

**11.2 PLANNING PROPOSAL 1/2018****File Number:** 400414**Responsible Officer:** Daniel Boyce, Acting Director Development and Economic Growth**Author:** Daniel Boyce, Acting Director Development and Economic Growth**Attachments:** 1. Planning Proposal 1/2018 [↓](#)**DELIVERY PROGRAM ALIGNMENT****Economy****Objective** 3.4 Adequate housing options will be available to meet demands across the Shire**Strategy** 3.4.1 Available residential land is adequate to meet demand in the local market**EXECUTIVE SUMMARY**

Bell & Johnston Solicitors have lodged a planning proposal with Council which seeks to amend the Narrabri Local Environmental Plan (LEP) 2012 by rezoning 139 Kaputar Road, Narrabri (Lot 383 DP 754944) from RU1 Primary Production to R5 Large Lot Residential and reduce its applicable minimum lot size from 100 hectares to 2 hectares ("Planning Proposal").

The Planning Proposal does not relate to land which was identified in the Narrabri Growth Management Study (EDGE Land Planning, 2008) however the proponent has submitted that the land is compatible with Council's strategic criteria for the selection of large lot residential (formerly known as rural residential) land referenced by the Rural Residential Study (EDGE Land Planning, 2006).

Council staff have reviewed the Planning Proposal against the Settlement Strategy Rural Residential Study (Narrabri Council, 2001) and agree that the subject site is in line with the criteria for rural residential land as articulated in this study and consequently the Planning Proposal is considered to be supportable.

**RECOMMENDATION****That Council:**

1. Endorse the Planning Proposal to amend the provisions of the Narrabri Local Environmental Plan 2012 relating to rezone land identified as Lot 383 DP 754944 (139 Kaputar Road, Narrabri) from RU1 Primary Production to R5 Large Lot Residential and reduce its applicable minimum lot size from 100 hectares to 2 hectares and forward the Planning Proposal to the Department of Planning and Environment with a request for a Gateway Determination.
2. Notify the Department of Planning and Environment of Council's intention to use the plan making power delegated to it by the Department to make the proposed amendment to Narrabri Local Environmental Plan 2012.
3. Delegate to the Director of Development & Economic Growth any necessary amendments required to the Planning Proposal resulting from the Department of Planning and Environment's Gateway Determination.

## BACKGROUND

Bell & Johnston Solicitors have lodged a planning proposal with Council which seeks to amend the Narrabri Local Environmental Plan (LEP) 2012 by rezoning 139 Kaputar Road, Narrabri (the lands formal identification is Lot 383 DP 754944) from RU1 Primary Production to R5 Large Lot Residential and reduce its applicable minimum lot size from 100 hectares to 2 hectares (**Planning Proposal**). The subject site, its zoning and that of neighbouring land is identified in Figure 1.

