

PLANNING PROPOSAL

RIVER ROAD PRECINCT

FORBES



**Prepared By:
Forbes Shire Council**

December 2009

CONTENTS

Introduction.....	3
Background.....	3
Part 1 – Objectives or Intended Outcomes.....	10
Part 2 – Explanation of Provisions.....	10
Part 3 – Justification.....	10
Section A – Need for the Panning Proposal.....	10
Section B – Relationship to Strategic planning Framework....	15
Section C – Environmental, Social and Economic Impact.....	25
Section D – Sate and Commonwealth Interests.....	26
Part 4 – Community Consultation.....	27

Introduction

Forbes Shire Council have been actively pursuing a revision of the Forbes Local Environmental Plan, 1986 since 2005. The draft Forbes Growth Management Strategy was prepared by Edge Land Planning Pty Ltd during 2007 however put on hold pending the Ministers Central West Rural Lands Inquiry.

Forbes Shire Council resolved on 13 December, 2007 to:

“Allocate a budgetary vote to pursue the Local Environmental Study Investigations for removal of the 10ha minimum area for subdivision for flood affected land zoned 1(c) on the periphery of the Forbes Urban Area in the Draft 2008/2009 budget”.

Council has since resolved to adopt the Forbes Growth Management Strategy, prepared by Edge Land Planning, February, 2009 being the underpinning development strategy to the review of the Forbes comprehensive Local Environmental Plan. The Forbes Growth Management Strategy was endorsed by the Director-General of the Department of Planning on 19 April, 2009.

Council’s resolution was to adopt the Forbes Growth Management Strategy, excluding any development potential for the River Road area. To include this area within the LEP revision would unnecessarily delay, complicate and add significant cost to the comprehensive LEP review. Accordingly Council resolved to pursue this matter separately via the newly introduced “Gateway” process.

Forbes Shire Council subsequently resolved on 20 August, 2009 that:

“Council prepare a planning proposal to reduce the minimum lot size for dwellings in the River Road area”.

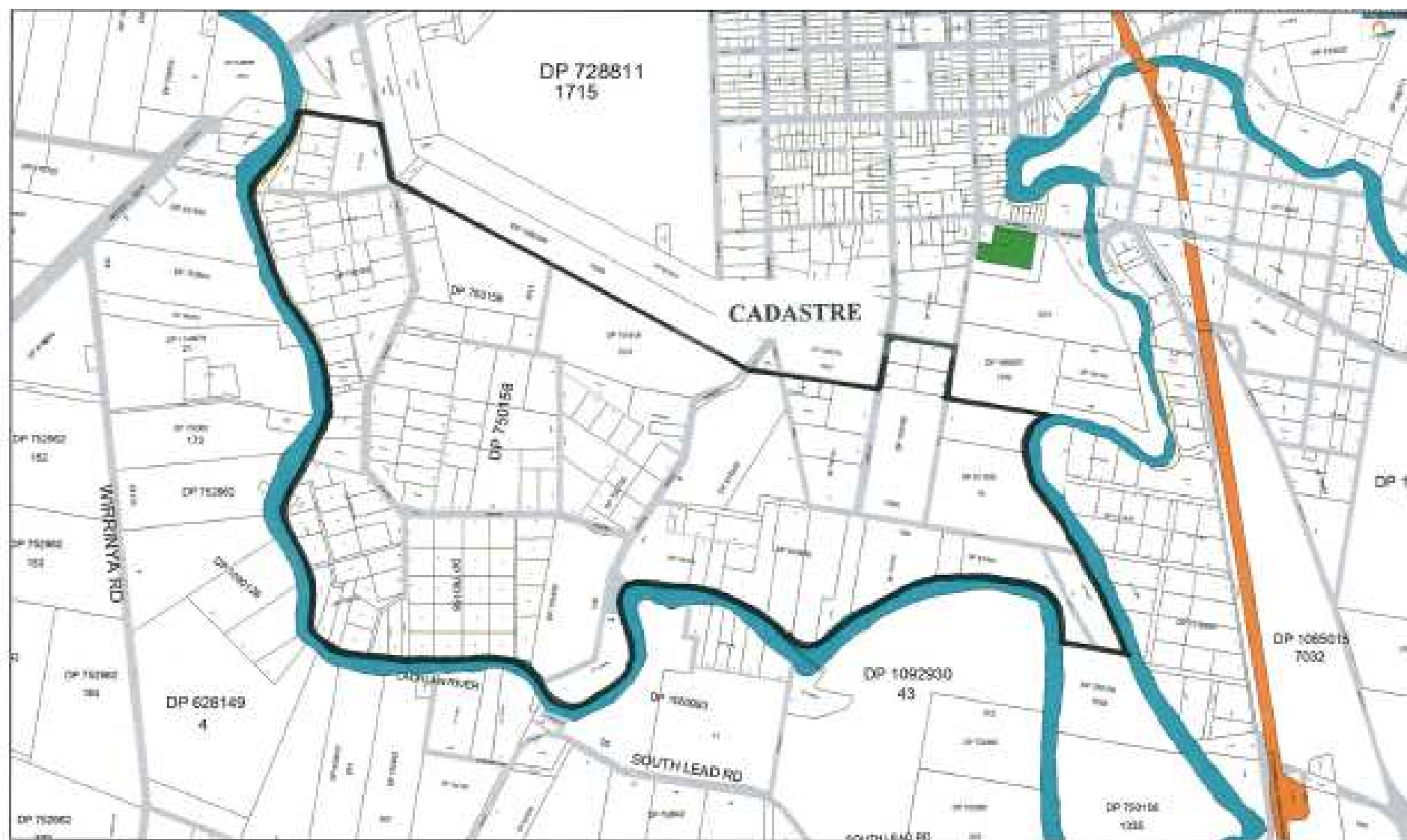
Copies of Council’s resolutions are attached to this report. Hence this Planning Proposal has been prepared and submitted for gateway determination. The subject River Road Area is identified by cadastre and satellite image below, an overlay of the cadastre has also been shown separately.

