

~~It is widely held the code based approvals process will continue to be expanded and refined and this approach on the whole supported by Council's Planning and Development staff. Council processes and policies will need to be refined and amended where necessary to ensure consistency with the State Policy once gazetted.~~

~~Recommendations have been made in a submission to the Department to improve clarity and application of the Codes SEPP.~~

~~Should Councillors wish to provide comment in relation to the State Policy, they will be able to be considered and included in any future submission from Council.~~

~~RECOMMENDATION~~

~~Recommended that:~~

- ~~1. the report be received and noted.~~
- ~~2. Council Planning Officers accept any comments provided by Councillors and include in any future submission regarding the Codes State Environmental Planning Policy.~~

~~181212/ 25 RESOLVED (Cr Mustow/Cr Morrissey)~~

~~That the above recommendation be adopted.~~

~~FOR VOTE - All Council members voted unanimously.~~

~~ABSENT. DID NOT VOTE - Cr Humphrys~~

13.14 PLANNING PROPOSAL - RICHMOND VALLEY LEP 2012 HOUSEKEEPING AMENDMENTS

Reference: Land Use and Planning - Planning, Subdivision, Zoning

Prepared by: Senior Strategic Planner

Background

Part 3 of the *Environmental Planning & Assessment Act 1979* (the EP&A Act) permits a Local Environmental Plan (LEP) to be amended by another local environmental plan. The process of preparing a local environmental plan is known as the Gateway Process and involves submitting a Planning Proposal to the Minister for Planning and Infrastructure. The Minister reviews the Planning Proposal and determines what actions are required to be taken before an LEP can be made.

Richmond Valley Local Environmental Plan 2012 (the LEP) commenced operating on 21 April 2012. In the proceeding eight months an inventory of amendments has been compiled, relating to:

- minor clerical errors;
- mapping omissions and discrepancies; and
- provisions that were changed without notice and now fail to operate as intended.

It is the intent of this report to address these matters with the aim to seek a resolution of Council to prepare Planning Proposals for submission to the Gateway Process. In this regard, it is considered that the amendments could be split into two Planning Proposals consisting of minor administrative amendments; and spot rezonings with mapping alterations.

Report

Issues

Section 73 of the EP&A Act provides that councils shall keep their local environmental plans and development control plans under regular and periodic review for the purpose of ensuring that the objects of the Act are achieved to the maximum extent possible. To this end it is proposed to prepare Planning Proposals to correct a number of administrative errors, ineffective clauses, and mapping errors contained within the *Richmond Valley Local Environmental Plan 2012*.

Section 73A of the EP&A Act further provides that an amending LEP may be made without compliance with certain provisions in the Act. The circumstances under which such strict compliance is not necessary include:

- a) correcting obvious errors (e.g. mis-descriptions, inconsistent numbering, wrong cross-references, spelling errors, etc.)
- b) address matters that are of a consequential, transitional, machinery or other minor nature
- c) deal with matters that the Minister considers do not warrant compliance because they will not have any significant adverse impact on the environment or adjoining land.

Many of the planned amendments can be addressed through s.73A and which would enable them to be streamlined through the process, however others will necessitate community and agency consultation prior to their implementation. As such the proposed amendments will be split into two separate Planning Proposals to facilitate this review.

The range of matters to be addressed in the Planning Proposals include the following (details and justification of each will be provided later in this report):

1. Minor Administrative Amendments:

- Include “Water supply systems” as permissible with consent in Zone RU1 – Primary Production.
- Consistent use of term “Dwelling opportunity” within Model clauses (clauses 4.1A and 4.1AA).

- Heritage Inventory – corrections to property descriptions and addresses (Schedule 5).
- Update Acid Sulfate Soils clause to be consistent with recent changes to Model clause (clause 6.1).

2. Other Amendments:

- Exclude the Minimum Lot Size from applying to the residue lot for Special Purpose Subdivisions, and Rural Land Subdivisions (clause 4.2).
- Rezone Department of Defence Casino Drill Hall site from SP1 – Special Activities (Defence) to R1 – General Residential.
- Amend the Minimum Lot Size map as applies to residential properties at Gays Hill, west of Casino.
- Amend the Dwelling Opportunity Map to recognise dwelling opportunities for properties that:
 - o meet the new minimum lot size (MLS) (primarily where the MLS was reduced);
 - o were fractionally under the MLS before the new LEP was made but would have been permitted a dwelling if they had sought a variation to the MLS; and
 - o were incorrectly omitted from having an opportunity in the mapping.
- Add a section of land to the Richmond Valley LEP that was believed to be part of the Clarence Valley Council area.
- Correct errors in the Dual Occupancy subdivision clause (clause 4.1C).
- Amend exempt development categories for Garages and Signage (Schedule 2).

1. Amendments in Detail – Minor Amendments

1.1 Water Supply Systems

Objective

To permit "water supply systems" within Zone RU1 – Primary Production

Background and Justification

The draft version of the LEP adopted by Council in April 2011 included water supply systems as permissible with consent in Zone RU1 – Primary Production. Unfortunately the Department elected to omit this term from the final LEP as they considered it to be covered by *State Environmental Planning Policy (Infrastructure) 2007* (the iSEPP).

The Department of Planning and Infrastructure's policy with regard to content in a Standard Instrument LEP is that they should be consistent with all *State Environmental Planning Policies* (SEPPs) and not duplicate provisions or land use permissibilities. As such the LEP and all the SEPPs must be read collectively to determine if a land use is permissible. This was the justification for omitting the term.

The *State Environmental Planning Policy (Infrastructure) 2007* contains provisions relating to the permissibility of a range of infrastructure types including water supply systems. However, in the instance of water supply systems it only makes reference to the various elements (treatment, reticulation and storage) being undertaken by public authorities without consent in prescribed zones. As a result development of any part of a water supply system (treatment, reticulation and storage) by a non government body/organisation will be prohibited in Zone RU1. It is, therefore, proposed to reinsert the term into the RU1 as permissible with consent.

Amendment Proposed

Insert in alphabetical order in item 3 of the matter relating to Zone RU1 the term “water supply system”.

Outcome of Amendment

Water supply systems will be permissible with consent in Zone RU1, for non government bodies/organisations.

1.2 Consistent use of Term “Dwelling opportunity”

Objective

Provide for the consistent use of the term “dwelling opportunity” throughout the LEP.

Background and Justification

Traditionally councils have referred to whether or not a rural property has a “dwelling entitlement”. The Department voiced an opinion that the word entitlement gave the impression that if the entitlement exists then development consent could not be refused, even if the proposed site was highly constrained. They indicated a preference to “dwelling opportunity” as this implied that further assessment of the land’s suitability was needed.

Clause 4.2B provides for dwelling opportunities in rural zones. However, Model clauses 4.1A and 4.1AA, provided by the Department, still refer to the old terminology.

Amendment Proposed

Substitute the word “entitlement” for “opportunity” where it occurs in each of *cl.4.1AA Minimum subdivision lot size for community title schemes*, and *cl.4.1A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental protection zones*.

Outcome of Amendment

There will be consistent use of terms throughout the LEP.

1.3 Acid Sulfate Soils Update

Objective

To update *cl.6.1 Acid sulfate soils* to be consistent with the current Model clause.

Background and Justification

The Department wrote to councils on 18 June 2012 advising of changes to the Model clause for acid sulfate soils. A review determined that subclause (6)

should have read that development consent is not required where the works will result in the displacement of less than 1 tonne of soil “and” are not likely to lower the watertable. Currently the provision refers to “or”.

Amendment Proposed

Omit subclause 6.1(6) and instead insert the following:

(6) Despite subclause (2), development consent is not required under this clause to carry out any works where both of the following criteria are met:

- (a) the works involve the disturbance of less than 1 tonne of soil,*
- (b) the works are not likely to lower the watertable.*

Outcome of Amendment

An error in the Model clause will be corrected in the LEP. Directions from the Department of Planning to make this correction will have been fulfilled.

1.4 Update Schedule 5 Environmental heritage with improved descriptions

Objective

To ensure that the descriptions of heritage listed properties are correct.

