

# ***DRAFT RURAL RESIDENTIAL LAND USE STRATEGY***

**REPORTING SECTION:** Planning & Regulatory Services  
**AUTHOR:** Town Planner, Matt Clarkson  
**FILE NUMBER:** 12/256

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## **Summary:**

The Draft Walgett Shire Council Rural Residential Land Use Strategy has been publicly exhibited. It is recommended that Council resolve to rezone one area in Walgett identified in the strategy and one area in Lightning Ridge not identified in the strategy.

## **Background:**

GHD and Council staff prepared a draft document titled 'Draft Walgett Shire Council Rural Residential Land Use Strategy' (the Draft Strategy), which was placed on public exhibition from Monday 22 June 2015 until the close of business Friday 28 August 2015.

Seven (7) submissions were received for the Draft Strategy (see attachment F).

Subsequent to the Council resolution on 18 December 2012 to engage a consultant to prepare the Strategy, the NSW Department of Planning & Infrastructure (now Department of Planning and Environment) provided a change in interpretation of Interim Development Order No. 1 - Shire of Walgett (the IDO) with regard to dwelling entitlements. As a result, there are now numerous lots around Walgett and Collarenebri which while not zoned Rural Residential, do have a dwelling entitlement. This effectively reduces the need to rezone land in these areas to provide for rural dwelling lots.

## **Current position:**

Walgett – Two areas in Walgett were identified as most suitable for rezoning to provide rural residential land stock. Candidate Area One is Crown land and the leaseholder has expressed no interest in rezoning the land. Candidate Area Two is freehold land (Lot 42 DP 750291 and Lot 80 DP 750291), and the owner has made a submission requesting the land be rezoned (see attachment A). Extract maps of the Draft Walgett Shire Council Rural Residential Land Use Strategy showing Walgett Candidate Area Two are provided as attachment B.

Lightning Ridge – Three areas in Lightning Ridge were identified as most suitable for rezoning to provide rural residential land stock. One submission has been received from the leaseholder of a portion of Area Two supporting the strategy, however:

- The land is Crown Land, in the context where there are significant costs, delays, and uncertainty in obtaining freehold title.
- The submission raises several concerns regarding how the subdivision would proceed, most notably about the leaseholder potentially changing their mind, cost and viability, and whether Council was intending to purchase the land (see attachment C).

An alternative to rezoning any of the three Lightning Ridge areas identified in the strategy is to pursue rezoning and some consolidation of Lots 1-73 DP 838673 on the corner of Bill O'Brien Way and the Castlereagh Highway that Council owns and subdivided in 1994 (see attachment D). This area was excluded from the Rural Residential Strategy as it is partially situated on potentially opal

bearing ridge country. Review of Council minutes shows that some consultation was done with mining stakeholders prior to subdivision, and some support for the project was eventually attained. This support, coupled with anecdotal evidence from the Lightning Ridge Miners Association and sundry miners, suggests that the land is not recognised as particularly viable for opal mining. Further, rezoning of the lots does not necessarily preclude mining claims over the land (notwithstanding the provisions of the Mining Act 1992).

Presently the lots have no dwelling entitlements, as the original project did not satisfy the provisions of Interim Development Order No 1 Shire of Walgett which was in force at the time. It is reasonable to suggest that the Department of Planning and Environment may be supportive of the proposal if the 73 lots were consolidated to circa 21 lots (unserviced), enabling R5 Large Lot Residential zoning (see attachment E).

Collarenebri: No submissions in support of rezoning Candidate Areas One or Two were received. As noted previously, numerous vacant rural lots within 5 km of the Collarenebri urban area have dwelling entitlements, and this stock is considered sufficient for the medium to long term given ongoing population decline in the area.