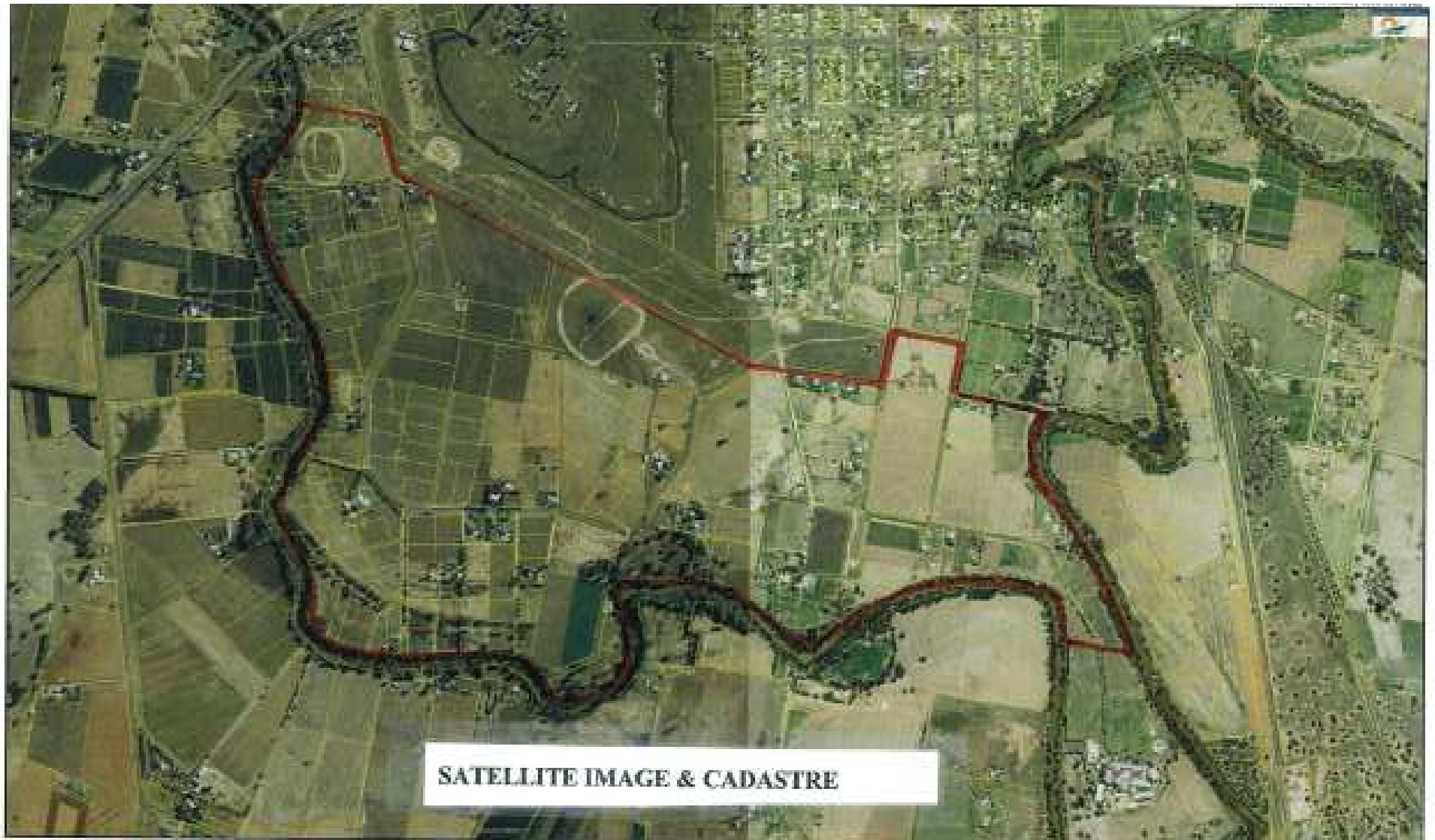
Background

Provisions were introduced into the Forbes Local Environmental Plan 1986 requiring a minimum 10ha upon flood liable rural residential land. There is no background or information nor study available within Councils records which support the creation of this restriction. Council’s Flood Study prepared by Sinclair Knight Merz, in 2002 also does not establish such a restriction, rather establishes appropriate criteria to control the siting of dwellings upon low hazard flood areas.

SATELLITE IMAGE







Forbes Shire Council has actively pursued a revision of the Forbes Local Environmental Plan 1986. In accordance with the State Governments Planning Reform Program Council adopted the Forbes Growth Management Strategy on 19 February, 2009. This Growth Management Strategy was endorsed by the Director General of the Department of Planning on 21 April, 2009.