Background and Justification

Schedule 5 of the LEP contains 188 heritage items and a conservation area. The nature of each item is provided including its address and property description. Furthermore, all items are mapped on the Heritage Map.

During the process of updating the Council heritage database with the new LEP's details, it was discovered that a number of heritage items contained incorrect or outdated address and property descriptions details. In other instances the items description can be improved or the significance is wrong. At least one item needs to be changed on the Heritage Map.

These amendments will not add any additional items to the inventory nor add any additional lands to listings if they had not already been mapped.

Amendments Proposed

Item	Amendment
Item I14 – Cole family graves Incorrect address displayed.	Amend the address for Item I14 to “2400 Busbys Flat Road”.
Item I15 – Casino Court Spelling of “Cassino Court” was changed by PC to “Casino Court”.	Amend the name of Item I15 to “Cassino Court”.
Item I63 – Shop. Incorrect address displayed.	Amend the address of Item I63 to “104 Walker Street”.
Item I90 – Woodburn Shire Chambers, former Listing is over 2 lots but building is only located on 1.	Amend the property description of Item I90 to “Lot 2 Section 67 DP758291”, and the address to “16 Adams Street”. Amend Heritage Map - Sheet 009A to omit listing over Lot 1 Section 67 DP758291.
Item I93 – St Joseph's Catholic Church Listed description includes an additional lot from an adjoining property (that also contains a heritage item).	Amend the property description of Item I93 by omitting Lot 6 from the description. Should read “Lots 7 & 8, Section 63 DP758291”.
Item I95 – St Joseph's Convent, former Add street number to address and reorder	Amend the address for Item I95 so that it reads “47 Adams Street”.

Item	Amendment
item by locality and address.	Relocate this item to be listed immediately after Item I93.
Item I96 – Residence 15-17 Belmore Street Coraki Includes street number from adjoining property.	Amend address for Item I96 to be “17 Belmore Street”.
Item I108 – Coraki Drill Hall Incorrect DP description	Amend property description for Item I108 to “Lot 95 DP755631”.
Item I121 – Machine Gun Pit Listed as State significant but should only be Local.	Amend significance of Item I121 to Local.
I124 – Evans Head Cemetery (including War Cemetery) Incorrect DP descriptions	Amend the property description for Item I124 by replacing it with “Lot 7083 DP1113395, Lot 7084 DP1113386, Lot 7085 DP1113389, Lot 7086 DP1113391 and Lot 7087 DP1113392”.
I131 – Evans Head Memorial Aerodrome Include reference to Machine Gun Pit	Amend the item description for Item I131 by omitting “and timber huts” and inserting instead “, timber huts and machine gun pit”.
Item I-155 – Rappville Nandabah Street Memorial Tree Planting (camphor laurel trees) Remove reference to camphor laurel trees as the species of tree is not important to the listing. Add reference to the War Memorial.	Amend Item I155 by omitting “(camphor laurel trees)” from the item’s description and by adding “and War Memorial”.
Item I-166 – Woodburn Slaughter House, former Update address	Amend the address for Item I166 to “204 Tuckombil Road”.
Item I-171 – Woodburn General Cemetery Incomplete description of property	Amend the property description for Item I171 by replacing “Lot 3” with “Lots 2 - 10”.
Item A-10 – Wyan Creek Bennett’s Sawmill Site, former Incorrect DP	Amend the property description for Item A9 by replacing the DP number with “DP755635”.

Outcome of Amendment

Improved identification of heritage listed items, with correct address and property description.

2. Amendments in Detail – Other Amendments

2.1 Amend the Land Application Map to Extend the Coverage of the LEP

Objective

Extend the coverage of the LEP’s Land Application Map to include additional land previously believed to be within the Clarence Valley Council area.

Background and Justification

Preparation of the LEP utilised Local Government Area (LGA) boundary mapping supplied by Land Property Information (LPI). Unbeknown to Council LPI adjusted the LGA boundary with Clarence Valley, in the south-eastern sector where it adjoins the coast. The meets and bounds description of the LGA boundary was not amended only the interpretation of where the boundary lies. The land affected by this boundary change consists of Bundjalung National Park and a strip of intertidal land along the coast.

The error was only detected when the Department combined the Richmond Valley and Clarence Valley LEP data into their mapping system. The extent of the error is 188ha, refer to Figure 2.1.1

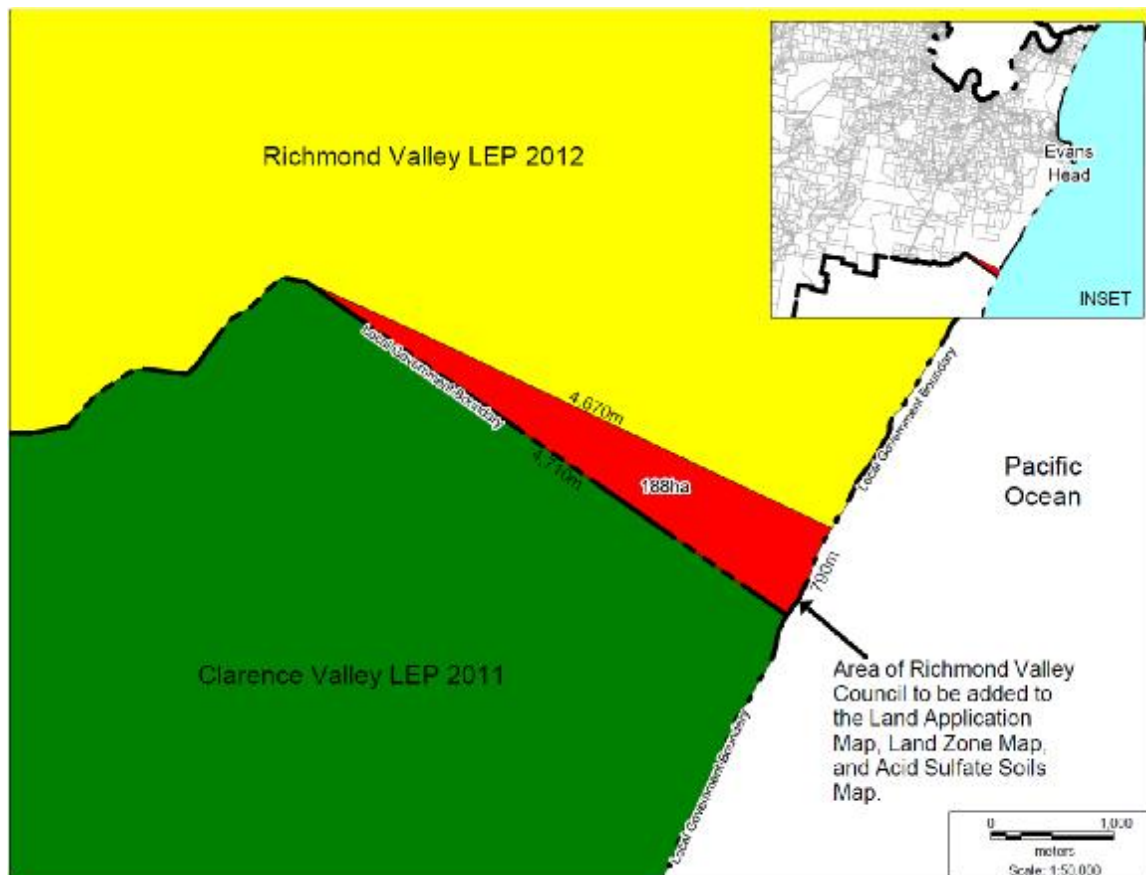


Figure 2.1.1 Location and extent of land to be added to the Richmond Valley LEP.

Amendment Proposed

It is proposed to amend the Land Application Map by adding the additional land to the map, which in turn will extend the coverage of the Richmond Valley LEP 2012.