#### **Relevant Reference Documents/Policies:**

- Environmental Planning & Assessment Act 1979.
- Environmental Planning & Assessment Regulation 2000.
- 'A Guide to Preparing Planning Proposals', NSW Department of Planning, July 2009.
- Directions for LEP preparation issued by the Minister for Planning (Section 117 directions).
- Various Department of Planning and Infrastructure circulars and guidelines regarding LEP development.
- Walgett Shire Council Rural Residential Land Use Strategy Discussion Paper.
- Draft Walgett Shire Council Rural Residential Land Use Strategy.
- Council minutes 1988 -1995.

#### **Governance issues:**

Council's charter:- Section 8 of the Local Government Act 1993 establishes Council's charter, which includes:

- to exercise community leadership
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to engage in long-term strategic planning on behalf of the local community
- to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights

Voting:- Section 375A of the Local Government Act 1993 requires a division to be called when a motion for a planning decision is put at a meeting of the Council, and the names of Councillors voting for and against the motion must be recorded.

#### **Environmental issues:**

As noted previously, the strategy identifies environmental constraints affecting the land under consideration. Chapter 8 provides a constraints analysis evaluating the relative importance of each criterion.

**Stakeholders:**

The public, landholders, Walgett Shire Council, Department of Planning & Environment, State government agencies.

**Financial Implications:**

Should Council resolve to buy, rezone, subdivide, and service Crown land identified in the Strategy, it will be at considerable cost, and it is unlikely that any subsequent land sales will meet this cost.

**Alternative Solutions/Options:**

Do nothing:- This option has not been recommended as Council has previously resolved to pursue the rezoning of land in the vicinity of Walgett, Lightning Ridge and Collarenebri for rural residential purposes.

Pursue rezoning of Crown land in Walgett, Lightning Ridge, and Collarenebri for rural residential use: This option has not been recommended as:

1. There is little certainty in outcomes as Department of Primary Industries, Crown Lands, have indicated that they could not reasonably support the rezoning/freehold conversion/sale of Crown land by private treaty in the context of population decline,
2. There are likely to be very significant time delays,
3. There are likely to be very significant costs to Council,
4. Walgett and Collarenebri now have numerous rural lots with dwelling entitlements following NSW Department of Planning & Infrastructure's change in interpretation of the IDO.
5. Council has already purchased Crown land specifically for this purpose in Lightning Ridge, and converted it to freehold.
6. The landowner of Walgett Candidate Area Two has made a submission requesting his freehold land be rezoned.
7. Support from leaseholders for rezoning of Crown land candidate areas is minimal, and where it does exist, it is problematic.

**Conclusion:**

Rezoning to R5 Rural Residential of Walgett Candidate Area Two, and the existing Council owned subdivision in Lightning Ridge, presents as the most achievable and cost effective method to address the perceived need for residential lots outside urban areas in Walgett Shire.

## **DRAFT WALGETT SHIRE COUNCIL RURAL RESIDENTIAL LAND USE STRATEGY**

### **Recommendation:**

**That Walgett Shire Council resolve to:**

- 1. Note the 7 submissions for the Draft Walgett Shire Council Rural Residential Land Use Strategy.**
- 2. Prepare a planning proposal for the Department of Planning and Environment to rezone to R5 Rural Residential Walgett Candidate Area Two (Lot 42 DP 750291 and Lot 80 DP 750291), and the existing Council owned subdivision in Lightning Ridge (Lots 1-73 DP 838673).**
- 3. Undertake any subsequent community consultation required under the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.**

**Moved:**

**Seconded:**

**ATTACHMENTS:**

A – Submission by Chris Clemson: Walgett Shire Council Rural Residential Land Use Strategy discussion paper.

B – Walgett Candidate Area Two Maps - Draft Walgett Shire Council Rural Residential Land Use Strategy.

C – Submission by Kelly Tishler: Draft Walgett Shire Council Rural Residential Land Use Strategy.

D – Map of existing subdivision on the corner of Castlereagh Highway and Bill O'Brein Way, Lightning Ridge.

