

**ANTHONY  
DAINTITH**  
TOWN PLANNING

## **PLANNING PROPOSAL**



**CLIENT:**

**Greg & Elizabeth Cutler**

**PROPOSAL:**

**Minor amendment to zone  
boundaries**

**ADDRESS:**

**240 Limekilns Road, Kelso**

**DATE:**

**26 October 2017**

**DESCRIPTION:** Planning Proposal – Rezoning

**CLIENT:** Greg and Elizabeth Cutler

**Anthony Daintith Town Planning Pty Ltd**  
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Anthony Daintith (Principal)  
Date: 26/10/2017



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# 1 BACKGROUND

## 1.1 INTRODUCTION

Greg and Elizabeth Cutler have engaged Anthony Daintith Town Planning (ADTP) to prepare a Planning Proposal that seeks to amend the *Bathurst Local Environmental Plan 2014* by implementing minor amendments to the zone boundaries affecting the subject land (this will necessitate changes to the relevant LEP mapping).

A planning proposal is a document that explains the intended effect of a proposed local environmental plan (LEP) and sets out the justification for making that plan. It will be used and read by a wide audience including the general community as well as those who are responsible for deciding whether or not the proposal should proceed. As such it must be concise and accessible to its audience. It must also be technically competent - founded on an accurate assessment of the likely impacts of the proposal and supported where necessary by technical studies and investigations.

The preparation of a planning proposal is the first step in preparing a LEP. Throughout the course of preparing the proposed LEP, the planning proposal evolves. This is particularly the case for complex proposals in which the initial gateway determination will confirm the technical studies and consultation required to justify the proposal. As the studies and consultation are undertaken, relevant parts of the planning proposal will be updated, amended and embellished.

The role of a planning proposal within the overall process for preparing LEPs is explained in the publication "A guide to preparing local environmental plans" (Department of Planning & Environment, August 2016)

A planning proposal is comprised of five parts:

**Part 1** - A statement of the objectives or intended outcomes of the proposed instrument;

**Part 2** - An explanation of the provisions that are to be included in the proposed instrument;

**Part 3** - The justification for those objectives, outcomes and the process for their implementation;

**Part 4** - Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies;

**Part 5** - Details of the community consultation that is to be undertaken on the planning proposal.

Section 55(3) of the Act allows the Secretary to issue requirements with respect to the preparation of a planning proposal. The Secretary's requirements include:

- Specific matters that must be addressed in the justification (Part 3) of the planning proposal
- A project timeline to detail the anticipated timeframe for the plan making process for each planning proposal.

The project timeline forms Part 6 of a planning proposal.

It is proposed to amend the LEP, DCP and Section 94 Plan.

It is noted that the land is still held in private ownership, therefore there is no need to change the land classification under the *Local Government Act 1993*.

## 1.2 PROPONENT AND OWNER

The proponent is Greg and Elizabeth, C/- Anthony Daintith Town Planning. The registered owners of the subject land are:

- Gregory Edwin Cutler
- Pretty Heights Pty Ltd
- Lara (NSW) Pty Ltd

## 2 SUBJECT LAND

### 2.1 Location and Title

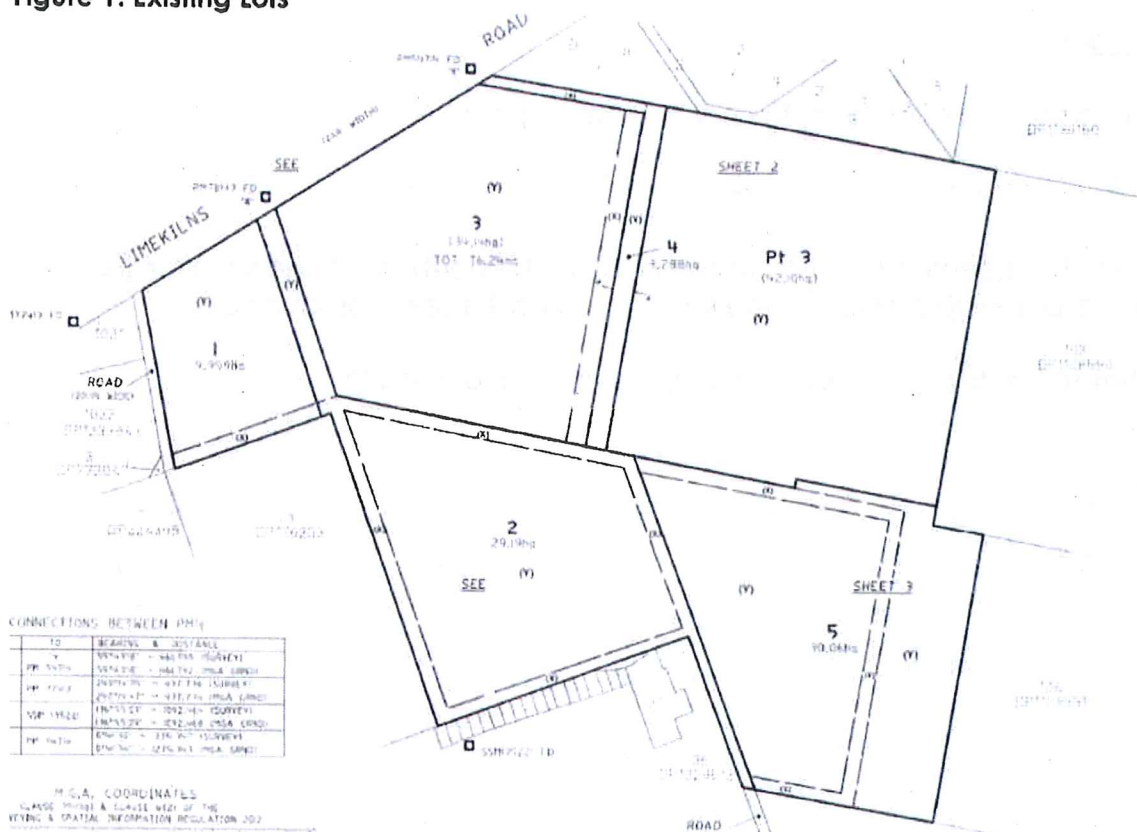
The subject land is located on 240 Limekilns Road, Kelso. Refer to **Figures 1 & 2** on page 6, which depict the site within the locality.

The land title description is as per **Table 1** below.

**Table 1: Land Title Description**

| Lot | DP      | Area    |
|-----|---------|---------|
| 2   | 1233661 | 29.19ha |
| 3   | 1233661 | 76.24ga |

**Figure 1: Existing Lots**





## 2.2 General Site Description

### Topography

The subject land is gently undulating.

### Vegetation

The site is cleared of vegetation.

### Waterways

There is a non-perennial drainage line that commences approximately half way along the proposed road that heads in a westerly direction.