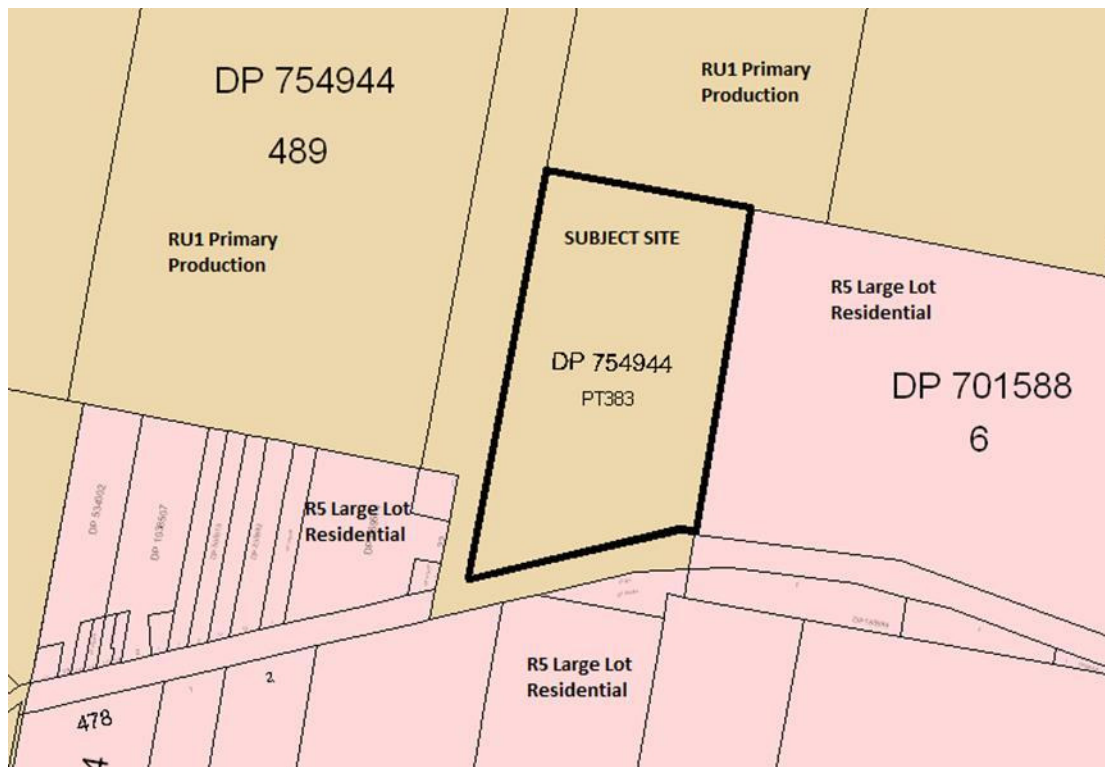


Figure 1 (zoning of the subject site and adjoining land, council's internal mapping software).

The subject site has an area of approximately 16 hectares, is zoned RU1 Primary Production and adjoins both RU1 Primary Production and R5 Large Lot Residential zones. The site is located a short distance from the Narrabri township, approximately 3km by road, and has dual frontages to Kaputar and Airport Roads.

The proponent has indicated that this amendment to the Narrabri LEP 2012 is being sought to enable the subdivision of the subject site to create additional lots to be developed for large lot residential land use. To that end a draft plan of subdivision has been included as an annexure to the Planning Proposal showing a concept layout for future subdivision of the site. This concept subdivision plan has been included below as Figure 2.

The Planning Proposal has been prepared in accordance with the NSW Planning Department's Guide to Preparing a Planning Proposal and the summary below covers the areas of significance for Council's consideration in determining whether or not to endorse the Planning Proposal.

### Relationship with Local Planning Strategies

The Narrabri Rural Residential Study (EDGE Land Planning, 2006) and the Narrabri Growth Management Strategy (EDGE Land Planning, 2008) are the most recent strategic planning studies completed in relation to the Narrabri locality.

