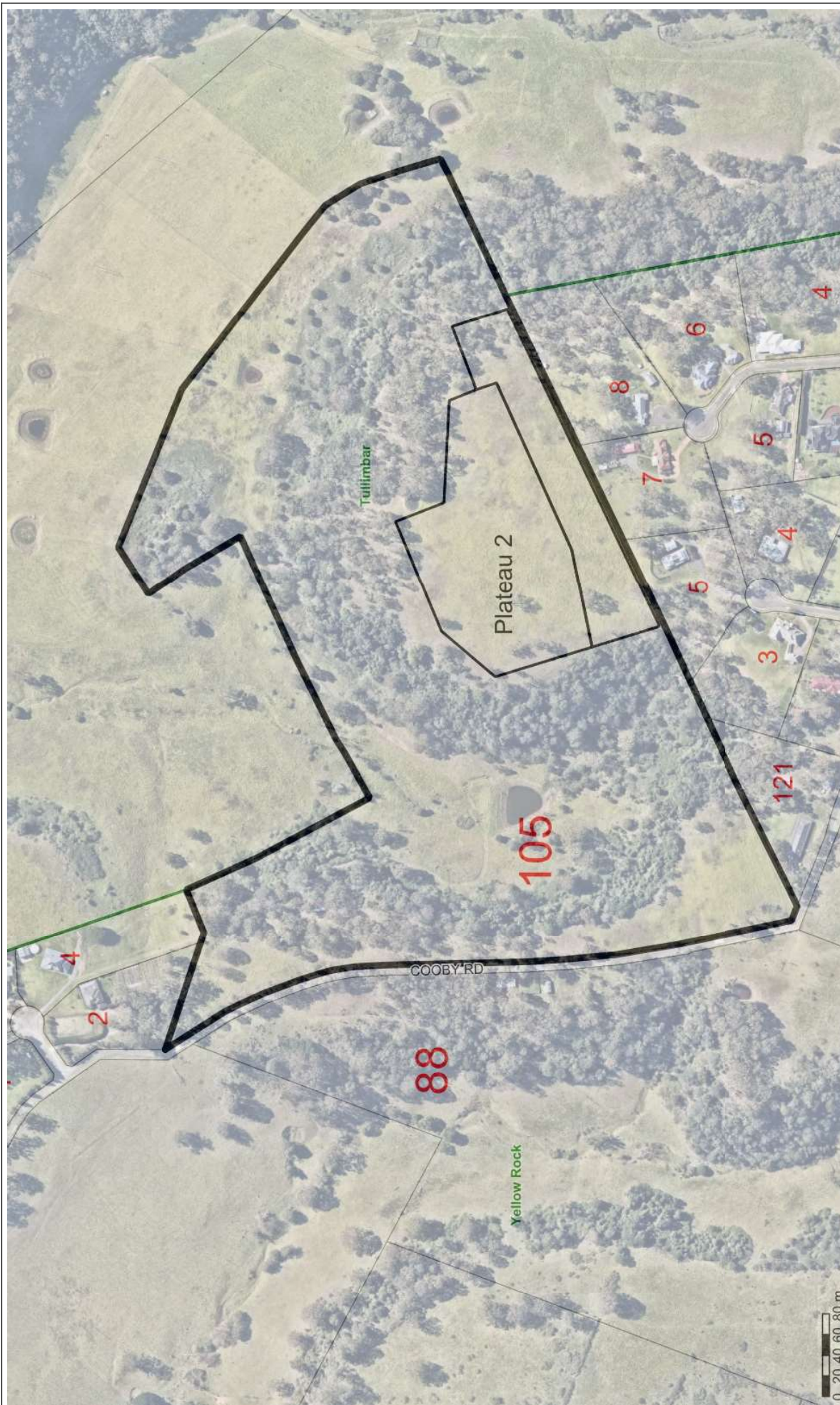


Attachment 4 Plateau 2