### Buildings

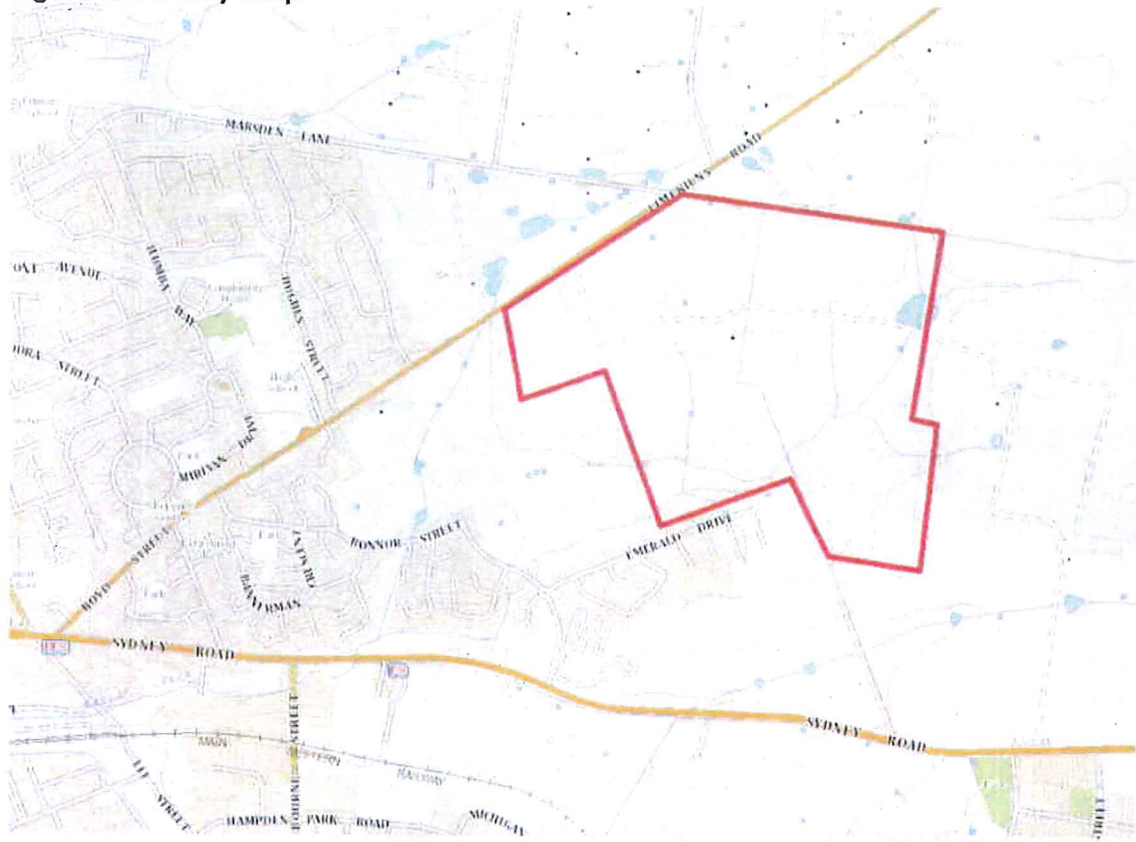
There are no buildings at this part of the property.

## 2.3 Surrounding Land Use

There is residential zoned land generally to the north, west and south of the site of the planning proposal. The land to the east is used for farming.

**Photos 1 and 2** provide a visual representation of the site.

**Figure 2: Locality Map**



**Figure 3: Aerial Photo**





**Photo 1: Entrance to the subject land**



**Photo 2: Looking north from the southern part of the subject land**

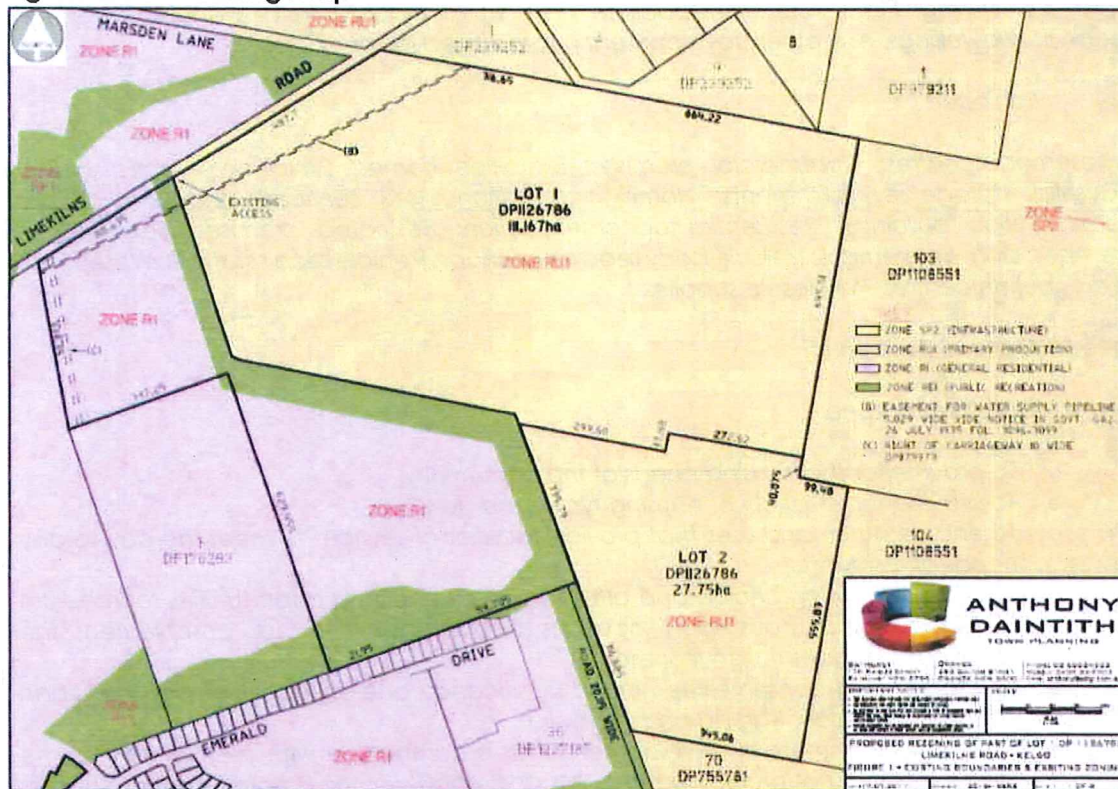




## 2.3 BATHURST LOCAL ENVIRONMENTAL PLAN 2014

The subject land is currently zoned RU1 Primary Production RE1 Public Recreation and R1 General Residential under the Bathurst Local Environmental Plan 2014 (refer to **Figure 4** below).

**Figure 4: LEP - Zoning Map**



### **Zone RU1 Primary Production**

#### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural and scenic character of the land.
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts.