E – Map of proposed amended subdivision and freehold land reserved for future subdivision on the corner of the Castlereagh Highway and Bill O'Brein Way, Lightning Ridge.

F – Draft Walgett Shire Council Rural Residential Land Use Strategy submissions.

12/256

RECEIVED 06 FEB 2014

5/2/2014  
CHRIS CLEMSON  
PO Box 270  
WALGETT N.S.W.

~~RECEIVED 06 FEB 2014~~

Attention MATHEW CLARKSON WALGETT SHIRE COUNCIL

I WISH TO APPLY TO HAVE TWO of my  
BLOCKS BEING Lot 42 in DP 750291 &  
Part of Lot 80 in DP 750291  
CONSIDERED FOR RURAL RESIDENTIAL  
SUB-DIVISION INTO PREFERABLY 5 H/A BLOCKS  
OR IF THIS IS NOT POSSIBLE INTO 10 H/A BLOCKS

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\* BLOCK ONE IS Lot 42 Being 83.06 HA  
OR 15 5/H/A BLOCKS  
& 1 8.06 H/A BLOCK  
All zoned BLUE (SUITABLE) ON RURAL RESIDENTIAL STRATEGY

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\* BLOCK TWO Lot 80 Being 46.44 HA  
Could maybe be split into 9 BLOCKS

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WITH APPROXIMATELY 75% Zoned Blue (SUITABLE) & 25% Zoned constrained

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MAPS ARE ATTACHED

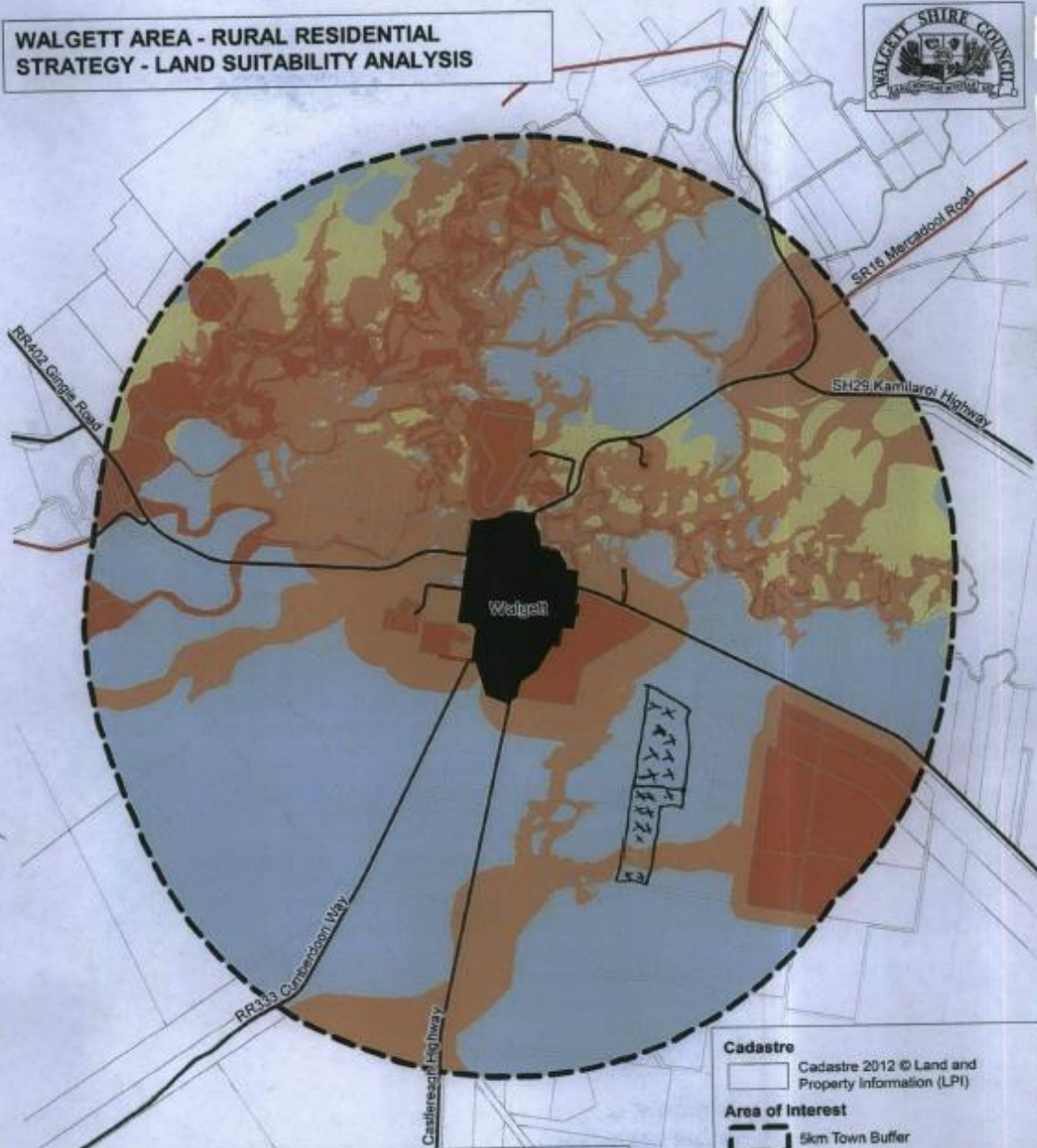
Please give this application consideration  
and Reply with Recommendations in due course  
ASSISTANCE WITH POWER & ROADS WOULD BE APPRECIATED