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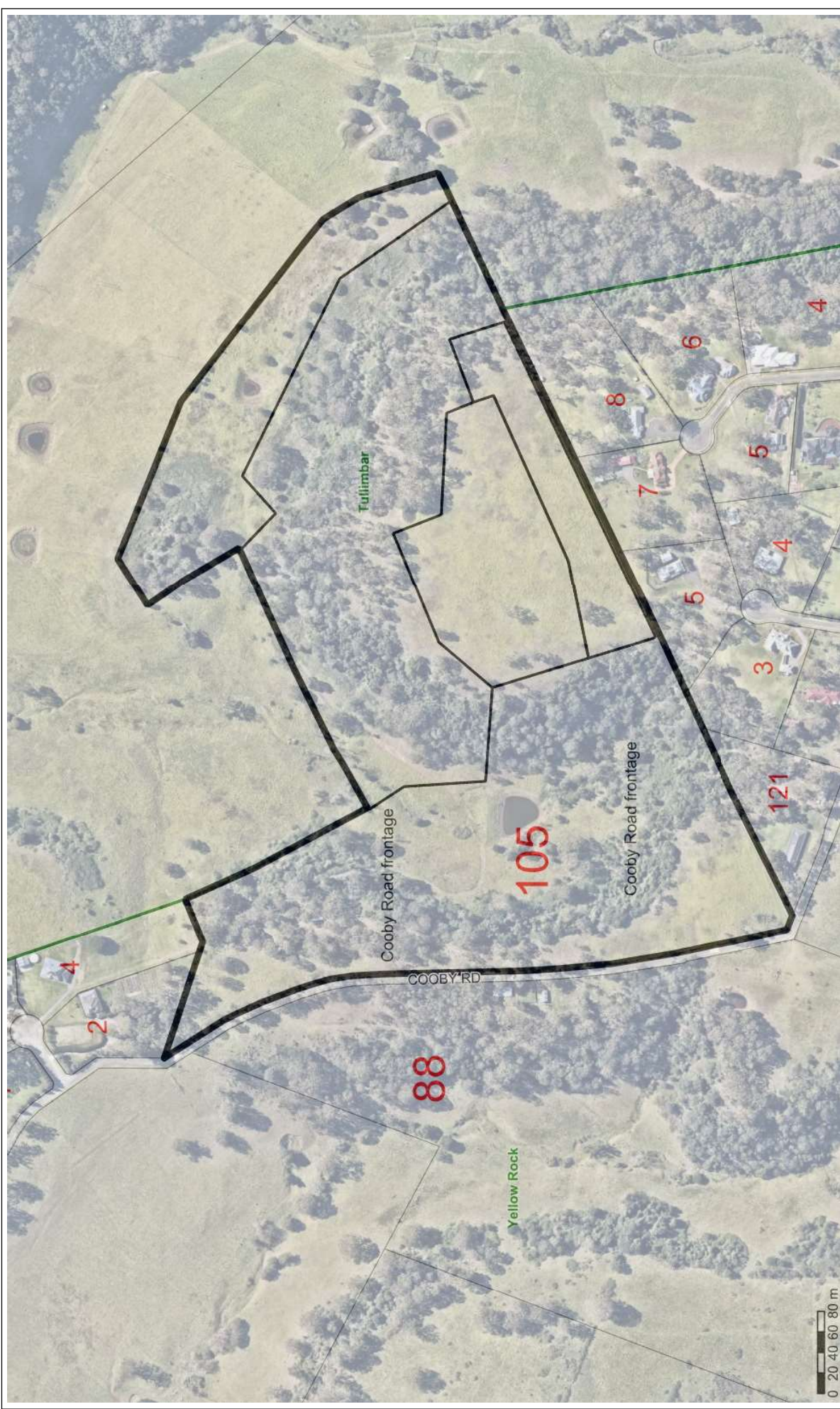