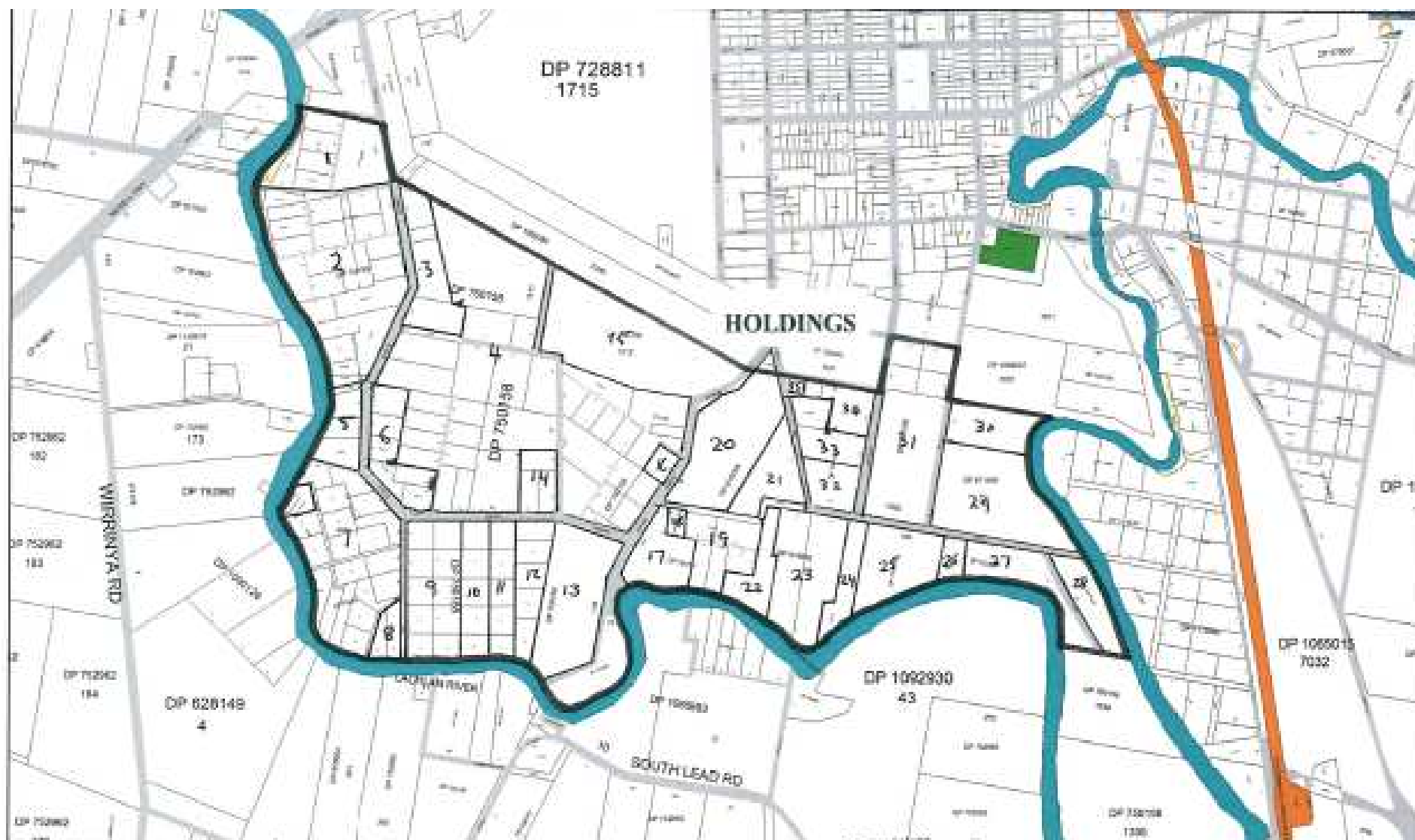
The LEP review was initiated by a series of community meetings, stakeholder meetings and workshops followed by Council input, preparation of the Forbes Issues Paper, 2007 and culminated in the Forbes Growth Management Strategy. As evidenced by its title Forbes Shire Council is actively promoting the planned and managed growth of the Shire. Throughout the preparation of this development strategy the Community and Council continually pursued their desires for the further subdivision of an area locally known as the “River Road Area”. The River Road Area is seen as a desirable “rural living opportunity” which is significantly under utilised, primarily as a result of a historical subdivision restriction.

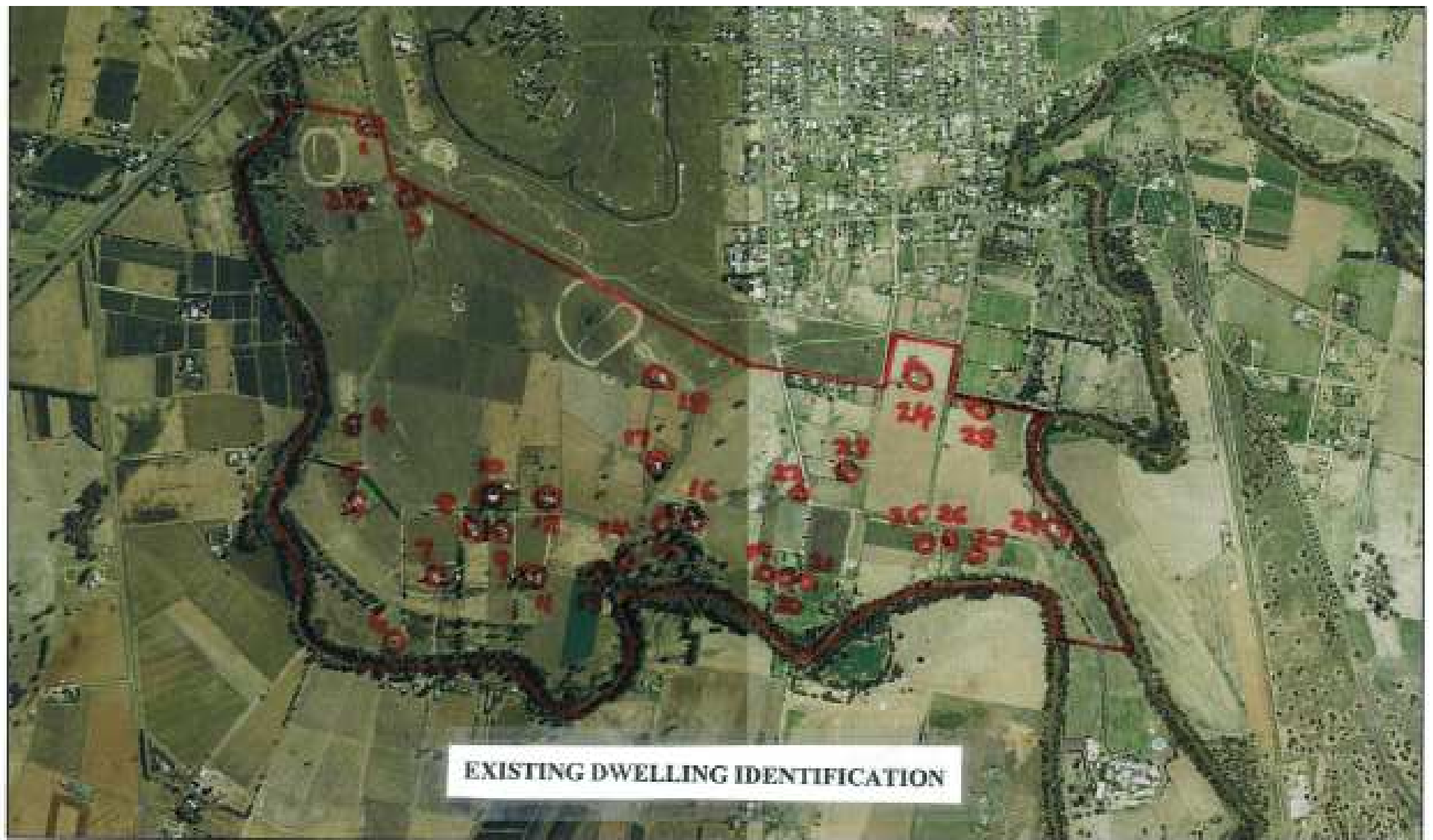
An outcome of the Agency/Authority consultation process involved in the preparation of this Forbes Growth Management Strategy highlighted a number of environmental concerns resulting in the conclusion that detailed environmental investigations were necessary prior to proceeding to allow the further subdivision and rural residential occupation of this area.