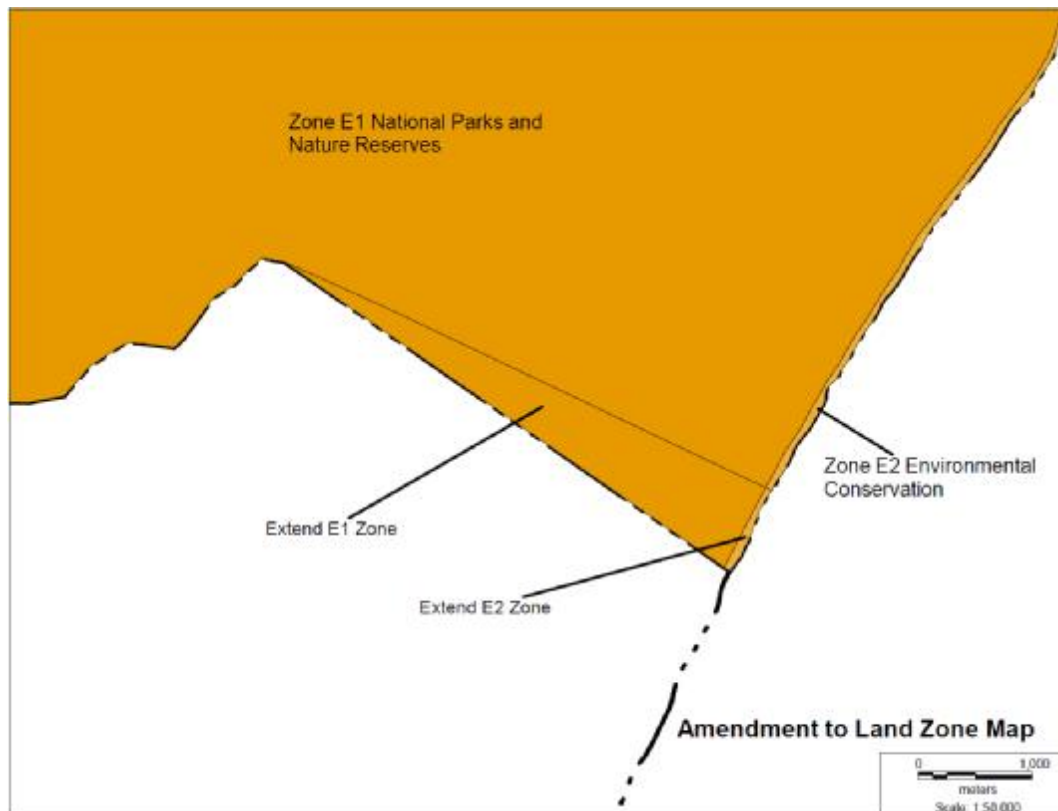


Figure 2.1.2 Proposed amendment to the Land Zone Map

Further amendments would include extending the adjoining Land Zoning and Acid Sulfate Soils classifications into the new area, as identified within Figures 2.1.2 and 2.1.3.

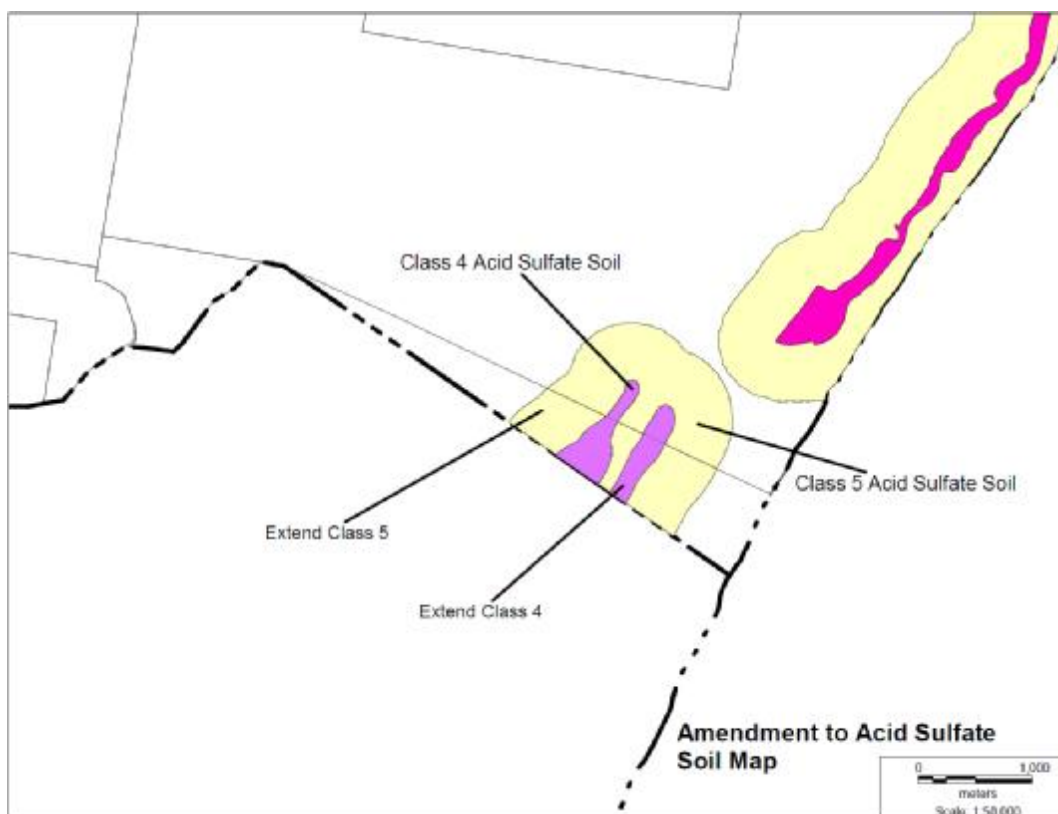


Figure 2.1.3 Proposed amendment to the Acid Sulfate Soil Map

Outcome of Amendment

The proposed amendment will ensure that the Richmond Valley LEP 2012 encompasses the entire Richmond Valley Local Government Area. The area of land to be added to the LEP is almost entirely contained within Bundjalung National Park and as such only the Land Application Map, Land Zone Map and Acid Sulfate Soil Map need to be amended. All other maps have omitted zoning National Parks and State Forests and therefore remain current.

2.2 Exclude the Minimum Lot Size from applying to certain residue lots**Objective**

Ensure that the special purpose subdivision (cl.4.2A) and rural subdivision (cl.4.2) provisions (the special subdivisions) operate without requiring their residue lots to comply with subdivision minimum lot sizes (MLS).

Background and Justification

Clause 4.1 of the LEP provides that all subdivisions requiring development consent must comply with the minimum lot size (MLS) shown for that land on the Lot Size Map. Exceptions to complying with the MLS are provided and include the creation of allotments under special subdivision provisions, however, the exceptions omit reference to creating a lot over the residue part of the property. Because provisions in the LEP do not operate in isolation, the residue would default to being created under clause 4.1 and therefore must meet the MLS. Traditionally, this oversight could be overcome by seeking a variation to the MLS under SEPP1. However, SEPP1 no longer applies to the LEP. The SEPP1 replacement clause (cl.4.6) requires that a variation to a rural MLS must not exceed 10%. There is currently no means of working around this restriction.

Amendment Proposed

It is proposed that clause 4.1 be amended to include an additional exception to the Minimum Lot Size by allowing the creation of a single residue lot, under clauses 4.2 or 4.2A, below the Minimum Lot Size standard.

Outcome of Amendment

The amendment will enable residue lots to be created below the Minimum Lot Size for special subdivisions. It should be noted however, that a residue lot created below the Minimum Lot Size may not have a dwelling opportunity.

2.3 Rezone Casino Drill Hall Site**Objective**

To rezone the Casino Drill Hall land from Zone SP1 Special Activities (Defence) to Zone R1 General Residential.

Background and Justification

The Department of Defence identified the Casino Drill Hall site as being surplus to their future needs. As a result they are investigating opinions for the disposal of this land. The land is contained in Zone SP1 Special Activities (Defence) within the *Richmond Valley LEP 2012* which reflects its current land use. This zoning permits any defence related development with consent. However, if the land is sold this zoning becomes a major restriction on redevelopment of the property.



Figure 2.3.1 Casino Defence Force Drill Hall Site

The surrounding zoning to this site is predominantly Zone R1 General Residential, although the South Casino business area to the south is covered by Zone B2 Local Centre, and Coronation Park is covered by Zone RE1 Public Recreation, see figure 2.3.2.