#### **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads

**3 Permitted with consent**

Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Food and drink premises; Funeral homes; Garden centres; High technology industries; Home industries; Hostels; Intensive livestock agriculture; Landscaping material supplies; Markets; Neighbourhood shops; Open cut mining; Plant nurseries; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Any other development not specified in item 2 or 4

**4 Prohibited**

Amusement centres; Commercial premises; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Home occupations (sex services); Industries; Public administration buildings; Residential accommodation; Restricted premises; Sex services premises; Storage premises; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies

**Zone R1 General Residential**

**1 Objectives of zone**

- o To provide for the housing needs of the community.
- o To provide for a variety of housing types and densities.
- o To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- o To provide housing choice and affordability by enabling opportunities for medium density forms of housing in locations and at densities that complement the surrounding residential environment.
- o To protect and conserve the historic significance and scenic quality of the urban villages of Eglinton, Raglan and Perthville.
- o To enable commercial development that is compatible with the amenity of the area and does not prejudice the status and viability of the Bathurst central business district as the retail, commercial and administrative centre of Bathurst.

**2 Permitted without consent**

Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Roads

**3 Permitted with consent**

Attached dwellings; Boarding houses; Child care centres; Community facilities; Dwelling houses; Food and drink premises; Garden centres; Group homes; Home industries; Hostels; Kiosks; Markets; Multi dwelling housing; Neighbourhood shops; Places of public worship; Plant nurseries; Residential flat buildings; Respite day care centres; Roadside stalls; Semi-detached dwellings; Seniors housing; Shop top housing; Waste or resource transfer stations; Any other development not specified in item 2 or 4

**4 Prohibited**

Air transport facilities; Amusement centres; Boat building and repair facilities; Correctional centres; Crematoria; Depots; Electricity generating works; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Home occupations (sex services); Industrial training facilities; Industries; Intensive livestock agriculture; Open cut mining;



Restricted premises; Retail premises; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

### **Zone RE1 Public Recreation**

#### **1 Objectives of zone**

- o To enable land to be used for public open space or recreational purposes.
- o To provide a range of recreational settings and activities and compatible land uses.
- o To protect and enhance the natural environment for recreational purposes.
- o To protect and conserve the historical and scenic quality of Bathurst's open space areas.
- o To provide a network of open space that encourages walking and cycling.

#### **2 Permitted without consent**

Environmental protection works; Extensive agriculture; Intensive plant agriculture; Roads

#### **3 Permitted with consent**

Boat launching ramps; Camping grounds; Car parks; Caravan parks; Cemeteries; Community facilities; Dwelling houses; Emergency services facilities; Entertainment facilities; Environmental facilities; Extractive industries; Flood mitigation works; Food and drink premises; Function centres; Helipads; Information and education facilities; Jetties; Kiosks; Markets; Open cut mining; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Roadside stalls; Sewerage systems; Signage; Waste or resource transfer stations; Water recreation structures; Water supply systems

#### **4 Prohibited**

Any development not specified in item 2 or 3

The land subject to this planning proposal is zoned RU1 Primary Production, RE1 Public Recreation and R1 General Residential under the provisions of the Bathurst Regional Local Environment Plan 2014.

The minimum lot size (MLS) is 200 hectares & 550m<sup>2</sup> for the subject land (refer to **Figure 5** below). The MLS mapping will need to change to reflect the change to the zoning.

### **4.1 Minimum subdivision lot size**

#### **(1) The objectives of this clause are as follows:**

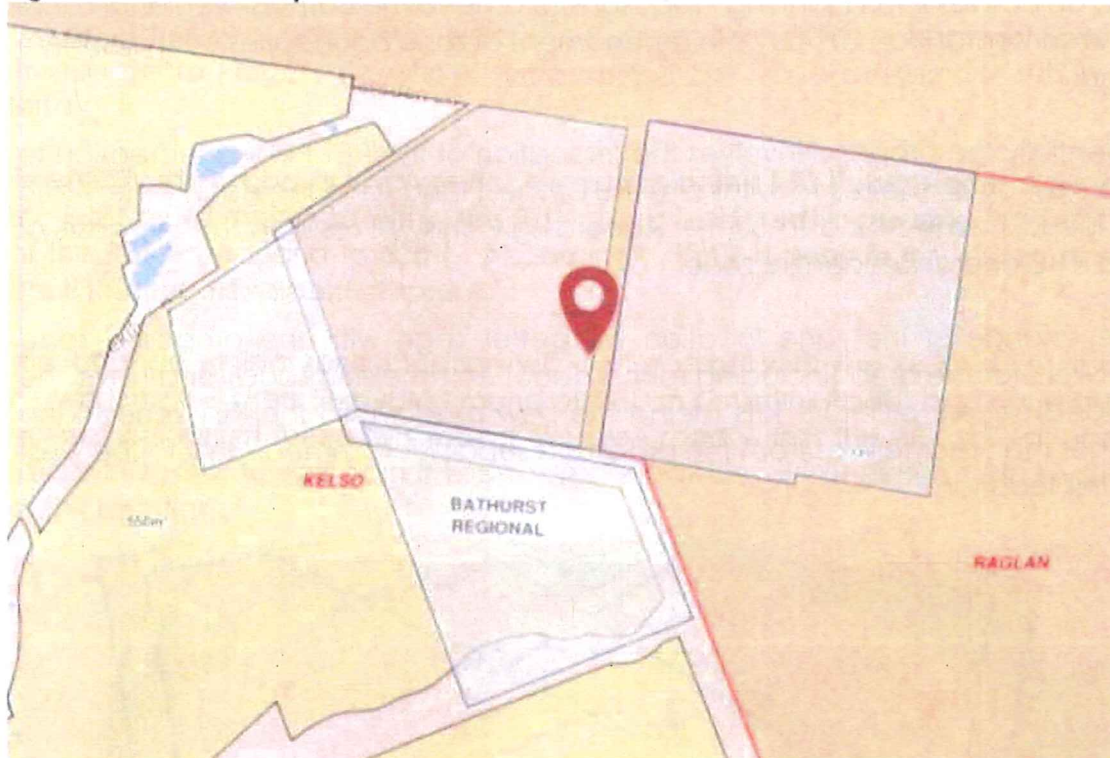
- (a) to protect and enhance the production capacity of rural lands, by maintaining farm sizes and the status of productive lands,
- (b) to ensure residential lots are of a suitable shape and size to provide a building envelope, private open space and suitable building setbacks for acoustic and visual privacy,