Rather than delay the preparation of the revised comprehensive LEP for Forbes whilst this process undertaken, it was considered most productive to pursue the River Road area independently. Accordingly it was removed from the endorsed Forbes Growth Management Strategy.

Hence this planning proposal has been prepared to provide all relevant information in respect of a potential LEP amendment in order to gain preliminary support to the development proposal prior to proceeding with the expense of the necessary environmental investigations necessary to underpin any LEP amendment for additional development within the River Road precinct.

The area the subject of this planning proposal, the River Road Precinct, comprises approximately 241.5ha on the south eastern fringe of Forbes located between the existing Forbes urban area and the Lachlan River. The land is already highly fragmented comprising 158 allotments in 35 separate ownerships. The average lot size is 1.52ha with an average holding size of 6.9ha. The character of the existing development is predominantly rural living, comprising approximately 29 dwellings scattered throughout the area. The area is utilised for limited agricultural production typically low scale/hobby farm pursuits being predominantly grazing of natural pastures for cattle sheep and horses and one vegetable grower. A plan of the holdings and location of existing dwellings have been provided below.





Part 1 – Objectives or Intended Outcomes

The **objective** of the proposed LEP amendment is to reduce the existing development standard for dwelling entitlements within the “River Road Area”. A blanket minimum allotment size of 10ha is applied to flood liable rural residential land throughout the Forbes Shire.

The **intended outcome** is to permit a more dense settlement pattern upon existing rural residential land colloquially known as the “River Road Precinct” Forbes.

The preferred outcome would be for identification of land suitable for smaller lot, 2 hectare subdivision subject to satisfactory environmental investigations.

Part 2 – Explanation of Provisions

Amendment to Forbes Local Environmental Plan 1986 to remove the 10ha minimum applied under clause 19(4) to the area identified as capable as accommodating a smaller minimum lot size. Should draft Forbes Local Environmental Plan 2010 proceed to public exhibition during the preparation of this draft LEP amendment a modification to the “Lot Size Map” could be made to identify the new minimum lot size.

Part 3 – Justification

Section A – Need for the Panning Proposal

1. Is the planning proposal a result of any strategic study or report?

No. The further subdivision of the River Road precinct was continually raised throughout the duration of the preparation of the Forbes Growth Management Strategy. Initial drafts of the strategy provided a preliminary constraints analysis of the area and identified likely development outcomes. Due to the basic level of environmental investigation concerns were raised by a number of Government Agencies resulting in the recommendations being removed from the strategy and the proposal identified for further detailed investigation.

The endorsed Forbes Growth Management Strategy, February, 2009 deals specifically with rural residential development upon pages 52-60. The lot size and level of servicing to these allotments has resulted in there being three distinct types of rural residential development within Forbes and its immediate surrounds:

- 4,000m² fully serviced allotments – Calarie Road
- 1-2ha onsite effluent disposal – Calarie Road North and Alcheringa
- 10ha upon flood affected land – River Road, Cowra Road and College Road

The Forbes Growth Management Strategy identifies that:

“While theoretically there is sufficient capacity within the existing rural residential zoned lands, this land is held relatively tightly, there are few allotments available to purchase/vacant allotments nor developable land. Accordingly it is considered that there are little opportunities for rural residential expansion. In order to facilitate development of existing zoned land a masterplan and Development Control Plan are necessary to clearly identify opportunities and provide a plan for the orderly and economic development of the land.

The Forbes Growth Management Strategy concluded for the River Road precinct as follows:

“The land south of Forbes around River Road is currently zoned for rural 1(c) but has a minimum of 10 ha for a dwelling house. The options for reducing the minimum lot size has been discussed with the Departments of Planning, Primary Industries and Water and Energy which has identified that the land has considerable constraints which are as follows:

- *Floodprone*
- *Groundwater vulnerability*
- *Potential to increase surface water access*
- *Potential to reduce surface water quality*
- *Potential risk to riparian vegetation*

At this stage, it is not recommended that the subdivision minimum be reduced because of the lack of detailed environmental investigations. A local environmental study would need to be undertaken of this area before any further consideration can be given to this matter.”

The endorsed Forbes Growth Management Strategy prepared by Edge Land Planning is attached to this planning proposal. It maintains a 10ha minimum for the River Road Precinct identifying the need for a Local Environmental Study. Council in its consideration and adoption of the Forbes Growth Management Strategy resolved to adopt the Growth Management Strategy but in doing so also resolved to pursue separately the River Road Precinct environmental investigations. Council at no time resolved to not continue to pursue the further development of the River Road Area.