Figure 2.3.2 Casino Drill Hall zoning under Richmond Valley LEP 2012

It is proposed that the Casino Drill Hall site, comprising of Lots 1 to 7 DP772610, fronting Centre Street, Lennox Street and Stapleton Avenue, Casino, be rezoned from Zone SP1 Special Activities (Defence) to Zone R1 General Residential.

This rezoning proposal has been briefly discussed with the Department of Planning and Infrastructure and they agree that the SP1 zoning is too restrictive and, in hind sight, should not have been used.

Constraints affecting the land have been addressed in a report submitted by the Department of Defence. The land is not considered to be flood prone as it is located above the 1 in 100 year ARI flood level. Several areas of contamination were identified on the land and these are currently undergoing remediation to a level fit for future residential accommodation. The Drill Hall is heritage listed and any impacts on the heritage significance of this structure would need to be assessed with any future development application. The Department of Defence have no intentions to demolish the structure and desire to manage this heritage in consultation with Council.

Amendment Proposed

It is proposed that the Casino Drill Hall land be rezoned from SP1 Special Activities (Defence) to Zone R1 General Residential. This will involve amending the Land Zone Map as depicted in figure 2.3.3.



Figure 2.3.3 Proposed zoning of the Casino Drill Hall site into Zone R1 General Residential.

The Richmond Valley Development Control Plan 2012 will not require amendment as it already identifies this land as having an M2 High-Medium density.

Outcome of Amendment

As a result of this rezoning the Casino Drill Hall site could be developed for residential accommodation. This may involve subdivision, erection of dwelling houses and multi dwelling housing. The Richmond Valley Development Control Plan 2012 has this land contained within an M2 High-Medium Density area.

2.4 Amend the Lot Size Map to Correct Location of Boundary on Fringe of Casino

Objective

Amend the Lot Size Map as it applies to Lot 82 DP624006, 49 Sextonville Road, Casino:

- by moving the 600m² minimum lot size (MLS) boundary to cover part of the subject land, and
- to apply a 5000m² MLS to the residue of the property.

Background and Justification

Lot 82 has an area of 1.4ha and lies on the fringe of the Gays Hill urban precinct, west of Casino township.



Figure 2.4.1 Plan of 49 Sextonville Road, Casino.

Under the former Casino LEP this land was zoned 2 Township, having a 600m² minimum lot size for subdivision. Despite this zoning, the Casino DCP applied further restrictions to development of the land, due primarily to flood constraints, by applying L1 – Low Density and R1 – Rural Land control plan areas.

During the preparation of the *Richmond Valley LEP 2012* much consideration was given to the zoning of this property and location of zone boundaries and minimum lot sizes. The main consideration for determining the boundaries was flooding.

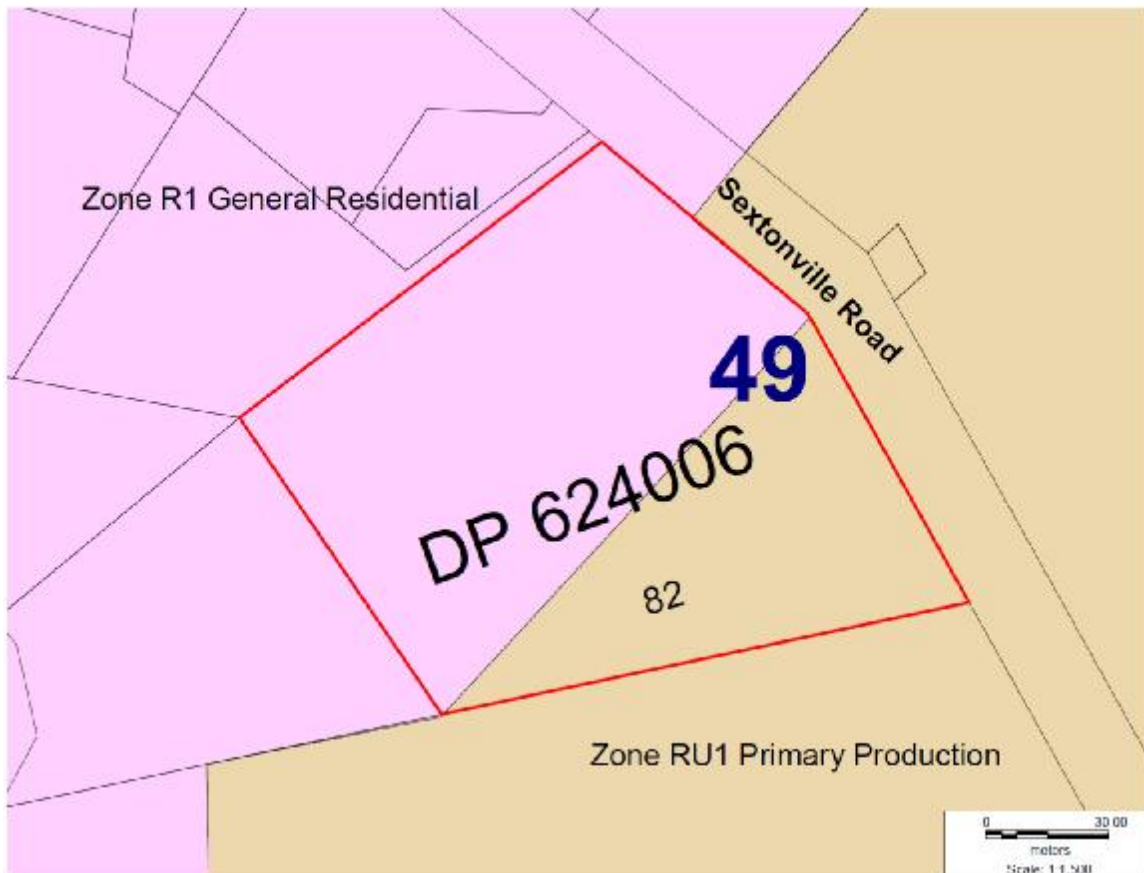


Figure 2.4.2 Extract from Land Zoning Map for Lot 82 under the Richmond Valley LEP 2012.