- (c) to control the subdivision of land shown on the Lot Size Map for the purposes of a dwelling house,
  - (d) to ensure that lot sizes are consistent with the desired settlement density and intensities for different localities and reinforce the predominant subdivision pattern of the area,
  - (e) to ensure a secure water supply is available to land in Zone RU4 Primary Production Small Lots to enable the cultivation of land by irrigation.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (3A) Despite subclause (3), development consent must not be granted to the subdivision of land in Zone RU4 Primary Production Small Lots unless the consent authority is satisfied that a suitable and secure water supply is, or will be, available for irrigation to each resulting lot to enable the cultivation of the land.
- (3B) Despite subclause (3), the size of any lot resulting from the subdivision of land identified as "Area 1" on the Lot Size Map must not be less than 4,000 square metres if:
- (a) reticulated water and sewerage will be connected to each resulting lot immediately following the subdivision, and
  - (b) the land is not within the 50dBA Noise Contour shown on the Mount Panorama Environs Map.
- (3C) Despite subclause (3), the size of any lot resulting from the subdivision of an existing holding identified as "Area 1" on the Lot Size Map must not be less than 4,000 square metres if:
- (a) reticulated water and sewerage will not be connected to each resulting lot immediately following the subdivision, and
  - (b) not more than 1 lot is created for every 1.5 hectares of the existing holding.
- (3D) A lot created under subclause (3C) may not be further subdivided.
- (3E) Despite subclause (3), the size of any lot resulting from the subdivision of land identified as "Area 2" on the Lot Size Map must not be less than 6,000 square metres if reticulated water and sewerage will be connected to each resulting lot immediately following the subdivision.
- (3F) Despite subclause (3), a battle-axe lot resulting from the subdivision of the following land must not be less than:
- (a) if the land is in Zone R1 General Residential—750 square metres, or
  - (b) if the land is in Zone R1 General Residential and in the village of Eglinton, Perthville or Raglan—900 square metres, or
  - (c) if the land is in Zone R2 Low Density Residential—750 square metres.

- (3G) For the purpose of calculating the size of a battle-axe lot under subclause (3F), the area of the access handle is excluded.
- (3H) In this clause existing holding means the area of a lot as it was on 2 September 1988.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

Figure 5: LEP - MLS Map





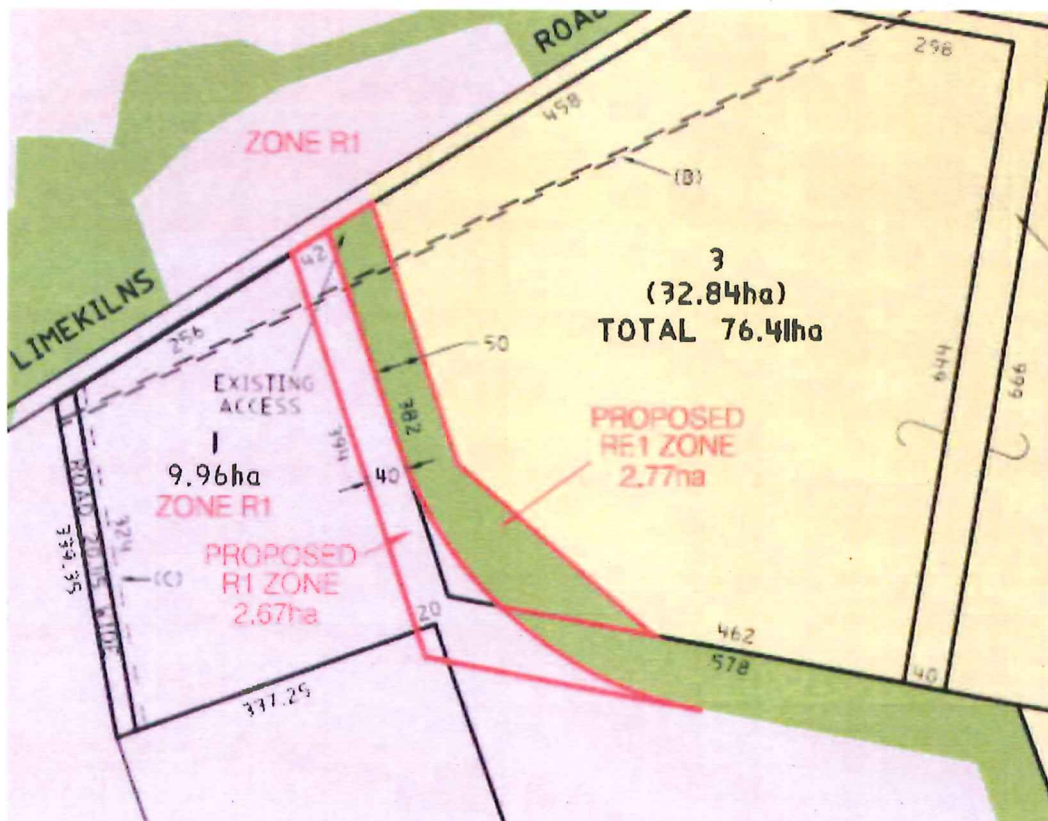
## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

Part 1 of the planning proposal should be a concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be understood by the layperson.

The objective of this Planning Proposal is to amend the *Bathurst Regional Local Environmental Plan 2014* by the amendment of zone boundaries on the subject land.

Essentially the proposal involves the relocation of the RE1 Public Recreation to the east by 40 metres to within the RU1 zoned land (and increasing the width of the RE1 zoned land to 50m). Accordingly, this will result in the increase of the R1 General Residential zone.

The change in the zone location will better align with the proposed road network for the area (including round about on Limekilns Road) and have the added benefit of future lots facing the new road within the RE1 zoned land rather than rear fences from the proposed subdivision immediately to the west of this location.





Supporting the rezoning of the land, amendments to the following maps will occur imposing the appropriate controls on the land relevant to the proposed zoning change:

- Land Zoning Map
- Height of Buildings Map
- Lot Size Map
- Land Reservation Acquisition Map
- Minimum Lot Size – Dual Occupancy Map
- Minimum Lot Size – Multi Dwelling Housing and Residential Flat Buildings Map

Alterations to Councils DCP in relation to the above sites is proposed to occur concurrently with the exhibition of the Planning Proposal.

Map 4 – Kelso of the DCP will need to be amended by:

- Relocating of the open space and road to reflect the proposed zone changes in the LEP (subject to this planning proposal) – this will better line up with the proposed roundabout location.
- Changing the Collector Road classification from "to be constructed by developer" to "to be partially constructed by developer & identified on Section 94 Contribution Plan".

It is proposed to amend the Section 94 Contributions Plan to ensure that the future road within the RE1 zoned land be funded on the 70/30 split (rather than a 100% developer contribution that currently exists). This then aligns with other roads in the network which has a 70/30 split. This is further supported by the road only having residential lots off one side of the future road.

## PART 2 – EXPLANATION OF PROVISIONS

The explanation of provisions is an explicit statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed via a LEP.

It is proposed to amend the *Bathurst Regional Local Environmental Plan 2014* by the small realignment between the R1, RE1 and RU1 zone boundaries on the subject land provide a better alignment for a future collector road through the site and ensure that there is an improved streetscape as a result of future residential lots fronting the new road (rather than rear fences). There will also be the net community benefit of additional open space area with the increased the in the proposed RE1 zoned land.

## PART 3 JUSTIFICATION

The justification sets out the case for changing the zones and/or development controls on the land affected by the proposed LEP.