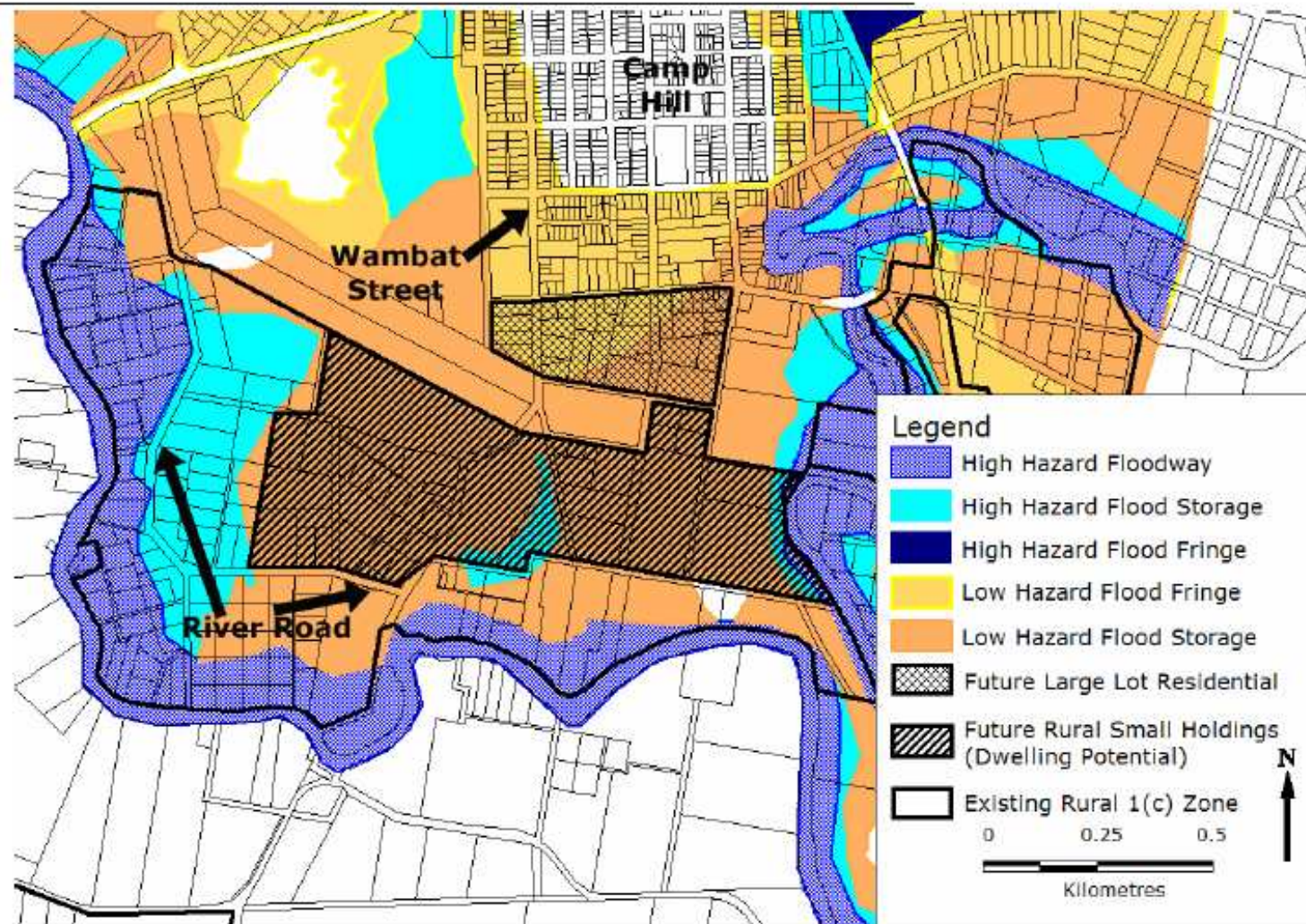
It should also be noted that the Growth Management Strategy established an additional Large Lot Residential Area between the existing rural residential area along Calarie Road to Alcharinga to the north of the Forbes urban area. This area is intended to offset residential demand as a result of the proposed increase from 40ha to 200ha for dwelling entitlements in the broader rural area and is not in conflict with that envisaged for the River Road Area.

Preliminary drafts of the Forbes Growth Management Strategy early in its preparation, provided a broad environmental analysis and consideration of the perceived development potential of the River Road area. An extract of a draft Strategy prepared in March, 2007 is provided below:

The land south of Forbes around River Road is currently zoned for rural 1(c) but has a minimum of 10 ha for a dwelling house. This was not part of the originally drafted LEP 1986 but was an amendment in 1991. It is not clear why the amendment was brought in as the original LEP and Local Environmental Study did not raise any issues with dwellings on 2 ha of land, in the floodplain. A review of the flood mapping shows that there is a considerable amount of this land that is classified as 'Low Hazard Flood Fringe' and Low Hazard Flood Storage'. It is considered that the flood waters are of a sufficiently slow velocity and low depth that it is possible to create dwelling houses on the land with an area of 2 ha or above. It is also noted that there is adequate evacuation route along River Road and Wombat Street to the higher ground of Camp Hill. The change in minimum will yield an estimated 20 additional houses. These houses will have to comply with the normal flooding controls that Council currently applies. A Rural Small holding designation is considered most appropriate for this land in accordance with the Standard LEP. The land in question is shown on map 4.7. This land is floodprone and will require support from the Departments of Planning and Natural Resources. Prior to it proceeding there will have to be an assessment of the following matters:

- Percentage of the total flood storage area being proposed for development;
- Flood level implications when the flood storage area is developed;
- Need for additional flood free access ways and the implications of this on the flood levels
- Additional load on emergency services

In order to answer these questions, there will need to be a review of the Forbes Flood Study and Floodplain Management Plan to identify the impact on the flood levels.



Map 4.7: Rural Small Holdings Designation at River Road

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

YES. The planning proposal enables the consideration of the River Road precinct as a separate matter without delaying the preparation of the revised Forbes Comprehensive Local Environmental Plan.

The Strategic process underpinning the LEP review identified the need for the comprehensive environmental assessment of the area to sustain the proposed reduction in minimum allotment size. Halting the comprehensive LEP preparation was going to add further significant cost and delay to the LEP review, which had already experienced some considerable and costly delays.

3. Is there a net community benefit?

The following net community benefit test has been applied to the proposed planning proposal in accordance with that prescribed by the Draft Centres Policy, April, 2009.