**Attachment 5
Cooby Road
Frontage**

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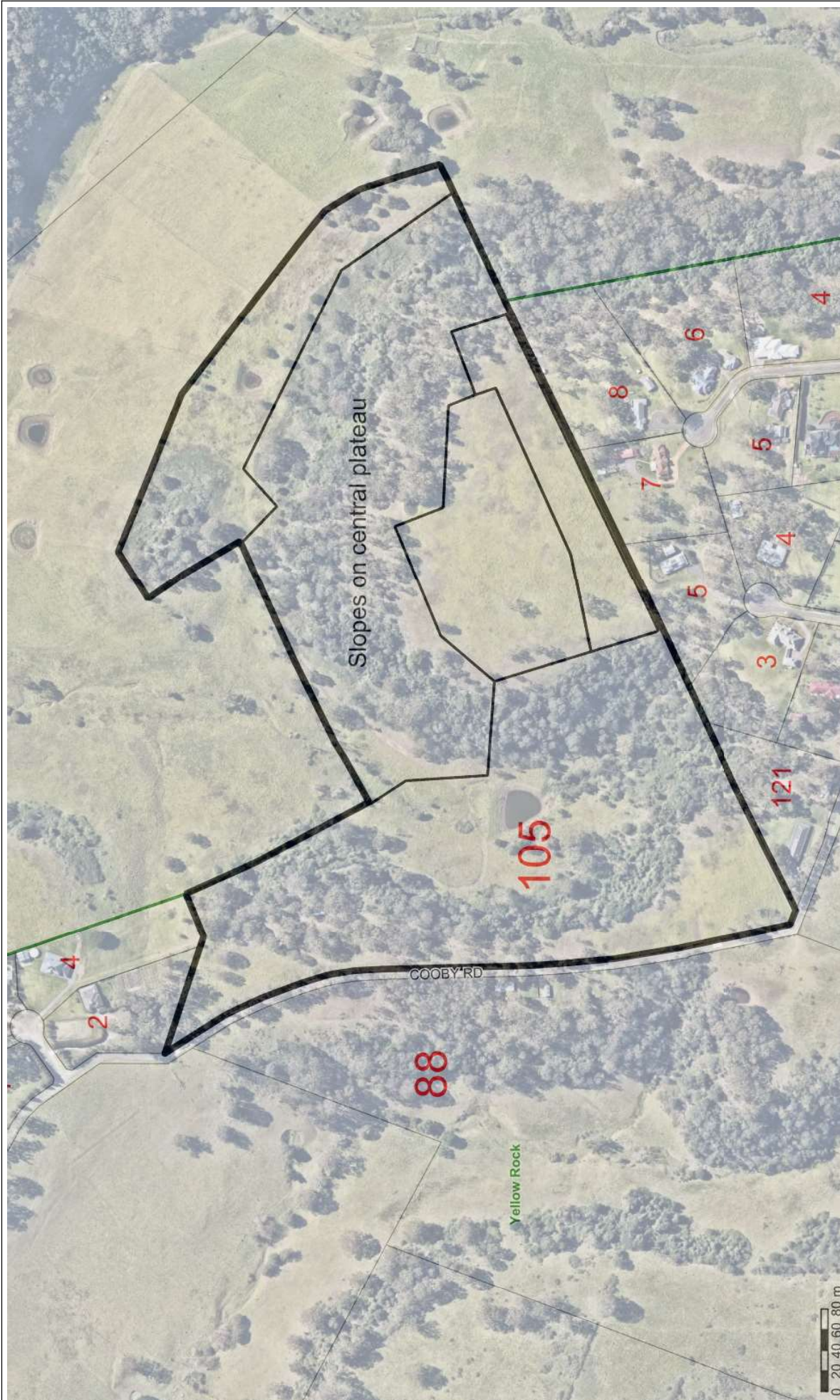