Within the justification there are a number of specific questions that must be discussed with reasons explained.

### Section A – Need for Planning Proposal

#### **Is the planning proposal a result of any strategic study or report?**

No - the Planning Proposal is not a result of any strategic study or report. The planning proposal will provide an improved planning outcome for the subject land that has been determined in consultation with Bathurst Regional Council's Strategic Planning Department.

#### **Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

It is believed that by slight realignment to the zone boundaries within the subject land is the best means of achieving the objectives and intended outcome of this Planning Proposal (initial discussions with Council have confirmed this).

There are no other feasible methods to achieve this final outcome.

#### **Is there a net community benefit?**

There will be negligible community benefit as this proposal only relates to one property. The Planning Proposal if supported will provide a better planning outcome by the better align with the proposed road network for the area (including round about on Limekilns Road) and have the added benefit of future lots facing the new road within the RE1 zoned land rather than rear fences from the proposed subdivision immediately to the west of this location.

There will be additional open space created through the increase in the width of the RE1 zoned land from 40m to 50m.

### Section B – Relationship to Strategic Planning Framework

#### **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or subregional Strategy?**

The proposal is not inconsistent with the provisions of the Central West and Orana Regional Plan. The impacts of the proposed are relatively localised.



## **Is the planning proposal consistent with the local Council's Community Strategic Plan or other local strategic plan?**

It is considered that the Planning Proposal is not inconsistent with Council's Urban Strategy. The proposed changes will align the LEP, DCP and Section 94 Contributions Plan with the best planning outcome for the subject land within the greater Kelso area.

## **Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is considered to be consistent with the relevant State Environmental Planning Policies (SEPPs) including the following:

### State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Council must consider Clause 6 of the SEPP when determining a Development Application:

#### **6 Contamination and remediation to be considered in zoning or rezoning proposal**

(1) In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:

- (a) the planning authority has considered whether the land is contaminated, and
- (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

Note.

In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.

(2) Before including land of a class identified in subclause (4) in a particular zone, the planning authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

(3) If a person has requested the planning authority to include land of a class identified in subclause (4) in a particular zone, the planning authority may require the person to furnish the report referred to in subclause (2).

(4) The following classes of land are identified for the purposes of this clause:

- (a) land that is within an investigation area,



(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

(5) In this clause, planning authority has the same meaning as it has in section 145A of the Act.

The potential for contamination appears minimal. In terms of potential soil contamination, the subject land has been evaluated for:

- Evidence of previous mining activity;
- Evidence of existing and previous dip sites and other associated infrastructure;
- Evidence of orcharding or any other horticultural activities; and
- Vegetative and other features which could indicate possible soil contamination.

Accordingly, it is recommended that a detailed investigation is not necessary or warranted in this instance.

There are no physical signs of contamination present on the site.

#### State Environmental Planning Policy (Infrastructure) 2007

The planning proposal has no implications in terms of the application of the Infrastructure SEPP.

#### State Environmental Planning Policy (Rural Lands) 2008

The Rural Planning Principles are as follows:

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

The loss of RU1 zoned land is very minor to facilitate the proposed realignment of zone boundaries. Agricultural activities will not be significantly impacted upon as a result of the planning proposal.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

The impact on surrounding rural lands is negligible.

*(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*

The impact on surrounding rural lands is negligible.

*(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*

On balance, the planning proposal aims meets the social, economic and environmental interests of the community by ensuring that the future development of Kelso is conducted in a planned and ordered manner with the minimum lot of rural lands.

*(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*

There are no specific natural constraints on the subject land that affect the planning proposal. The subject land does not have any biodiversity issues, stands of native vegetation (accordingly no removal required) or any water courses (other than the drainage line previously mentioned).

*(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*

It is considered that the planning proposal will have negligible impact on the social and economic welfare of the local rural community.

The future development of the subject land will align with the aims and objectives of the LEP and DCP which clearly depicts Councils intentions for the future development of Kelso.

*(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*

Rural housing is not a consideration for this Planning Proposal.

*(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The planning proposal is not inconsistent with any regional or local strategy.



## Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following provides a summary of the Section 117 Directions issued on 1 July 2009 in accordance with the *Environmental Planning & Assessment Act 1979*, as relevant to the planning proposal:

**Table 2: Section 117 Directions**

| Direction No.                   | Provisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Consideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| 1.1 Business & Industrial Zones | <p>When this Direction Applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</p> <p>What a relevant planning authority must do if this direction applies</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of existing business and industrial zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</li> </ul> | <p>Not applicable. There are no business/industrial zones affected.</p> <p>The planning proposal is not considered to be inconsistent with this S117(2) Direction.</p>                                                                                                                                                                                                                                                                                                                                       |
| 1.2 Rural Zones                 | <p>What a relevant planning authority must do if this direction applies</p> <p>A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</li> </ul> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department</p>                                                                                                                                                                                                                                                                                                                                                                                                        | <p>It is proposed to rezone a very small area of RU1 zoned land to RE1 Public Recreation and R1 General Residential (the current RE1 zoned land to be rezoned to R1 General Residential).</p> <p>It is considered that the reduction of the rural land to be very minor in nature and is unlikely to prejudice the rural operations of the adjoining land.</p> <p>Whilst it may be inconsistent with the requirements of the direction, however it is of <u>minor significance</u> and can be supported.</p> |



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|                                                            | <p>of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</p> <p>justified by a strategy which:</p> <p>gives consideration to the objectives of this direction,</p> <p>identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</p> <p>is approved by the Director-General of the Department of Planning, or</p> <p>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) is of minor significance.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1.3 Mining, Petroleum Production and Extractive Industries |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Not considered applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1.4 Oyster Aquaculture                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Not considered applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 1.5 Rural Lands                                            | <p>When this direction applies</p> <p>This direction applies when:</p> <p>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</p> <p>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>What a relevant planning authority must do if this direction applies:</p> <p>(4) A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p>                                                                                          | <p>Refer to the comments under SEPP Rural Lands in the previous part of this Planning Proposal that addresses the Rural Planning Principles.</p> <p>It is proposed to rezone a very small area of RU1 zoned land to RE1 Public Recreation and a very small area of RU1 zoned land to R1 General Residential (the current RE1 zoned land to be rezoned to R1 General Residential).</p> <p>It is considered that the reduction of the rural land to be very minor in nature and is unlikely to prejudice the rural operations of the adjoining land.</p> <p>Whilst it may be inconsistent with the requirements of the direction, however it is of <u>minor significance</u> and can be supported.</p> |