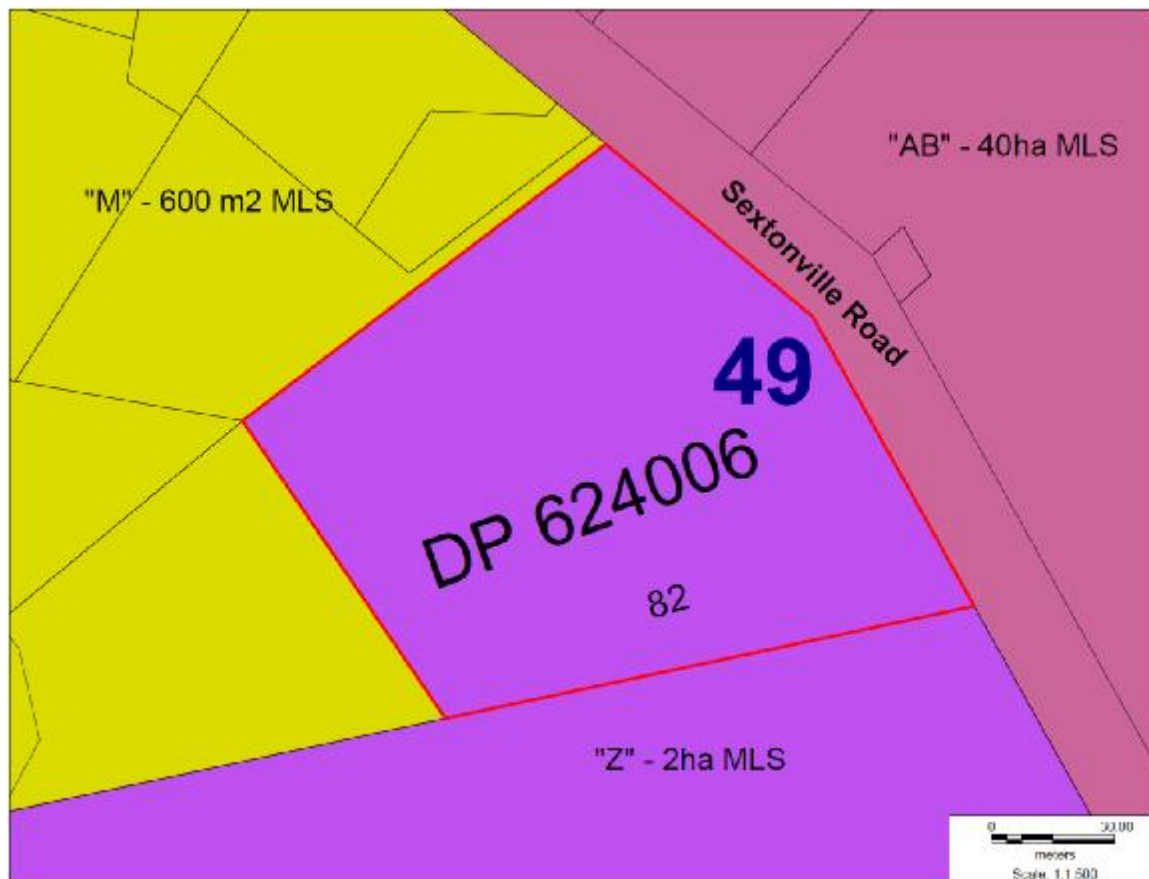


Figure 2.4.3 Extract from Lot Size Map for Lot 82 under the Richmond Valley LEP 2012.

Recent discussions with the owner have identified desires to subdivide the flood free part of the property, however, the amended planning scheme now prevents this due to the minimum lot size for subdivision increasing from 600m² to 2ha.

As indicated, flood was a major consideration given to determining the location of zone boundaries on this property. Figure 2.4.4 illustrates the 1 in 100 year ARI Flood Event and hazard categories for the land. It can be seen that the house and a sizable part of the property is located above the 1 in 100 year flood event. Furthermore, the blue “Low Flood Hazard” area represents flood depths of less than 1 metre. Development and subdivision of this component of the property is considered reasonable due to the extent of flood impact.

Moving the minimum lot size boundary to include the low hazard area would permit subdivision of this area but the residue lot would still be required to meet the standard. In order to facilitate the proposed development the residue part of the property would need to have a minimum lot size of about 5000m².

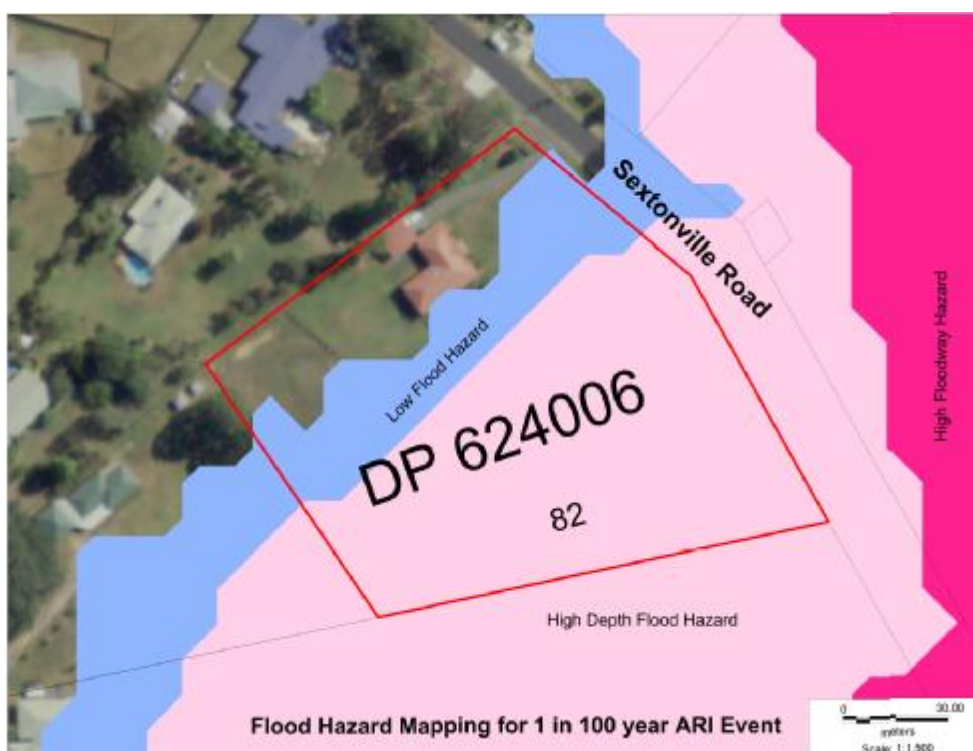


Figure 2.4.4 Flood Hazard mapping for a 1 in 100 year ARI Flood Event

Amendment Proposed

It is proposed to amend the Lot Size Map as per figure 2.4.5. This will involve reducing the minimum lot size (MLS) of the flood free and low flood hazard parts of the property from 2ha to 600m² and the residue part of the property to be reduced from 2ha to 5000m².

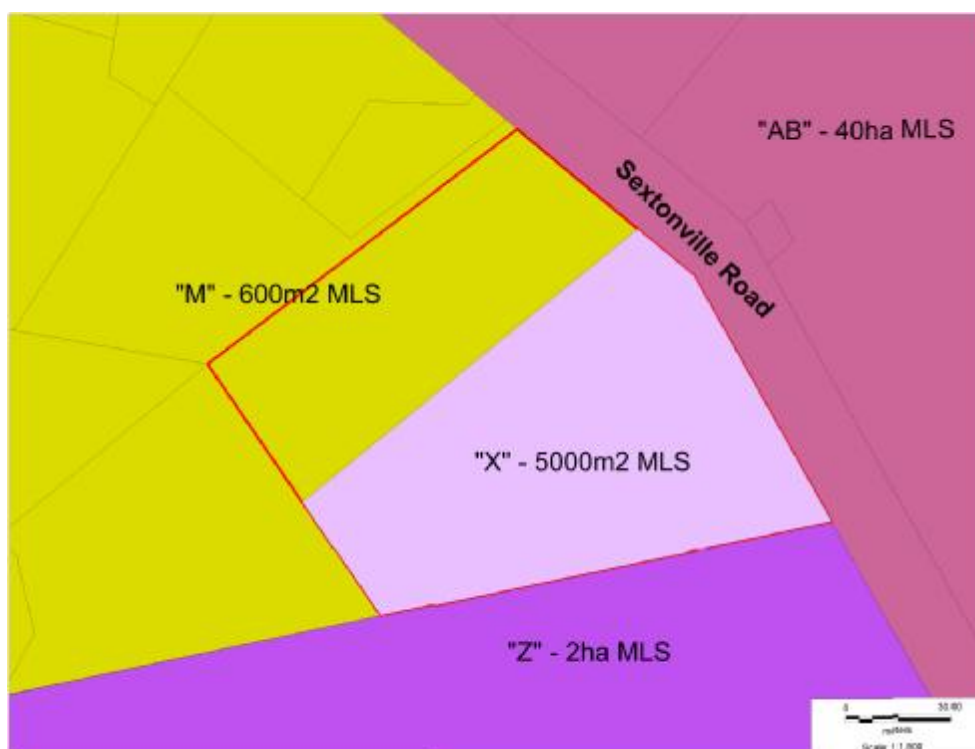


Figure 2.4.5 Proposed amendments to the Lot Size Map

Outcome of Amendment

The proposed amendments will result in the potential to subdivide Lot 82 so as to create approximately 3 allotments, each of which could accommodate a dwelling house.

2.5 Amend the Dwelling Opportunity Map – Accommodate New Minimum Lot Sizes*Objective*

To acknowledge dwelling opportunities on the Dwelling Opportunity Map that resulted from reduced subdivision minimum lot sizes in the *Richmond Valley LEP 2012*.

Background and Justification

Richmond Valley LEP 2012 contains a Dwelling Opportunity Map that captured dwelling opportunities that existed under the former LEPs. This enabled the opportunities to be carried forward into the new LEP despite changes to zoning and subdivision lot size standards.

Clause 4.2B of the LEP contains the provisions that determine whether a rural property has a dwelling opportunity. In addition to those mapped opportunities, the clause acknowledges several other ways to have a dwelling opportunity. These include meeting the minimum lot size shown for that land on the Lot Size Map, and lots created with a dwelling opportunity and Council consent.