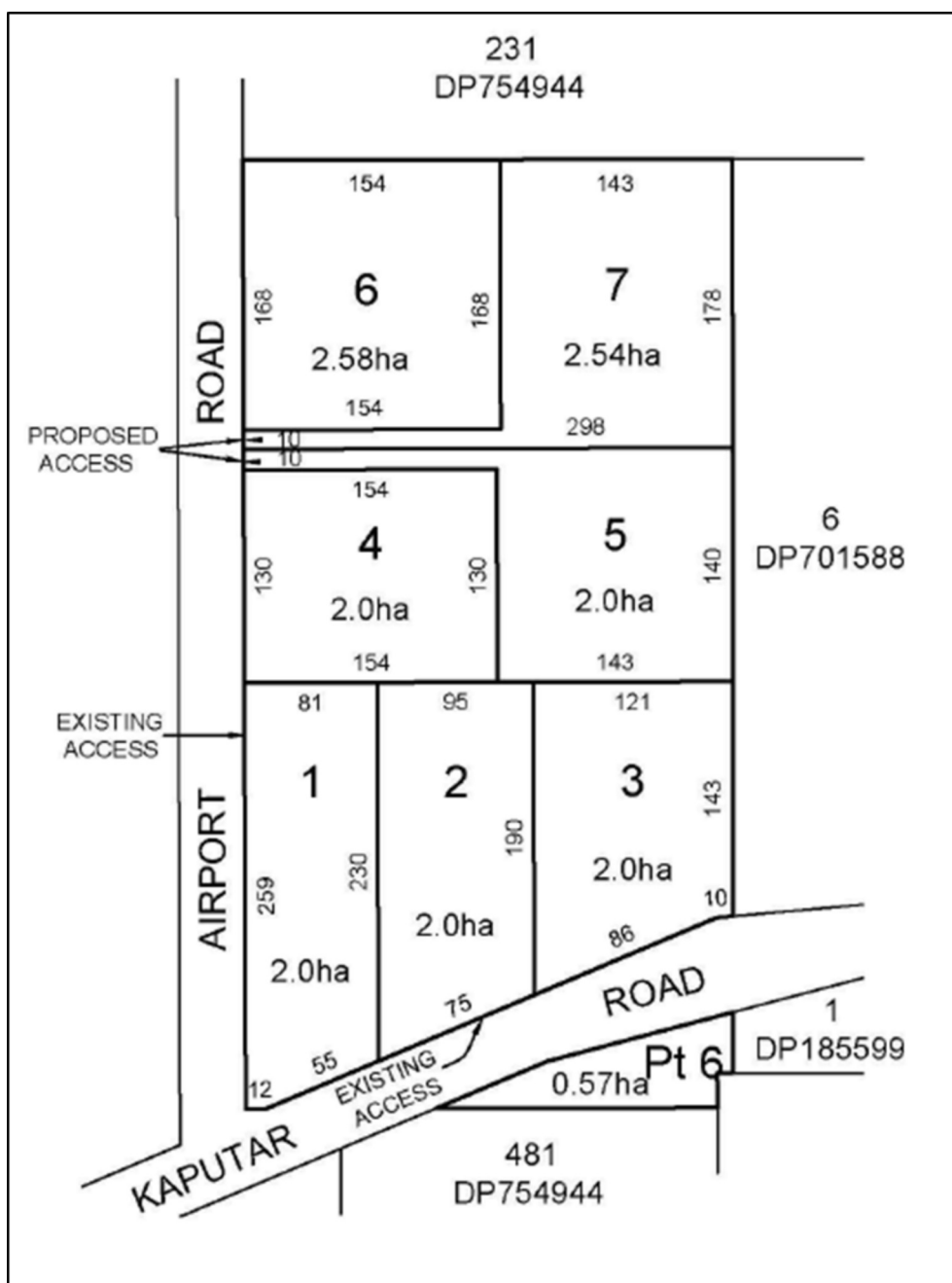


Figure 2 (Draft Plan of subdivision, excerpt from Planning Proposal Annexure A)

The most recent of these studies the Narrabri Growth Management Study (EDGE Land Planning, 2008) does not specifically identify the subject site as a strategically important site for large lot residential development. Despite this the proponent has submitted that the land is compatible with Council's strategic criteria for the selection of large lot residential (formerly known as rural residential) land referenced by the Rural Residential Study (EDGE Land Planning, 2006). The site is located within a reasonable proximity to the Narrabri Township, immediately adjoins a large area of existing R5 Large Lot Residential zoned land and a concept plan for the subdivision of the site has been prepared.

Council Staff have reviewed the Planning Proposal against the Settlement Strategy Rural Residential Study (Narrabri Council, 2001) and agree with the assertion that the subject site is in line with the criteria for rural residential land as articulated in this study and consequently the Planning Proposal is considered to be supportable. Despite this due regard must be given to the findings and recommendations of the Growth Management Study (EDGE Land Planning, 2008). The Growth Management Study identified an oversupply of rural residential land and

recommended back zoning to RU1 Primary Production of certain areas including land in the vicinity of the subject site. The following is of relevance to Council's consideration of this Planning Proposal:

- The subject site is not specifically supported for rezoning by a strategic planning study, although the site is compatible with selection criteria for rural residential land by a former strategic study.
- The subject site is located adjacent other R5 Large Lot Residential zoned land, situated in a close proximity to the Narrabri Township and the sites qualities and servicing are conducive to its development for large lot residential purposes.
- The zoning of the site as R5 Large Lot Residential although not supported by a strategic planning study would not be contrary to the approach employed by Council for expanding the R5 Large Lot Residential zone in the Kaputar Road locality following the last completed strategic planning study. Council has previously looked favourably on the rezoning of R5 Large Lot Residential zoned land in the Kaputar Road locality where the land abuts the existing R5 Large Lot Residential zoned land.
- The site subject has a size of approximately 15ha and its productive agricultural use promoted and supported by its RU1 Primary Production zoning is somewhat constrained by both its size and proximity to existing R5 Large Lot Residential zoned land.
- There is demand for well serviced residential land in the Kaputar Road locality.

As a consequence of the above factors Council staff recommend Council endorse this Planning Proposal although it would be open to Council to reject the Planning Proposal on the basis that it is not directly supported by a strategic planning study. It is also noted and that Council has previously resolved to undertake similar rezoning of other properties in the vicinity of the subject site. These rezonings were not directly supported by a planning strategy and involved the rezoning of Lots 1, 4, 5 & 8 DP 754930 and Lots 39 & 47 DP 754930 from RU1 Primary Production (100ha minimum lot size) to RU4 Primary Production Small Lots (10ha minimum lot size) (PP3/2014) and the rezoning of Lot 6 DP 701588 from RU1 Primary Production (100ha minimum lot size) to R5 Large Lot Residential (2ha minimum lot size).

### **State Environmental Planning Policy No 55 Remediation of Land**

Clause 6 of the State Environmental Planning Policy (SEPP) requires Council to consider the potential for land subject to a rezoning to be contaminated and in the event that the land is contaminated whether it would be fit for purpose in its contaminated state or if the land requires remediation to support any new uses that would be permitted by its rezoning.