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|                                  | (5) A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2.1 Environment Protection Zones |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.2 Coastal Protection           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.3 Heritage Conservation        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not applicable to this proposal. The subject land is not affected by any Heritage Conservation Area of heritage item (including neighbouring lots).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 2.4 Recreation Vehicle Areas     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 3.1 Residential Zones            | <p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <p>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</p> <p>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</p> <p>(d) be of good design.</p> <p>(5) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p> | <p>The proposal includes the rezoning of the current RE1 zoning to R1 General Residential.</p> <p>The planning proposal only adjust the existing zone boundaries to create a preferred open space / road corridor and does not significantly change the permissible development or housing density on the area. It would be preferable to have housing lots fronting the new road rather than rear fences from the adjoining subdivision to the west.</p> <p>Whilst the planning proposal may be inconsistent with the requirements of the direction, it is considered to be of <u>minor significance</u> and can be supported.</p> |



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| 3.2 Caravan Parks & Manufactured Home Estates | <p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</p> <p>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p> <p>(5) In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.</p> | <p>Not applicable.</p> <p>The planning proposal is not considered to be inconsistent with this S117(2) Direction.</p>                                                                                                                                 |
| 3.3 Home Occupations                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Not applicable to this proposal.                                                                                                                                                                                                                      |
| 3.4 Integrating Land Use and Transport        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The proposed changes to the zones will better align the proposed road network that will link northern and southern areas of Kelso (as per the DCP).                                                                                                   |
| 3.5 Development Near Licensed Aerodromes      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | The proposal alters the RE1/RU1 zone boundary within relatively close proximity to the Bathurst Airport. It is proposed to extend appropriate controls onto land that is being rezoned. It should be noted that the planning proposal only adjust the |



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|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>existing zone boundaries and does not significantly change the permissible development or the housing density on the land that currently exists. The ANEF for the Bathurst Airport was updated in 2013 which illustrates that the 20dBA ANEF is generally contained on the lot associated with the Bathurst Airport. It should also be noted that the proposal does not affect land under the main runway for the Bathurst Airport.</p> <p>It is considered that the proposal is consistent with the requirements of the Direction, is of minor significance and can be supported.</p> |
| 3.6 Shooting Ranges                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4.1 Acid Sulfate Soils                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4.2 Mine Subsidence and Unstable Land |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | It is understood that the land is not affected by mine subsidence or unstable land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 4.3 Flood Prone Land                  | <p>When this direction applies</p> <p>(3) This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(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 <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>).</p> <p>(5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</p> | Not applicable to this proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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|                                      | <p>a. permit development in floodway areas,</p> <p>b. permit development that will result in significant flood impacts to other properties,</p> <p>c. permit a significant increase in the development of that land,</p> <p>d. are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</p> <p>e. permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</p> <p>(7) A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director- General (or an officer of the Department nominated by the Director-General).</p> <p>(8) For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> |                                                                                                                                                         |
| 4.4 Planning for Bushfire Protection | <p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>The subject is not mapped as Bushfire Prone Land.</p> <p>The planning proposal is not considered to be inconsistent with this S117(2) Direction.</p> |

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|  | <p>the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</p> <p>(5) A planning proposal must:</p> <ul style="list-style-type: none"> <li>(a) have regard to Planning for Bushfire Protection 2006,</li> <li>(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</li> <li>(c) ensure that bushfire hazard reduction is not prohibited within the APZ.</li> </ul> <p>(6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> <li>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> <li>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</li> <li>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</li> </ul> </li> <li>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</li> <li>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</li> <li>(d) contain provisions for adequate water supply for firefighting purposes,</li> <li>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</li> <li>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</li> </ul> |  |
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| <p>5.10<br/>Implementation<br/>of Regional Plans</p> | <p>Objective (1) The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. Where this direction applies (2) This direction applies to land to which a Regional Plan has been released by the Minister for Planning. When this direction applies (3) This direction applies when a relevant planning authority prepares a planning proposal. What a relevant planning authority must do if this direction applies (4) Planning proposals must be consistent with a Regional Plan released by the Minister for Planning. Consistency (5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan: (a) is of minor significance, and (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p> | <p>The proposal is consistent with the Central West and Orana Regional Plan.</p>                                                                                                                                                                                                                                                                       |
| <p>6.1 Approval and Referral Requirements</p>        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>This proposal is consistent.</p>                                                                                                                                                                                                                                                                                                                    |
| <p>6.2 Reserving Land for Public Purposes</p>        | <p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</p> <p>(5) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition</p>                                                                                                                                                                                                                                                                                                                                                                                           | <p>The Planning Proposal aims to alter the RU1/RE1 and R1 zone boundaries to a preferred location. The actual amount of RE1 zoned land increases as a result of this proposal – therefore a net benefit to the community.</p> <p>The planning proposal is considered to be of minor significance and not inconsistent with this S117(2) Direction.</p> |

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|  | <p>(Just Terms Compensation) Act 1991, the relevant planning authority must:</p> <p>(a) reserve the land in accordance with the request, and</p> <p>(b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</p> <p>(c) identify the relevant acquiring authority for the land.</p> <p>(6) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</p> <p>(a) include the requested provisions, or</p> <p>(b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</p> <p>(7) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</p> |  |
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## Section C Environmental, Social & Economic Impact

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

The proposal is unlikely to adversely affect critical habitat or threatened species, or ecological communities, or their habitats. The site is completely clear of any vegetation and has historically been used for cropping purposes.

Accordingly, an "Assessment of Significance" in accordance with Section 5A of the *Environmental Planning and Assessment Act 1979* is not required.



### **Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

The proposed planning proposal on the land is unlikely to result in adverse environmental effects.

There are no identified natural hazards, such as flooding, land slip, bushfire hazard and the like within the area to be rezoned.

### **How has the planning proposal adequately addressed any social and economic impacts?**

The planning proposal is considered unlikely to result in adverse social or economic impacts in the locality (and impacts are negligible). There is a net community benefit by the expansion of the RE1 zoned land from 40m to 50m wide.

There are no known items or places of European or Aboriginal cultural heritage located on the subject land that would be impacted upon by the Planning Proposal.

The proposal will have negligible impact of agricultural operations on the adjoining rural lands whilst improving the planning outcomes for the area as described in this report.

## **Section D – State and Commonwealth Interests**

### **Is there adequate public infrastructure for the planning proposal?**

The planning proposal only seeks to slightly alter the zone boundaries – this realignment will better line up with proposed public infrastructure such as the proposed new road to service the site.

### **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

It is proposed that the issues raised by State and Commonwealth public authorities will be addressed during the LEP's public exhibition phase.

Due to the relative small scale of the proposal, there are no identified issues that would be affected any State or Commonwealth public authority.

If any issues are raised at the Gateway stage, they can be resolved at this stage.



#### 4. COMMUNITY CONSULTATION

Pursuant to Section 57(2) of the *Environmental Planning and Assessment Act 1979*, the Director General of Planning must approve the form of the Planning Proposal under the Gateway process before community consultation is undertaken.

The Planning Proposal is considered to be Low Impact and would be publicly exhibited for a period and in a manner set out in the Gateway determination (it is understood that such a Planning Proposal will be publicly exhibited for a period of 28 days.)

The Planning Proposal is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts. It is believed that the potential impacts would be negligible.

It is anticipated that the LEP will be finalised within a maximum period of six (6) months.