COSTS	BENEFITS
Increased development within the flood planning area	Identification of development potential upon low hazard and flood free land
Loss of productive agricultural land	Majority of agricultural pursuits are of a hobby farm style and of low impact. The majority of the land is utilised only for grazing. There is minimal irrigation infrastructure.
Strategic conversion of land from Small Rural Holdings to Large Lot Residential	Creation of additional allotments in highly sought after area
Potential for rural land use conflicts	Containment of rural living opportunities along the river in already highly fragmented area
Potential environmental impact upon ground and surface waters	Close to existing urban services, including reticulated water and sewer
Proliferation of Basic Landholder rights for water	Sewering options could be considered to address majority of concerns
	Options for reticulated water supply or communal bore supply to be considered
	Positive social and economic contribution to the Forbes community
	Increase in diversity of rural living opportunities
	Meeting public demand for rural life style development in sought after location
	Loss of a small proportion of productive agricultural land in lieu of protection of vast majority of riverine land throughout the Shire

Section B – Relationship to Strategic Planning Framework

4. **Is the planning proposal consistent with the objectives and actions contained within the applicable regional or subregional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

No applicable regional or subregional strategies apply to the area the subject of this planning proposal or the Forbes Shire Local Government Area.

5. **Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

Forbes Shire is moving to the new reporting system outlined in the amendments to the Local Government Act however at the time of submitting this planning proposal the applicable Community Strategic Plan is encompassed within the Forbes Shire Strategic Plan, updated 11 November, 2009.

The Strategic Plan for the Forbes Shire identifies a series of goals and relevant strategies and action plans for achieving these goals.

What Does Council want for our community?

- A pleasant and safe environment in which the community can live;
- A sound level of services and infrastructure to meet the communities needs;
- An active and growing rural and commercial sector
- Good access to educational opportunities
- Appropriate employment for the community, including the youth component
- Financial stability of its Council

Core Values of Forbes Shire Council

To provide direction and leadership in the community

To maximise the value received to the community of Forbes

To meet the needs of the community

To ensure the welfare of the community is considered at all times in government decision making

To provide solutions to the problems of the community

To achieve these concepts Council has identified seven (7) strategic goals of Council's Strategic Plan as follows:

Sustained economic development in Forbes Shire

Well planned, developed and maintained transport facilities that meet the needs of the community

Sound environmental management practices and improved community amenity

Forbes is a desirable place to live

Services and infrastructure provided in the most efficient and economical manner

A Council responsive to community needs in the provision of services

An organisation characterised by high quality performing staff, good morale and job satisfaction

The planning proposal is considered to be consistent with a large number of these values and strategies of the Strategic Plan. A sound environmental planning investigation will underpin any rezoning proposal meeting the environmental expectations while achieving the community desires for further rural living opportunities in this sought after area. Limited additional rural living development will support the urban framework encouraging the desire for Forbes as a place to live. Services will meet both environmental and social expectations.

As previously outlined the subject area was part of the original Growth Management Strategy for Forbes however prior to the need for background environmental investigations concluded that this area should be considered independently.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The following State Environmental Planning Policies have been considered:

- A. **State Environmental Planning Policy (Exempt and Complying Development Codes) 2008** would permit the range of developments identified as exempt and complying development only upon land not identified as flood prone. Exempt and complying development would be applied in the same manner as currently applied.
- B. **State Environmental Planning Policy (Rural Lands) 2008** aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The SEPP establishes a number of principles required to be considered for the development of rural land Rural Planning Principles and Rural Subdivision Principles are relevant for consideration in the context of this planning proposal (as prescribed by S117 Direction 1.5 – Rural Lands) outlined below:

The general 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 River Road area presently exists as a low scale rural residential area with limited smaller, more intensive agricultural uses, albeit limited in number and scale.

The close proximity to the Forbes urban area already compromises the area for intensive agriculture and will place limits upon future intensification. The area immediately adjacent to the Lachlan River will be sterailised by high hazard flooding and thus be retained for the continuation of limited agricultural uses. The proposed additional dwellings will need to be located upon lower hazard flood affected land.

(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,

Forbes Shire is more than aware of the importance of rural lands and agriculture to the Shire. The primary issues facing agriculture in the Shire are land security and water.

Changing nature of agriculture is seen in the shire as larger farms are getting larger and agricultural practises are generally becoming more intensive. While limited agricultural practices occur the subject area is not suitable for larger scale or more intensive operations due to its proximity to the urban area and likliehood to generate rural land use conflicts to the urban fringe in this location.

(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 rural land uses of Forbes are serviced by Forbes Town and Forbes Town services the rural land uses of Forbes.

It is equally important for Forbes Town to provide a diversity and service the rural living needs and desires of the Shire.

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

The underpinning Local Environmental Study process will achieve the desired balance between the social, economic and environmental interests in the development of the land

(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,

Again, baseline environmental investigations will need to identify and establish appropriate mechanisms/

recommendations for the protection of natural resources. Simply the significant natural resource which warrants protection is the Lachlan River including its water resource and biodiversity and ground water. It is envisaged that preliminary solutions for the protection of these natural resources would be limitations upon flood prone land, sewerage all development (including existing) and sharing of ground water entitlements (if any)/water reticulation. Significant natural resources can be identified and protected.

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

The planning proposal seeks to identify additional rural lifestyle opportunities in a locally desirable area, close to the existing urban area that will contribute to the social and economic welfare of Forbes. The area will provide an alternative rural living opportunity to that advanced in the Forbes Growth Management Strategy.

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

Preliminary service considerations identify that all essential services are available and can be extended to service the subject area. A development strategy will underpin their co-location to service the intended development. Basic service and infrastructure considerations will be part of any local environmental study investigations and appropriate recommendations made.

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

No applicable regional strategy exists. As previously mentioned the proposal was part of the Forbes Growth Management Strategy however the cost and delays associated with the LES process for the area necessitated its separate consideration. The planning proposal will result in an alternative rural living opportunity that presently only exists by purchasing an existing allotment of land and has not been elsewhere satisfied within the Forbes Shire.

Separately Rural Subdivision Principles are established considered as follows:

(a) the minimisation of rural land fragmentation,

Any subdivision of rural land can be said to be inconsistent with the principal of minimising rural land fragmentation. The rural living opportunities are however to be pursued upon land that is already highly fragmented. The area is physically divorced from surrounding rural land due to natural constraints. The fragmentation of this small area in lieu of protection of the broader rural area would result in a good planning outcome for rural land fragmentation. The planning proposal seeks to relax a provision imposed not for the protection of rural land or to minimise its fragmentation.