Attachment 6 Slopes on Central Plateau

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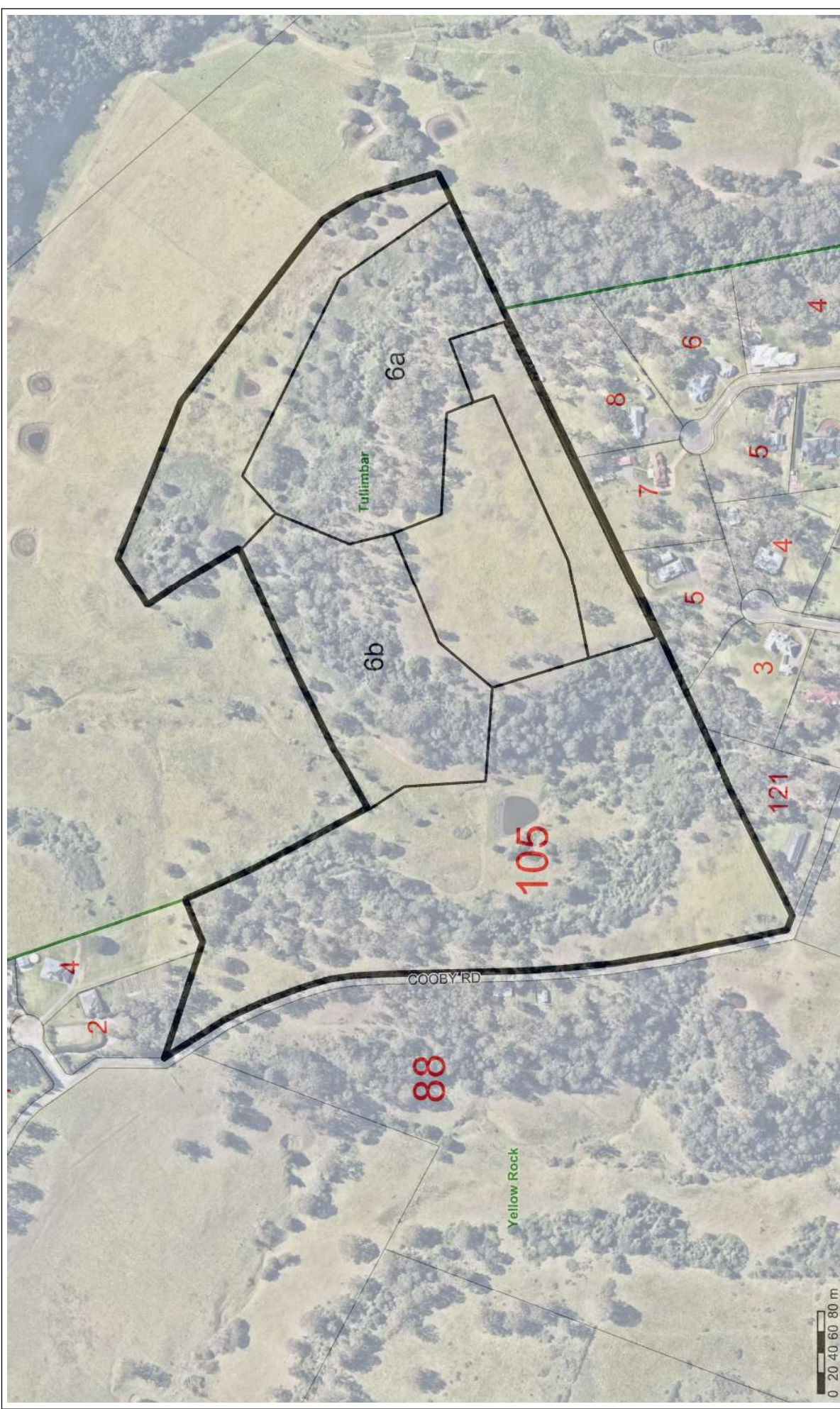