It is proposed that LEP/DCP and Section 94 amendments run concurrently.

## 5 CONCLUSIONS

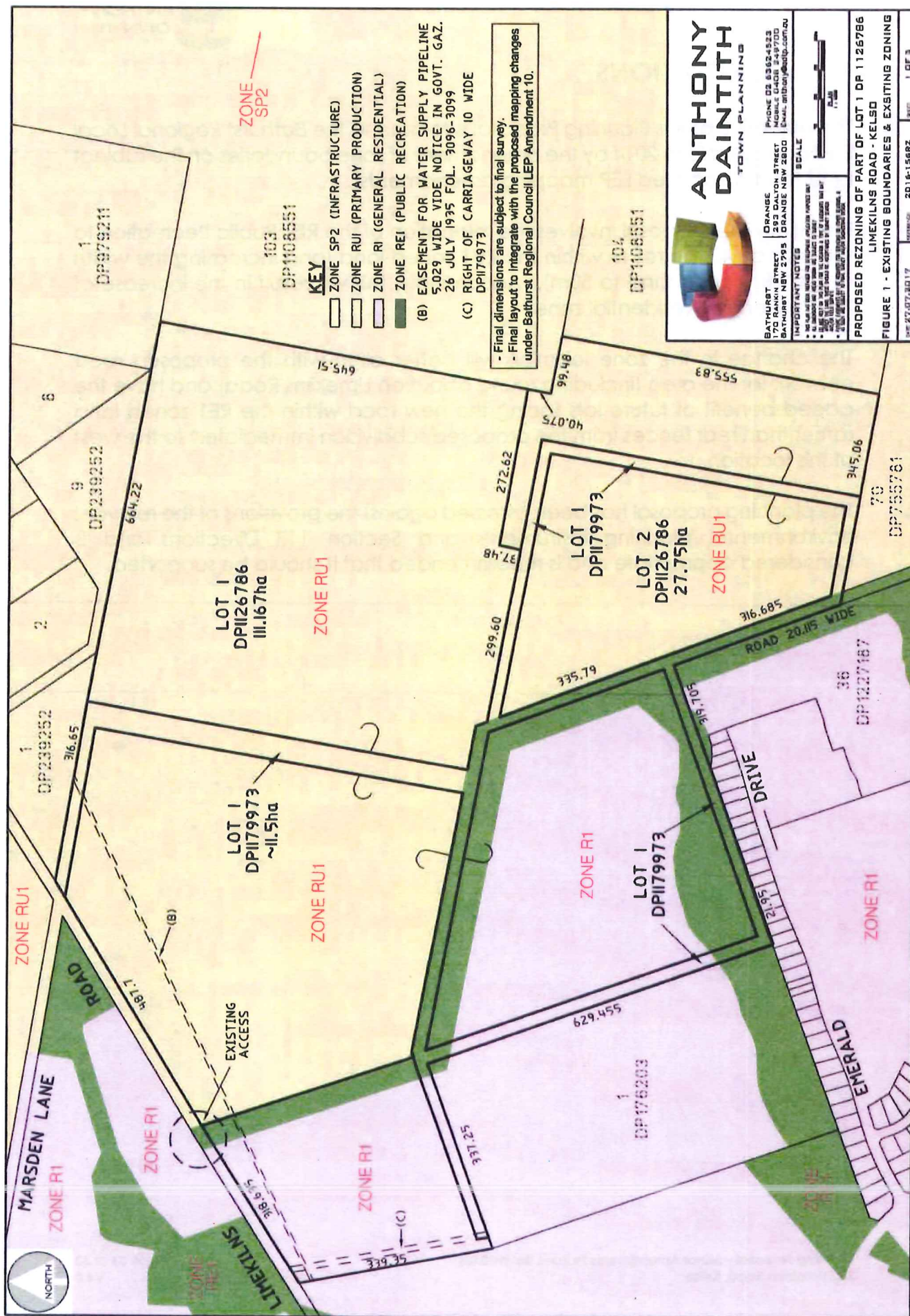
The objective of this Planning Proposal is to amend the *Bathurst Regional Local Environmental Plan 2014* by the amendment of zone boundaries on the subject land (and associated LEP mapping amendments).

Essentially the proposal involves the relocation of the RE1 Public Recreation to the east by 40 metres to within the RU1 zoned land (and increasing the width of the RE1 zoned land to 50m). Accordingly, this will result in the increase of the R1 General Residential zone.

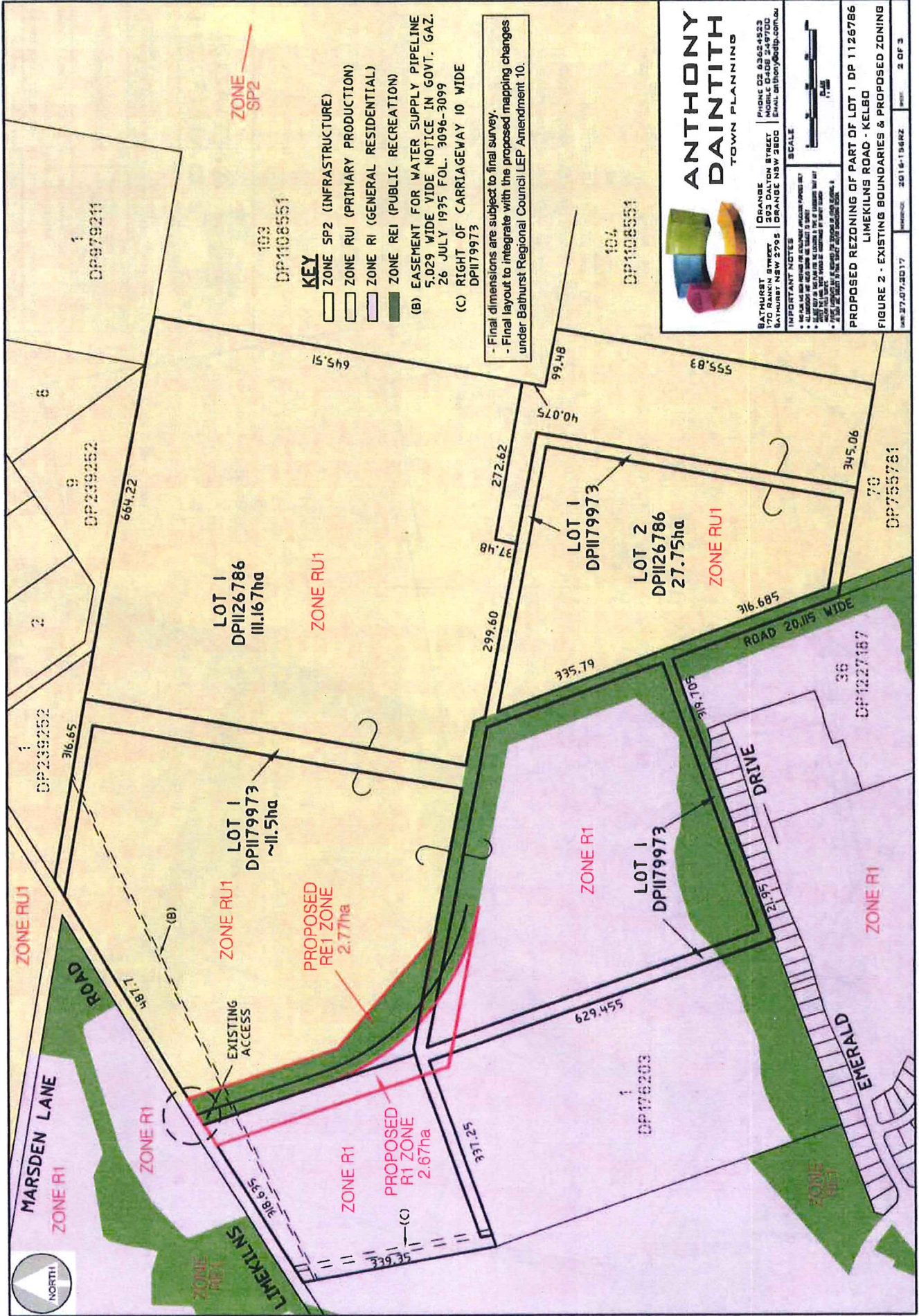
The change in the zone location will better align with the proposed road network for the area (including round about on Limekilns Road) and have the added benefit of future lots facing the new road within the RE1 zoned land rather than rear fences from the proposed subdivision immediately to the west of this location.