In preparing the Dwelling Opportunity Map it was anticipated that it would capture all known dwelling opportunities. Unfortunately, lots that previously didn't meet the minimum lot size, but now do because it has been reduced, were not included on the Dwelling Opportunity Map. An example of where this has occurred in the locality of Gibberagee where the minimum lot size was reduced from 200ha to 100ha. These lots have dwelling opportunities under the clause however, this amendment attempts to also acknowledge them on the Dwelling Opportunity Map.

Amendment Proposed

Amend the Dwelling Opportunity Map by adding lots that currently do not have mapped dwelling opportunities if they are larger than the minimum lot size show for them on the Lot Size Map.

Outcome of Amendment

This amendment will not create any additional dwelling opportunities. All dwelling opportunities that will be acknowledged by this amendment already exist.

2.6 Amend the Dwelling Opportunity Map – Acknowledge Lots that Were Just Below the Minimum Lot Size Under the Former LEPs*Objective*

Amend the Dwelling Opportunity Map to acknowledge opportunities for lots that were just below the subdivision minimum lot size under the former LEPs.

Background and Justification

During the preparation of the *Richmond Valley LEP 2012* a mapping exercise was undertaken to map dwelling opportunities. This resulted in the preparation

of the Dwelling Opportunity Map. Part of this exercise involved mapping all rural lots that exceeded the subdivision minimum lots that existed under the former LEPS. For example, mapping all lots greater than 40ha within the 40ha minimum lot size areas. This exercise was undertaken successfully, however, failed to acknowledge situations where the lot size was marginally below the minimum lot size.

In situations where an allotment was just below the minimum lot size, Council was able to grant development consent for a dwelling subject to justifying that the lot size development standard was unreasonable. In most instances such variations were granted.

Amendment Proposed

It is proposed to amend the Dwelling Opportunity Map by adding allotments to the mapping where the lot has an area within 2 ha of the former minimum lot size that applied to the land. Therefore, an allotment >38ha in a 40ha area will be granted a dwelling opportunity. This amendment should however be restricted to areas where the minimum lot size was increased.

Outcome of Amendment

The amendment will result in acknowledging additional dwelling opportunities that could have been realised by a minor SEPP1 variation under the old planning schemes.

2.7 Amend the Land Zoning and Minimum Lot Size Applicable to Land Owned by Mr Cole at Busbys Flat and Grant a Dwelling Opportunity

Objectives

a) Amend the Land Zoning Map and Lot Size Map as they apply to Lot 94 DP43839, Old School Road, Busbys Flat, by rezoning part of the land from E2 Environmental Conservation to RU1 Primary Production, and by applying a minimum lot size of 100ha.

b) Amend the Dwelling Opportunity Map by acknowledging a single opportunity over Lots 94 DP43839 and Lot 64 DP755636.

Background and Justification

The owner of Lot 94 DP43839 and Lot 67 DP755636, Old School Road, Busbys has been consulting with Council since it was publicly exhibited in late 2010. His primary focus has been the omission of dwelling opportunity over the parcel.

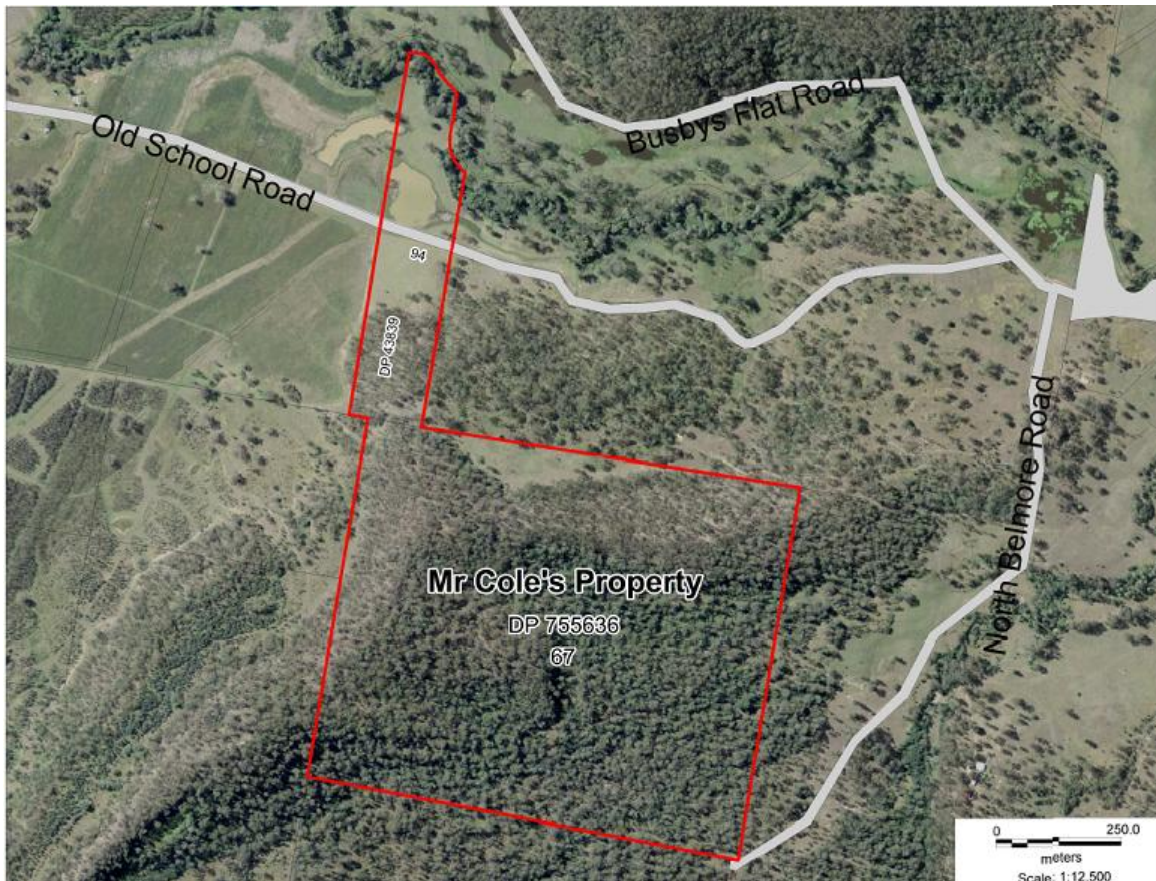


Figure 2.7.1 Plan of Lots 94 and 67 at Busbys Flat owned by Mr Keith Cole

During a recent meeting with the owner it was determined that the subject parcel should have been granted a single, shared, dwelling opportunity. This opportunity goes back to January 2007 when Council began preparing its Dwelling Opportunity Map. At the time a policy decision was made that granted parcels of land a dwelling opportunity if there was no opportunity present (a parcel being all land adjoining and adjacent in the same ownership). This one off action was to assist members of the community that had land but no opportunity to build. It resulted in about 20 new opportunities being created.

The reason that this property had not been issued a dwelling opportunity under the policy was because at the time it was believed the owner held additional adjoining lands which had at least one dwelling opportunity. It is now clear that Mr Cole, while owning land in the vicinity, did not own any land adjoining this parcel. As a result the Dwelling Opportunity Map should be amended to address this oversight.

Unfortunately, addressing this issue becomes even more complex. Under the former *Richmond River LEP 1992*, Lot 94 was contained in Zone 7(c) – Environmental Protection (Flora and Fauna). This zoning was inserted with the original *Richmond River LEP* but should have only captured the adjoining Crown Lands.

During the preparation of the *Richmond Valley LEP* the 7(c) zoning was retro fitted into Zone E2 Environmental Conservation. The new zoning does not

permit dwelling houses, and as can be seen in figure 2.7.1, the majority of Lot 94 should never have been included in either Zone 7(c) or Zone E2.

It is, therefore, proposed to rezone part of Lot 94 to RU1 Primary Production.