**Attachment 6a and 6b
Approximate areas split by
proposed road**

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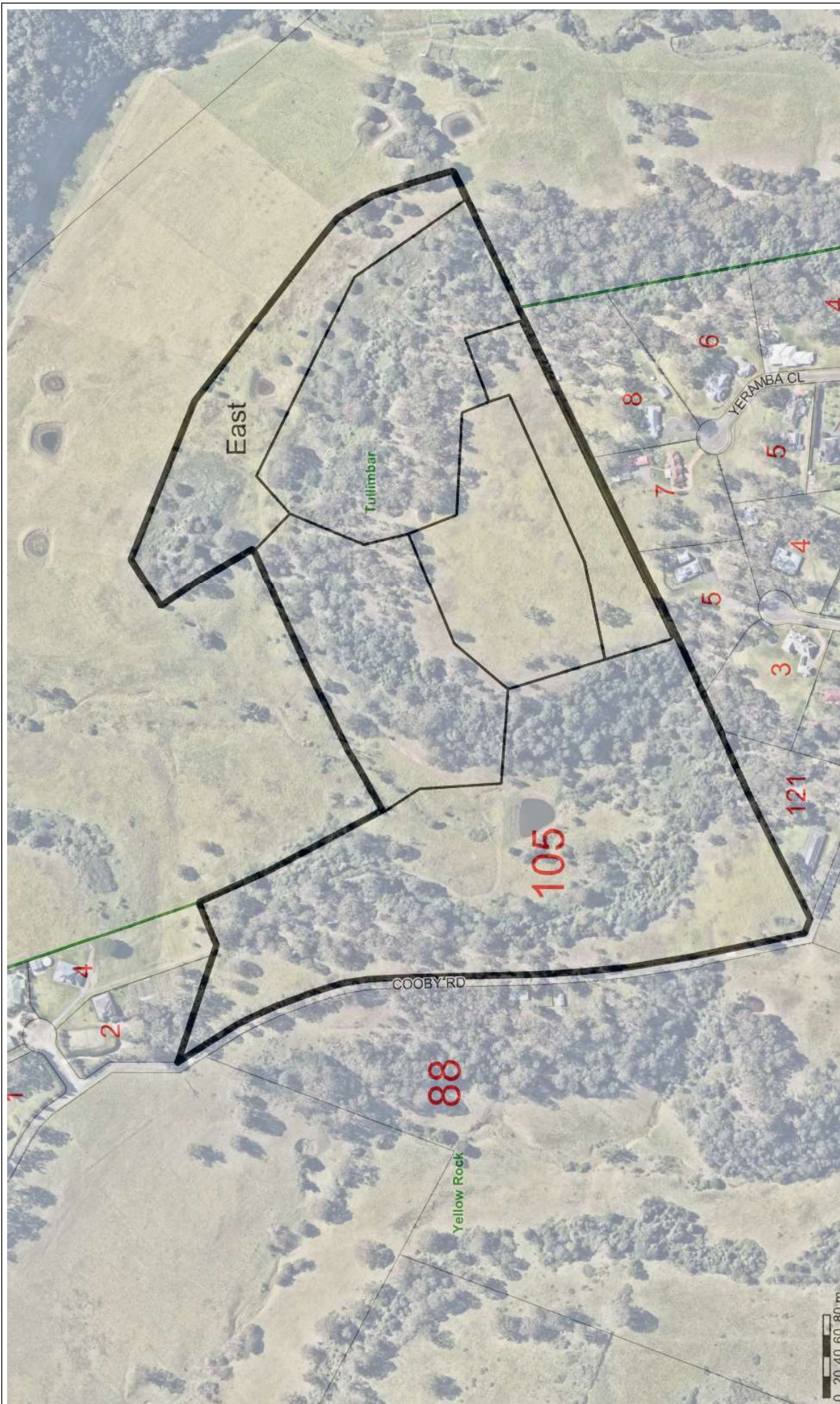