(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,

The subject area is utilised for limited agricultural purposes. These uses primarily exist along the river which will be automatically protected from further development due to flooding constraints. The area is not appropriate for larger scale or more intensive agricultural purposes due to the proximity of existing development of the Forbes town. This small loss of productive agricultural land along the entire length of the Lachlan is minimal and will act as a focus for rural living opportunities and alleviate such pressures from the broader rural area. The land is identified for small rural holding development, which will remain unaltered and will indicate the predominance of the existence of smaller rural development to prospective purchasers new to the area thus protecting the lower order hobby farming style practices in the area.

(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,

This detailed information is contained within the Forbes Growth Management Strategy. The identification of this area for this style of development was originally an outcome of the strategy development. The area will provide an alternative form of rural living opportunity not presently available in another planned location. It will reduce pressure for this form of rural living on other rural land originally permitted to be subdivided to a minimum 40ha.

(d) the consideration of the natural and physical constraints and opportunities of land,

The consideration of the natural and physical constraints will be part of ensuing the Local Environmental investigations necessary to mould a development strategy for the area.

(e) ensuring that planning for dwelling opportunities takes account of those constraints.

The development strategy for dwelling entitlements will be based upon the baseline environmental investigations.

- C. **State Environmental Planning Policy (Infrastructure) 2007** permits a range of infrastructure related developments upon the land and will apply to the area the subject of this Planning Proposal in the same manner as it currently applies.
- D. **State Environmental Planning Policy (Temporary Structures) 2007** will permit the erection of temporary structures in the same manner as it currently applies to the land.
- E. **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007** establishes a consistent approach to the development of mineral, petroleum and extractive material resources and will apply to the land in the same manner as it currently applies.
- F. **State Environmental Planning Policy SEPP (Major Development) 2005** identifies developments that are major projects determined by the Minister for Planning. It also provides planning provisions for State significant sites and identifies the functions that may be carried out by joint regional planning panels (JRPPs) and classes of regional development to be determined by JRPPs. The application of this SEPP will remain unaltered should the land be rezoned as proposed.
- G. **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004** provides a consistent approach to the application of energy efficiency by the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans. BASIX will apply to any new dwelling the result of the proposed rezoning in the same manner as it currently applies to the land.
- H. **State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004** seeks to encourage the development of high quality accommodation for our ageing population and for people who have disabilities. It will remain consistent in its application to the land as it is not proposed to alter the zoning of the land.
- I. **State Environmental Planning Policy No.64 - Advertising and Signage** aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area including outdoor advertising in transport corridors in suitable locations and is of high quality design and finish. The application of SEPP No.64 will not be altered as a result of this planning proposal.
- J. **State Environmental Planning Policy No.55 - Remediation of Land** provides state-wide planning controls for the remediation of contaminated land, including if the land is unsuitable, remediation

must take place before the land is developed. The application of SEPP No55 will remain unaltered as a result of this planning proposal. The potential for land contamination will be one of the necessary environmental investigations prior to proceeding with any rezoning of the land.

- K. **State Environmental Planning Policy No.52 - Farm Dams and Other Works in Land and Water Management Plan Areas** applies to the Jemalong, Wyldes Plains Irrigation District within the Forbes Shire however does not apply to the land the subject of this planning proposal.
- L. **State Environmental Planning Policy No.44 - Koala Habitat Protection** encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to the Forbes local government areas however the site does not contain any extensive vegetation areas likely to accommodate koala habitat.
- M. **State Environmental Planning Policy No.36 - Manufactured Home Estates** seeks to establish well-designed and properly serviced manufactured home estates (MHEs) in suitable locations. . The policy allows MHEs to be located on certain land where caravan parks are permitted subject to criteria that a proposal must satisfy. The policy also permits, with consent, the subdivision of estates either by community title or by leases of up to 20 years. Manufactured home estates will not be permissible as caravan parks are prohibited development.
- N. **State Environmental Planning Policy No.1 - Development Standards** allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary in the circumstances of the case. The application of SEPP No.1 will remain unaltered as a result of development envisaged by the rezoning proposed in this planning proposal.

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

Relevant S.117 Directions have been considered as follows:

- A. Section 117 Direction 1.2 Rural Zones provides that:
 - (a) a draft LEP must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone;
 - (b) a draft LEP must not contain provisions that will increase the density of land within a rural zone (other than land within an existing town or village).

The prevailing zoning of the land for rural residential purposes is proposed to remain unaltered albeit with a reduced minimum allotment size thus being consistent with part (a) of this direction.

The draft LEP however, proposes to reduce the minimum allotment size for dwellings, thereby increasing the density of land within an existing rural zone which is inconsistent with part (b) of this Direction.

The Direction provides that

“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 of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

(a) justified by a strategy which:

- (i) gives consideration to the objectives of this direction,
- (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
- (iii) is approved by the Director-General of the Department of Planning, or

(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or

(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

(d) is of minor significance.

The planning proposal is inconsistent with the general terms of this direction and according to the matters whereby a planning proposal may be inconsistent with the Direction the development of the River Road Precinct was removed from the endorsed Forbes Growth Management Strategy.

Relevant environmental investigations will be prepared to underpin a development strategy for the area should the Planning Proposal be supported. Such study could demonstrate an approach consistent with this direction by encouraging residential living opportunities close to the urban area and alleviating this pressure from other areas along the Lachlan River. The recommendations for further development of the land are of local planning significance only.

B. Section 117 Direction 1.3 Mining, Petroleum Production & Extractive Industries applies to a planning proposal that would either:

- (a) prohibit the mining of coal or other minerals, production of petroleum or winning or obtaining extractive minerals or
- (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive minerals which are of State or

regional significance by permitting a land use that is likely to be incompatible with such development.

Suitability of the subject land for this type of development has already been compromised due the existing fragmentation of the land and proximity to the Forbes urban area. Additional development likely to occur as a result of this planning proposal is consistent with the objectives of this Ministerial Direction in protecting the States natural resources.