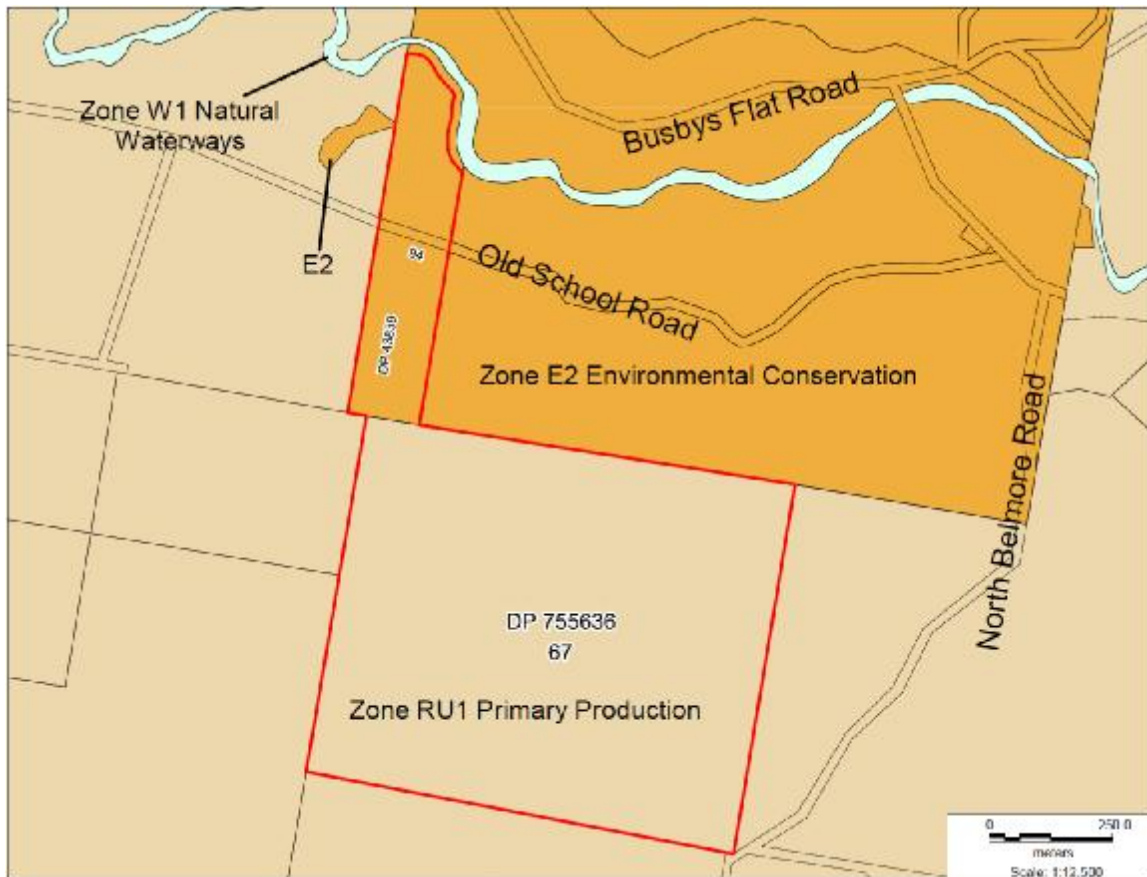


Figure 2.7.2 Zoning of Lots 94 and 67 under the Richmond Valley LEP 2012

Amendment Proposed

It is proposed to undertake the following amendments:

- a) amend the Dwelling Opportunity Map to include a single dwelling opportunity over Lot 94 DP43839 and Lot 67 DP755636, see figure 2.7.3.

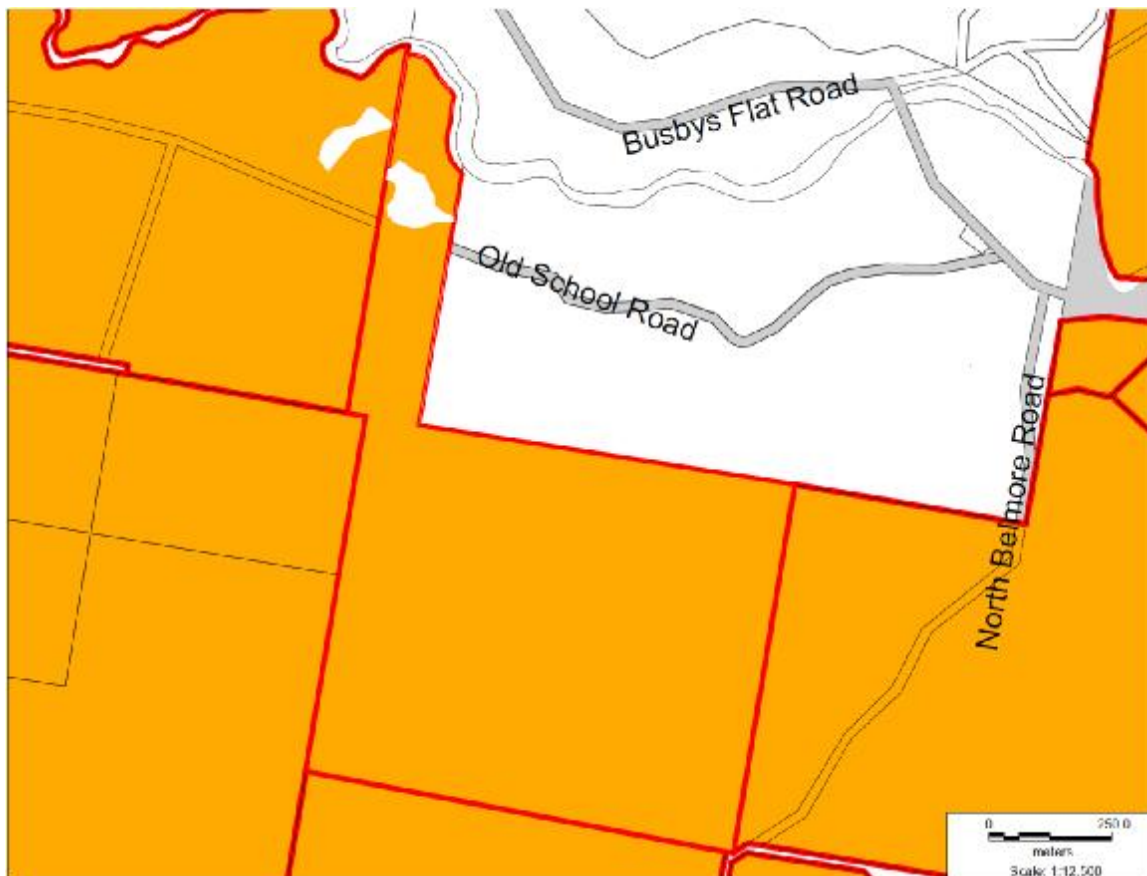


Figure 2.7.3 Proposed amendment to the Dwelling Opportunity Map.

- b) amend the Land Zoning Map to rezone part of Lot 94 DP43839 from Zone E2 Environmental Conservation to Zone RU1 Primary Production, the exception being an area of wetland, see figure 2.7.4.