Attachment 7 East of site

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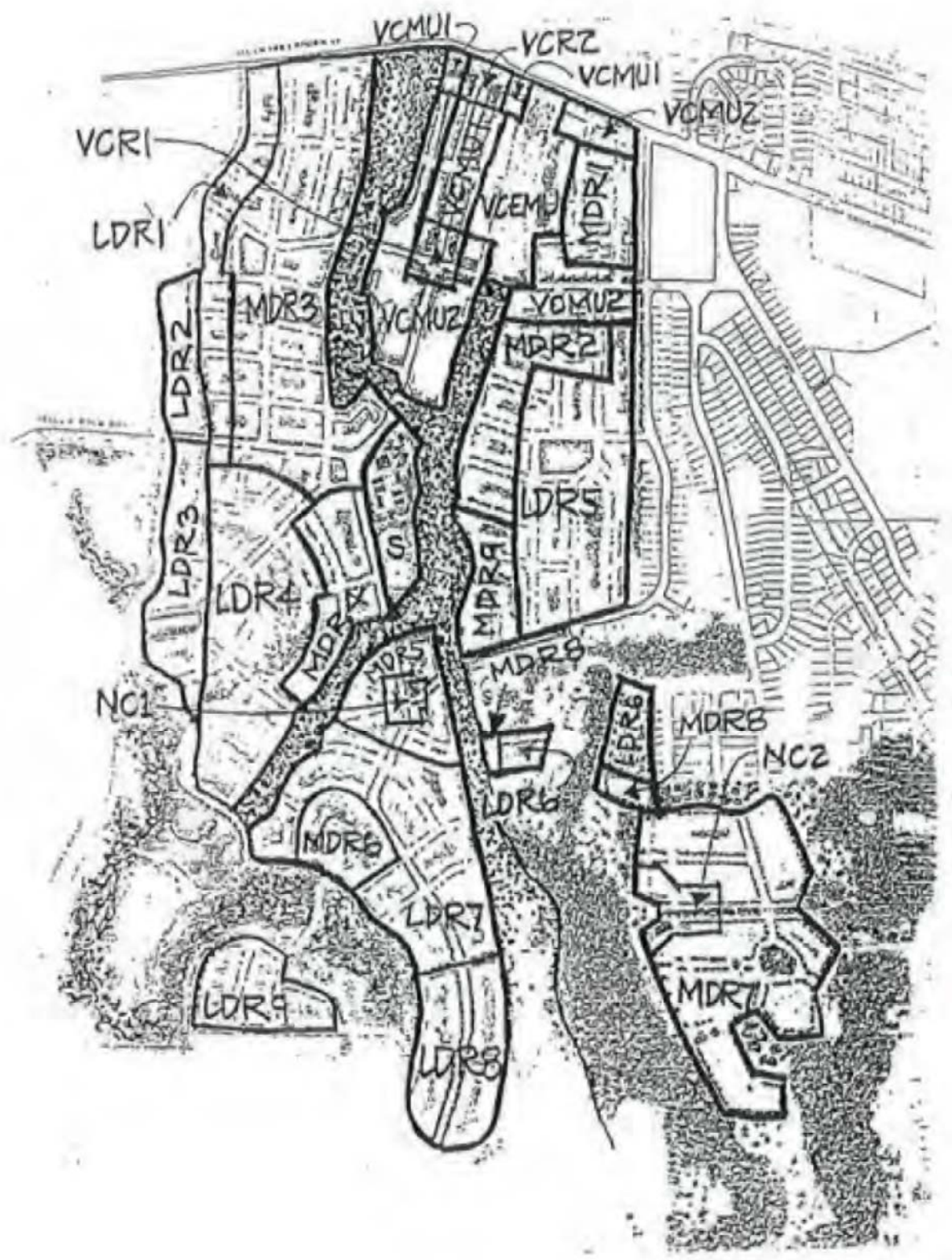
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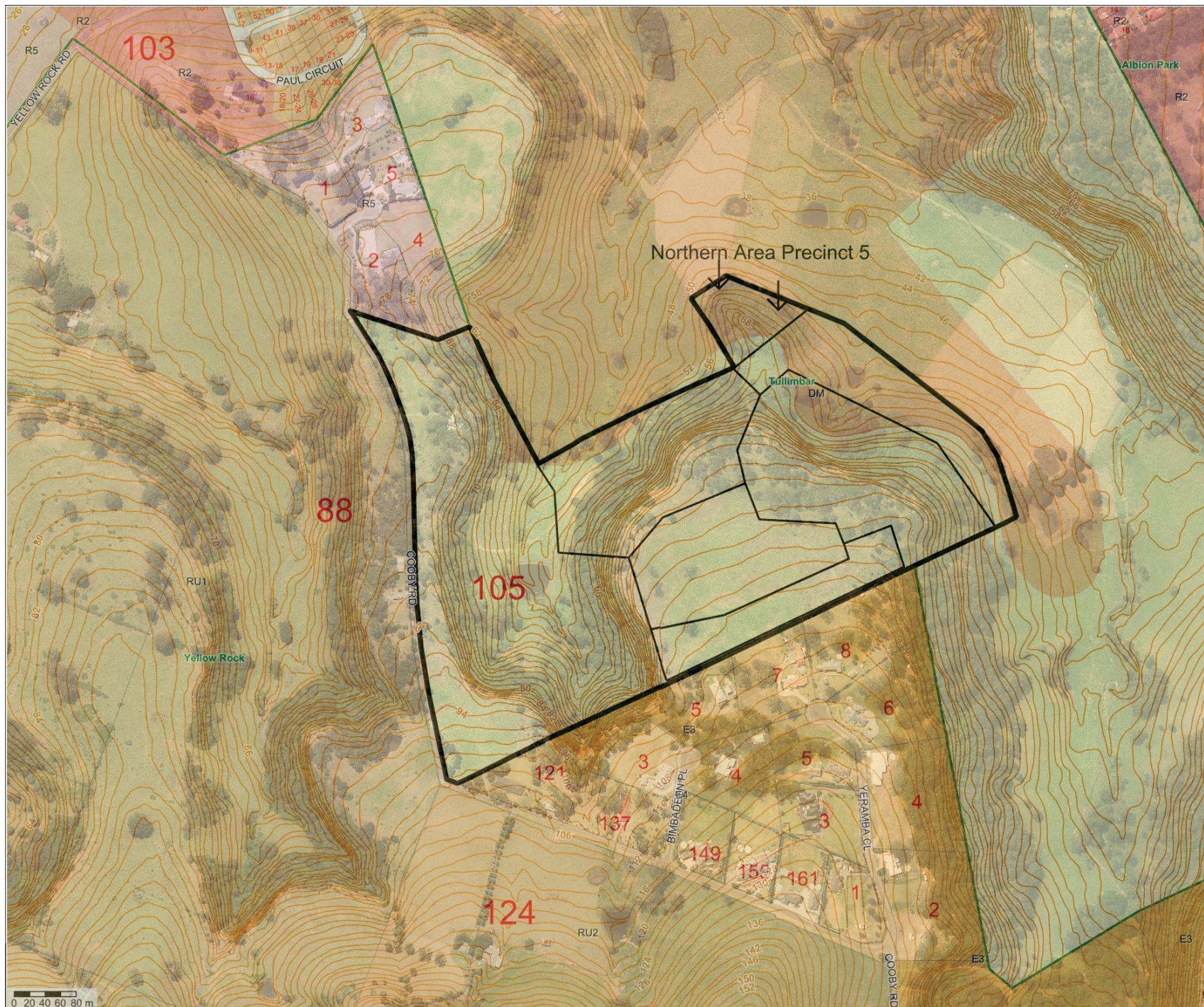
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Attachment 7A

Figure A13.2 - Tullimbar Village Urban Development Precincts (NB This plan includes lands to which this Appendix does not apply)





Shellharbour Local Environmental Plan 2013 - Land Zoning Map

Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
B5	Business Development
B7	Business Park
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
RU6	Transition
SP1	Special Activities
SP2	Infrastructure
W1	Natural Waterways
W2	Recreational Waterways
DM	Deferred Matter
MD	SEPP (Major Development) 2005

This map is an extract copy from Shellharbour City Council records. Reference should also be made to the NSW Legislation website www.legislation.nsw.gov.au for full details regarding this LEP.

Attachment 7B Approximate location of northern area

30/10/2019

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