- C. Section 117 Direction 1.5 Rural Lands. This direction applies to the planning proposal as it seeks to alter the minimum allotment size upon rural land. The planing proposal must be consistent with the “Rural Planning Principles” and the “Rural Subdivision Principles” contained within SEPP (Rural Lands) 2008. Consideration of the Rural Planning Principles and Rural Subdivision Principles was provided in relation to this SEPP earlier in this planning proposal. The planning proposal is consistent with the objectives of this direction by promoting the orderly and economic development of rural land based upon a suitably detailed environmental assessment and strategy preparation.
- D. Section 117 Direction 2.3 Heritage Conservation. A planning proposal must contain provisions that facilitate the conservation of:
 - (a) environmental heritage identified in a study of the area,
 - (b) Aboriginal objects or Aboriginal places, and
 - (c) Items within an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority.

While broadly the Forbes Community Based Heritage Study and site considerations do not identified any items of heritage significance. Nevertheless a specific detailed study of the European and Aboriginal Heritage will need to be undertaken to contribute the necessary detailed environmental investigations necessary to underpin any rezoning proposal.

- E. Section 117 Direction 4.3 Flood Prone Land applies to a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

The subject land is flood prone hence this S117 Direction applies. The direction provides that

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

- (6) A planning proposal must not contain provisions that apply to the flood planning areas which:
- (a) permit development in floodway areas,
 - (b) permit development that will result in significant flood impacts to other properties,
 - (c) permit a significant increase in the development of that land,
 - (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or
 - (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.
- (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).
- (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 *Guideline on Development Controls on Low Flood Risk Areas*) 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)".

The planning proposal will permit an increase in the development of the land identified as being affected by flooding, which is inconsistent with this direction.

The Direction provides that a planning proposal may be inconsistent with this Direction where:

- "A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:
- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
 - (b) the provisions of the planning proposal that are inconsistent are of minor significance".

Specific flood investigations will be one of the major environmental investigations necessary to underpin any resulting development strategy. Flood free access is available via the existing urban area to the land and allotments capable of accommodating dwellings above the flood height identified as suitable for development. Land affected by high hazard flooding will be excluded from development and any development within low flood hazard areas could be predicated upon a Flood Risk Management Plan prepared in accordance with the Flood Plain Development Manual 2005. Any recommendations in respect of flooding will need to be consistent with this S117 Direction.

Section C – Environmental, Social and Economic Impact

- 8. 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?**

Should the planning proposal proceed, part of the necessary environmental investigations would include a flora and fauna assessment in accordance with the Threatened Species legislation to satisfy Section 5A of the EP&A Act and the Threatened Species Act 1995.

Typically the area has been used intensively for a variety of agricultural purposes which will significantly minimise the potential for threatened species to occur within the planning area.

It is noted that the Lower Lachlan Ecological Community was recently identified as an Endangered Ecological Community under the Threatened Species Act. Any resulting development strategy will be specifically gauged to ensure there is no adverse impacts upon the Lachlan River.

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

A number of environmental issues will need to be firstly investigated. Their outcomes will guide the resultant development strategy for the area. A preliminary hazard analysis was undertaken in the preparation of the Forbes Growth Management Strategy, February, 2009 however more detailed consideration was necessary prior to proceeding with any development strategy for the land. Local Environmental Study investigations will need to include:

Flooding

Consideration of flood levels to determine the most suitable development area will require consideration and analysis of flood modelling prepared by SKM in 2003 in relation to the Forbes township. Obviously high impact areas will be excluded from development while areas which comply with Councils adopted flood policy can be identified capable of development. Satisfactory access exists from the Camp Hill area to the north consistent with emergency access requirements. Considerations such as lead time, flow behaviour and water displacement need to be considered by a suitably qualified flood consultant.

Ground Water

The demands for ground water use and onsite effluent disposal will need to be considered and balanced. Ground water depths, soil analysis will influence any development strategy and dictate future management options including shared bore water scheme/s and connection to the reticulated sewerage system.

Options for reticulated water services will also need to be balanced with environmental recommendations.

Surface Water

Necessary drainage functions of the land will need to be identified and managed. Generally at a rural residential scale the size of allotments will ensure surface water flows will not result in any adverse external impacts.

Lower Lachlan EEC

Similarly to the control of surface and ground water receivers control of local hydrology will ensure protection of the river environment.

Agricultural

The impact of resulting development upon the existing and future agricultural use of the land will need to be considered and managed. Presently the land is utilised for minimal economic agricultural production. More intensive use of the land is already significantly constrained hence the loss of agricultural land and potential productivity is considered minimal.

10. How has the planning proposal addressed any social any economic effects?

Demand has long existed for the relaxation of the 10ha minimum allotment size for the River Road area. It is a common perception that this minimum was not established upon appropriate environment investigations and that Council should take appropriate actions to remove the control. Socially the subject area and indeed surrounding areas are the more desirable areas for Forbes residents and any increase in rural living opportunities will have positive local social and economic impacts.

Any development of the area will need to be funded by future developers. Management options will need to be considered in conjunction with any development strategy pursued.

European and aboriginal cultural heritage will be specifically investigated and any items of significance managed in a recommended development strategy for the area.

Section D – State and Commonwealth Interests

11. Is there adequate public infrastructure for the planning proposal?

The population of Forbes is declining approximately at a rate of 1% per census. Any impact upon State and Commonwealth infrastructure including health, education, emergency services, public transport etc will be positive in their contribution to supporting existing services and ensure their retention in the west.

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

This planning proposal has been prepared in response to concerns raised by a number of government agencies during the preparation of the Forbes Growth Management Strategy and its recommendation for the reduction of the 10ha minimum for dwelling entitlements within the subject area. Accordingly the area has been removed for the proceeding strategy and identified for further detailed environmental investigations to underpin any resulting development strategy. Any existing views have been made without necessary detailed environmental investigations. Once this area has been investigated informed decisions can be made.

Part 4 – Community Consultation

The identification of the River Road precinct for additional planned development is a direct result of community participation in the LEP process.

The proposed environmental investigation process shall include consultation with relevant stakeholders, land owners and government authorities. The environmental investigation reports and resulting development strategy, upon submission to Council, will be publicly exhibited including notice to landholders and government authorities.

Once endorsed the draft LEP process will conform to that prescribed by the Environmental Planning and Assessment Act including public exhibition in accordance with any Gateway Determination. Council is bound to consider submissions lodged during the consultation process and will endeavour to resolve any matters raised.