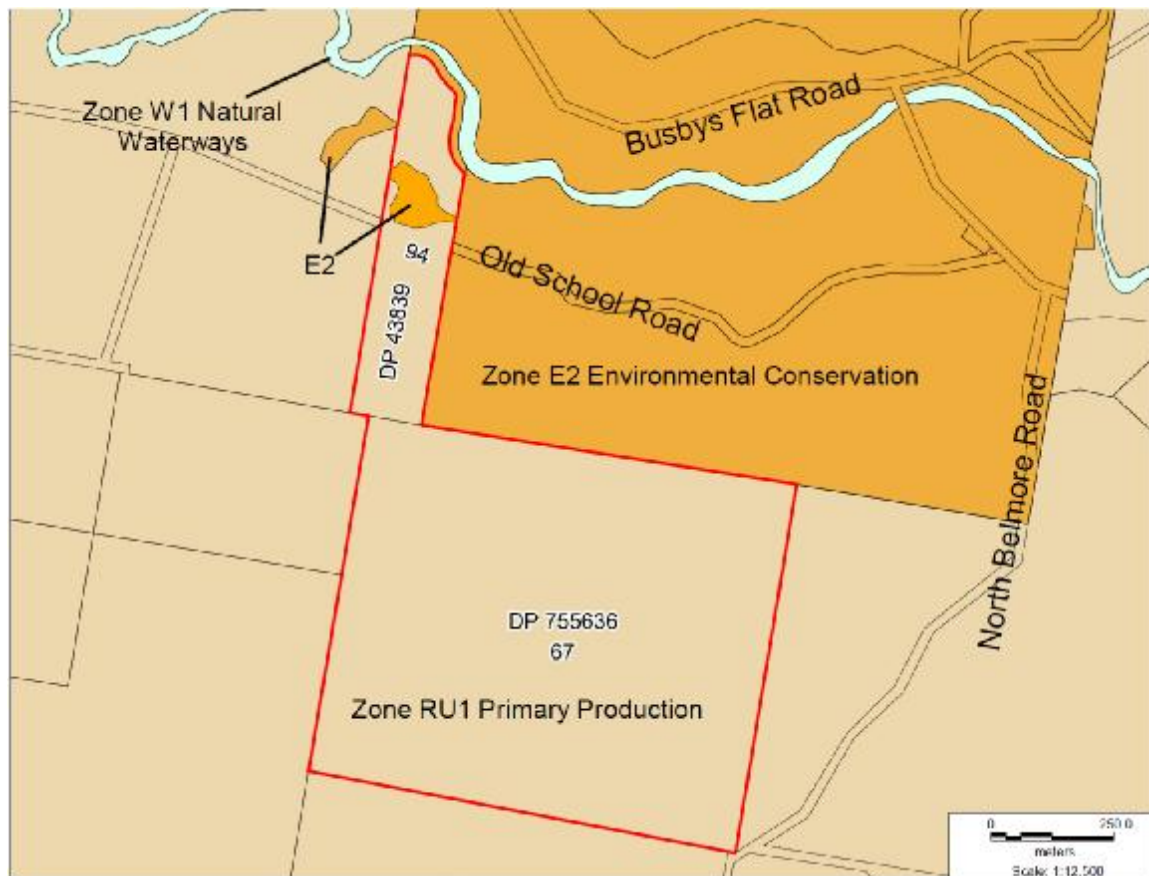


Figure 2.7.4 Proposed Land Zoning amendment to Lots 94.

- c) amend the Lot Size Map to extend the coverage of the 100ha minimum lot size to c

Outcome of Amendment

The above amendments will correct the Land Zoning applicable to this parcel, extend the lot size mapping and acknowledge a single dwelling opportunity.

2.8 Amend clause 4.1C to correct errors

Objectives

Amend clause 4.1C Exceptions to minimum lot size dual occupancies to correct errors introduced to the clause by Parliamentary Counsel drafting changes.

Background and Justification

Clause 4.1C enables the Torrens Title subdivision of dual occupancies so that each lot has at least a minimum lot size of 350m². The traditional alternative to subdividing dual occupancies has been to strata title the development.

The intent of the clause was to enable any existing or proposed dual occupancy to be subdivided. However, Parliamentary Counsel made last minute amendments to the clause that restricts the clauses use on dual occupancies granted consent prior to the Richmond Valley LEP 2012. This means new dual occupancies can not be subdivided into the smaller Torrens Titled lots.

Amendment Proposed

It is proposed to amend clause 4.1C(3) by omitting reference to the development being erected in accordance with an Environmental Planning Instrument before the Richmond Valley LEP commenced.

Outcome of Amendment

This amendment will ensure the clause applies to all dual occupancies, as was the original intent, and therefore applies a reduced minimum lot size for their subdivision.

2.9 Amend Schedule 2 Exempt Development**Objectives**

To correct a number of errors or omissions in the exempt development categories of “Garage” and “Signage”.

Background and Justification

The “Garage” exemption was included in the LEP as *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) does not appear to have an equivalent development type.

The exemption proposed to that sheds (or Garages) on lots <2ha could be erected with a maximum floor area of 20m², and lots >2ha could be erected with a maximum floor area of 60m².

Changes to the exempt provisions were made by the Department at the last minute but these have rendered the exemption unworkable. For example it permits a 20m² garage on an urban lot with an area <200m², and on a rural residential lot <4000m².

The signage exemption needs some tweaking for business identification signs. For example an above awning sign can not project more than a metre above the awning. This would mean that such signs could not be seen from the street. It is therefore proposed that this should be raised to 2.1 metres.

Amendment Proposed

There are a number of changes proposed to the exempt provisions. These have yet to be finalised but will result in improving the exemptions.

Outcome of Amendment

Improve the exempt provisions so as to reduce the need for development consent for minor development.

Legal

Section 73 of the EP&A Act provides that councils shall keep their local environmental plans and development control plans under regular and periodic review for the purpose of ensuring that the objects of the Act are achieved to the maximum extent possible. To this end it is proposed to prepare Planning Proposals to correct a number of administrative errors, ineffective clauses, and mapping errors contained within the *Richmond Valley Local Environmental Plan 2012*.

Delegation to prepare certain local environmental plans has been granted to Council. Despite accepting these delegations, Council must elect to use these delegations and nominate to whom they have been granted. The Gateway Process will determine if the use of these delegations will be appropriate.

Consultation

The Statutory requirements for preparation of local environmental plans includes community consultation. The duration of this consultation will be determined by the Gateway Process but is ordinarily a minimum of 30 days.

Section 73A of the Act permits certain types of minor administrative changes to local environmental plans to be prepared without the need for community consultation. This too will be subject to determination by the Gateway Process.

All submissions received during community consultation will be reviewed and reported to Council prior to adoption of a final local environmental plan.

Strategic Links

This report has strategic links to Council's Community Strategic Plan and the following Long Term Goal:

- 5.2 Rural and Urban Development – Development Processes (Strategy 5.2.4 Review and monitor development processes to ensure they are user friendly).

Conclusion

Richmond Valley Local Environmental Plan 2012 has been operational for about eight months. A review of the Plan has been undertaken and a number of housekeeping amendments have been proposed. This report proposes that these amendments should be addressed by a number of Planning Proposals, these being grouped as minor clerical amendments that can be streamlined through the Gateway Process; and more significant amendments and rezonings that will require agency and community consultation.

RECOMMENDATION

Recommended that:

1. Council adopt the list of amendments proposed in this report for the purposes of preparing Planning Proposals for submission to the Minister for Planning to amend the *Richmond Valley Local Environmental Plan 2012*.
2. Council submit the above Planning Proposals to the LEP Gateway Process and request the use of Ministerial Delegations to prepare the amendments.
3. Delegations to prepare the amendments be sub-delegated to the General Manager.
4. Prior to finalising any amendments, or undertaking any community consultation, the amendments be further reported to Council.

181212/ 26 RESOLVED (Cr Mustow/Cr Hayes)

That the above recommendation be adopted.

FOR VOTE - All Council members voted unanimously.

ABSENT. DID NOT VOTE - Cr Humphrys

~~13.15 FRONT END RESOURCE RECOVERY CENTRE - NAMMOONA LANDFILL SITE~~

Reference: ~~Waste Management Design and Construction, Planning, Service Provision; Council Properties Asset Register; Financial Management Budgeting~~

Prepared by: ~~Manager Environment Health and Regulatory Control~~

Background

~~Richmond Valley Council has been implementing a self funded capital improvement program for all of its waste facilities, to bring them into compliance with legislation and best practice.~~

~~This has included the closure of several landfill sites, the upgrading of the Bora Ridge Landfill site, the construction of the Evans Head Transfer Station, and the recent installation of a new office and weighbridge at the Nammoona Landfill facility.~~

~~This capital upgrading program included the provision of a front end resource recovery centre/transfer station at the front of the Nammoona Landfill facility, similar to the one constructed at the Evans Head Transfer Station.~~

~~The provision of this facility has been discussed at Council Information Sessions on previous occasions.~~

~~The estimated cost of a Front End Resource Recovery Centre at Nammoona Landfill is \$800,000.~~

Report**Issues****Project Description**

~~A Front End Resource Recovery Centre is in essence a transfer station built at the front of the landfill similar to the one already constructed by Council at Evans Head.~~

~~The purpose of the facility is several fold:~~

- ~~a) to maximise resource recovery from the waste stream;~~
- ~~b) to ensure safe, easy and convenient facilities for customers;~~