The planning proposal has been assessed against the provisions of the relevant environmental planning instruments and Section 117 Directions and is considered appropriate and is recommended that it should be supported.

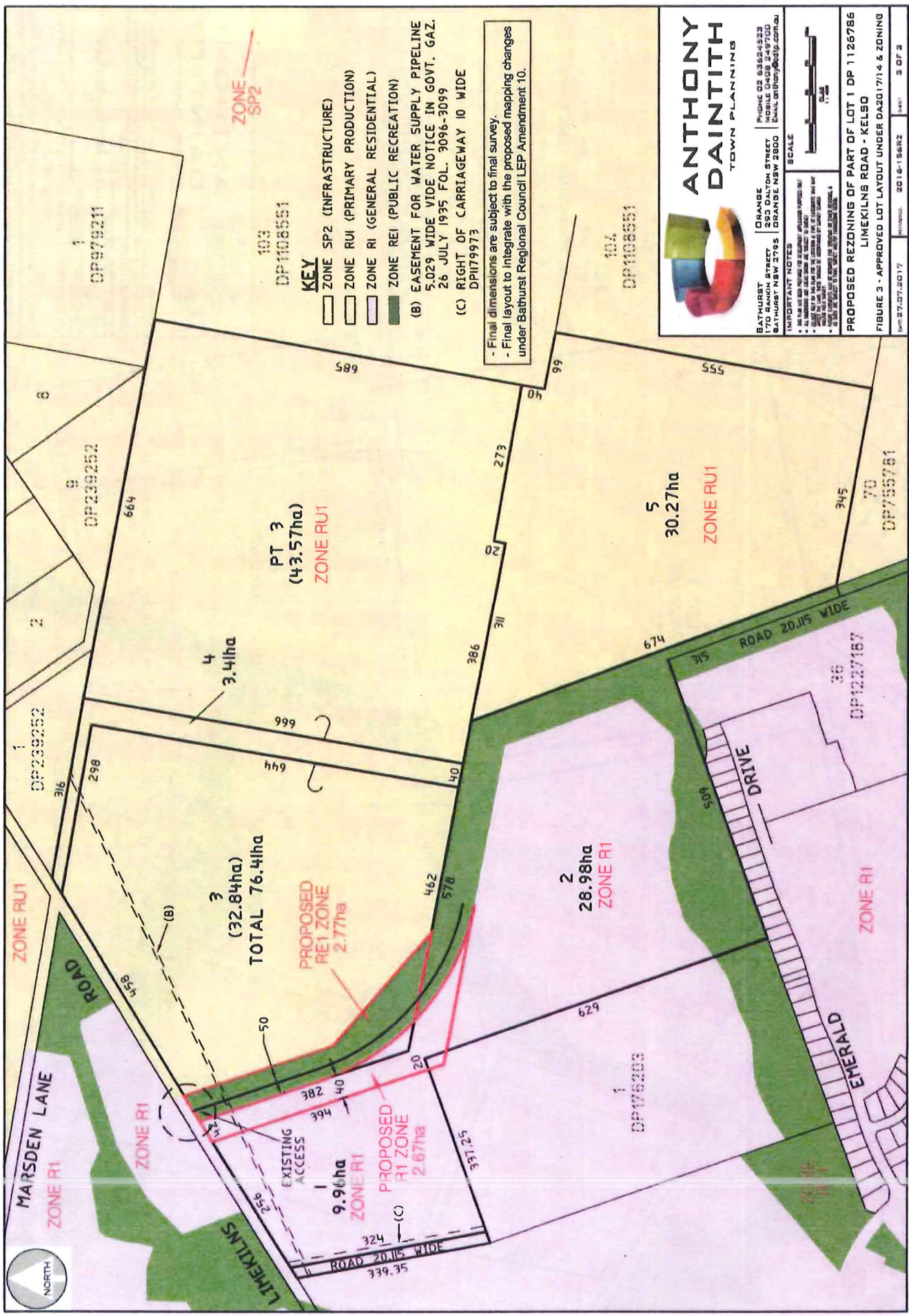












**KEY**

- ZONE SP2 (INFRASTRUCTURE)
- ZONE RUI (PRIMARY PRODUCTION)
- ZONE RI (GENERAL RESIDENTIAL)
- ZONE REI (PUBLIC RECREATION)

(B) EASEMENT FOR WATER SUPPLY PIPELINE  
5,029 WIDE VIDE NOTICE IN GOVT. GAZ.  
26 JULY 1935 FOL. 3096-3099  
(C) RIGHT OF CARRIAGEWAY 10 WIDE  
DPI179973

- Final dimensions are subject to final survey.  
- Final layout to integrate with the proposed mapping changes  
under Bathurst Regional Council LEP Amendment 10.



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**IMPORTANT NOTES**

- 1. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.
- 2. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.
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- 7. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.
- 8. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.
- 9. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.
- 10. THE LAND SHOWN HEREON IS NOT A FINAL SURVEY. IT IS A PRELIMINARY LAYOUT OF THE PROPOSED DEVELOPMENT.

**PROPOSED REZONING OF PART OF LOT 1 DP 1126786  
LIMEKILNS ROAD - KELSO**

**FIGURE 3 - APPROVED LOT LAYOUT UNDER DA2017/14 & ZONING**

DATE: 27.07.2017  
DRAWN: 2016-156RZ  
SCALE: 3 OF 3