The land is considered unlikely to be subject to any contamination, however, as the proposed rezoning would enable an intensification to of the permitted residential use of the site it was considered that a more thorough investigation of the sites soil qualities and potential to be subject to contamination would need to be carried out prior to the proposed LEP amendment being endorsed. To complete this investigation and certify the proposals consistency with the SEPP the proponent has engaged South Queensland Soils to complete a contamination assessment of the site. This assessment is yet to be completed, but once finalised the results will be made available to Council. Should the results indicate the site is subject to contamination Council has the opportunity to abandon or modify the Planning Proposal accordingly.

**State Environmental Planning Policy No 44—Koala Habitat Protection**

This SEPP requires Council to consider whether a site is a potential or core koala habitat prior to granting consent to a development that relates to such a site. The SEPP does not include any provisions that specifically relate to the preparation of an environmental planning instrument or planning proposal, however as this Planning Proposal seeks to rezone land currently zone RU1 Primary Production and would intensify the range of permissible development on the land it is reasonable to give some consideration to the potential impacts of any rezoning on ecological communities and the likelihood of it affecting any potential or core koala habitats. A desktop assessment of vegetation on the site and an inspection of the land reveal it to be predominantly clear of vegetation with scattered pockets of remnant native vegetation and cypress pine. Accordingly, the site is considered unlikely to contain potential koala habitat and the rezoning of the subject site is not anticipated to have any significant detrimental impacts on ecological communities. Should Council resolve to support the Planning Proposal the Department of Planning and Environment will also undertake a review of the proposals environmental impacts, the Department has the authority to require the proponent to prepare and furnish additional information in relation to the ecological impacts of the Planning Proposal if they have any concerns in relation to this area.

**Relationship with Narrabri Airport**

The planning proposals relationship with the operation of the Narrabri Airport has been considered with the preparation of the planning proposal by the proponent and its review by Council Officers. The proponent has considered Council's Obstacle Height Limitation Map (Draft) which is included as Annexure F within the planning proposal. This map identifies height restrictions to ensure the safety of operating aircrafts. The Obstacle Height Limitation Map identifies small portions of the subject site to be affected by height restrictions between 250-260m AHD (Australian Height Datum), with the majority of the site affected by a height restriction of 270m AHD. Council's contour mapping in relation to the site identifies it is within the 210m AHD and 220m AHD contours, the site is closest to the 220m contour which is north east the site. The site and wider locality is understood to have a gradual slope toward the north east and Mount Kaputar away from the lower areas of the Narrabri Creek and floodplain. Using the 210m – 220m AHD ground level contour height and the minimum obstacle limitation affecting the site of 250m AHD it is recognised that there is a minimum 30m height clearance between the ground level of the site and the minimum safety height for aircraft operations. Accordingly, it is considered that there is sufficient clearance at the site between ground level and aircraft operating heights to support the future residential development of the site in a manner that would not infringe the continued safe operation of the Narrabri Airport. It is also recognised that any future residential development of the site would require approval from Council or an Accredited Certifying Authority as a development application or Complying Development Certificate, and the airport obstacle height limitation restriction map will be a relevant to the assessment of any applications at the site once this map is finalised and adopted in the Narrabri LEP 2012, Council Staff are currently working to finalise this map and prepare a planning proposal to adopt the map and associated clause relating to its application within the Narrabri LEP 2012.

**CURRENT SITUATION**

The Planning Proposal is attached (Attachment 1) for Council's consideration.

Council can resolve to:

- Adopt the Planning Proposal and seek to make the proposed amendment to the Narrabri Local Environmental Plan 2012.
- OR,
- Reject the Planning Proposal and seek not make the proposed amendment to the Narrabri Local Environmental Plan 2012.

If Council resolves to adopt this Planning Proposal, then it would be sent to the Department of Planning and Environment for a Gateway Determination. The Department will review the Planning Proposal, its compatibility with their strategic guidelines and where the Department resolves to support the Planning Proposal they may place conditions on the progression of the proposal and impose requirements for public consultation and consultation with public authorities.

#### **FINANCIAL IMPLICATIONS**

The Planning Proposal proponent has paid Council the relevant application fee of \$3,914.

#### **STATUTORY AND POLICY IMPLICATIONS**

This item may result in the amendment of the Narrabri Local Environmental Plan 2012. The Planning Proposal is environmental planning instrument, a statutory legal document affecting land use within the Narrabri Local Government Area.

#### **CONSULTATION**

No public consultation has been carried out in relation to this item.

The terms of any consultation required to complete this Local Environmental Plan amendment will be stipulated by the Department of Planning and Environment should it issue a Gateway Determination in relation to the Planning Proposal.