Yours Faith Fully  
~~Chris Clemson~~  
Chris Clemson



BLOCK MARKED WITH AN X

# WALGETT AREA - RURAL RESIDENTIAL STRATEGY - LAND SUITABILITY ANALYSIS



Scale: 1:70,000 @ A4

Projection: GDA 1994 (MGA94 Zone 55)



DISCLAIMER - No statement is made about the accuracy or suitability of the information for use for any purpose (whether the purpose has been notified to Council or not). While every care is taken to ensure the accuracy of this data, neither the Walgett Council, GHD nor Land and Property Information (LPI) makes any representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason. © The State of New South Wales (LPI) 2012. © Walgett Shire Council 2013. © GHD.

Walgett Area - Rural Residential Strategy - Land Suitability Analysis Map produced using "INDEGO" Multiple Criteria Analysis (MCA) methodology provided to Walgett Shire Council by GHD - October 2013.

## Cadastral

Cadastral 2012 © Land and Property Information (LPI)

## Area of Interest

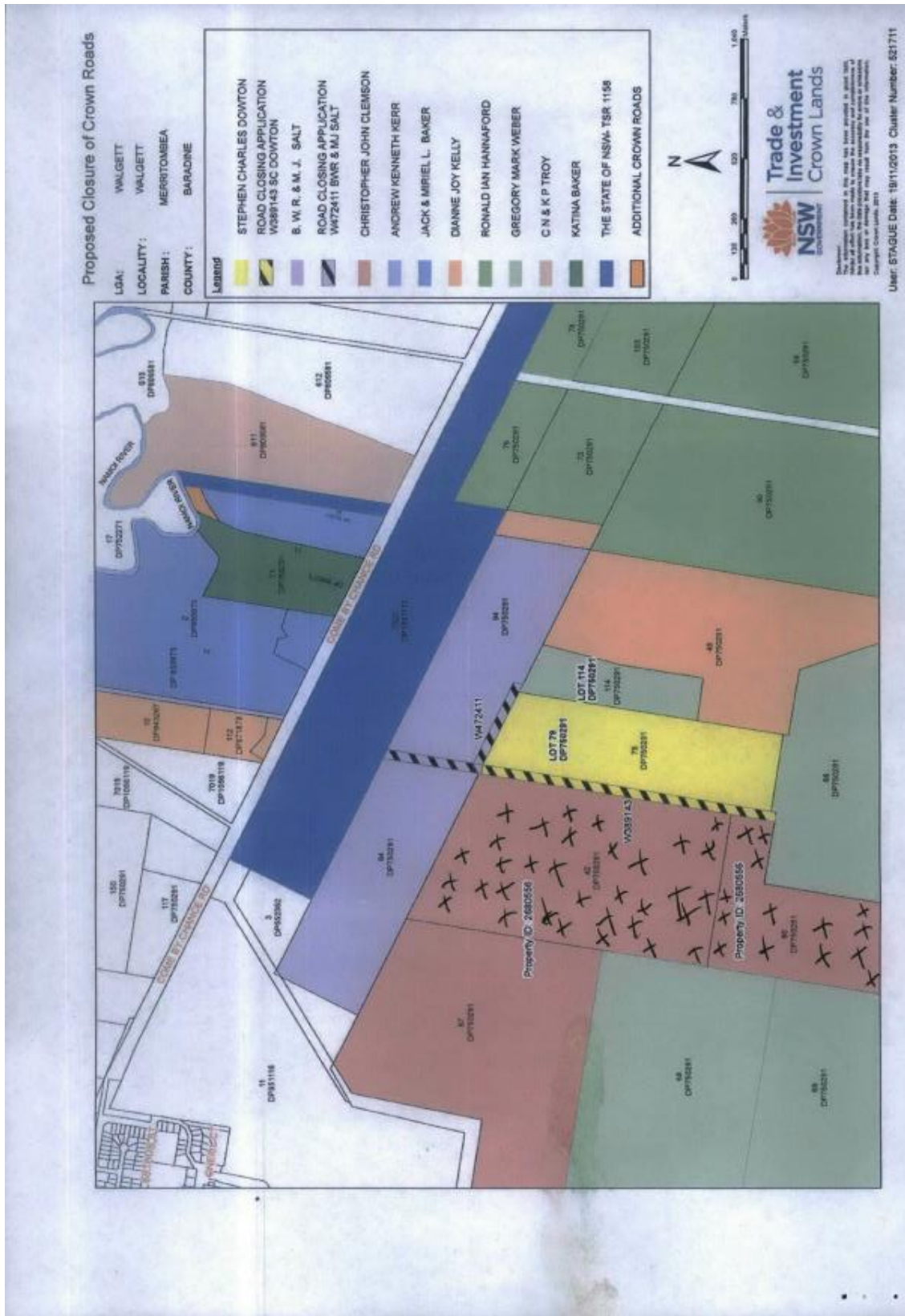
5km Town Buffer

## Public Roads

Sealed  
Unsealed

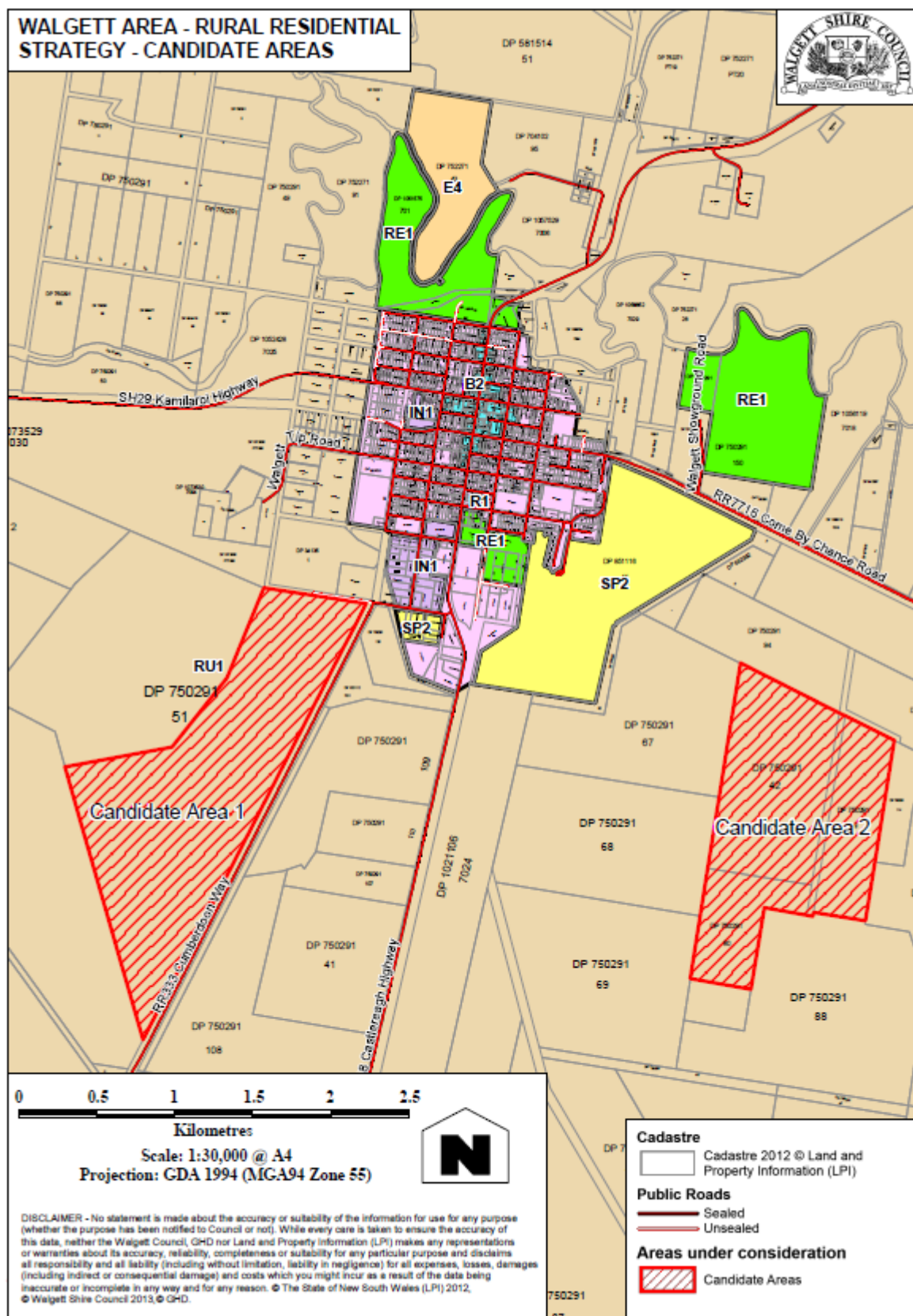
## Land Suitability

Highly suitable  
Suitable  
Highly constrained  
Very highly constrained  
Highly unsuitable





Attachment B – Candidate Area Two: Draft Walgett Shire Council Rural Residential Land Use Strategy.







Mr Paul & Kelly Tishler  
PO Box 1463 "Baroona Homestead"  
Lightning Ridge, NSW, 2834  
02 68291 470  
p.tishler@bigpond.com

9/9/2015

Walgett Shire Council  
PO Box 31  
Walgett NSW, 2832

**RE: WALGETT SHIRE RURAL RESIDENTIAL STRATEGY 2015 (RRS)**

Dear Council,

Please accept apologies for our late reply, unforeseen circumstance prevented replying before the due date and we hope you may still consider our letter.

Our property "Baroona Homestead" has been identified as Lightning Ridge Area 2. This land is not used for grazing purposes for the past 20 years.


As the current landholders we would endorse the Rural Residential Strategy.

We do however hold some concerns:

- If rezoning for rural residential land was earmarked for future development would we have to rezone the land if we changed our minds or if the cost and viability exceeded our finances?
- Would the Shire purchase this land or would we have to develop the land for sub-division.
- Is there a demand for land of this size in a community with low socio-economic growth?
- Currently a buffer zone of 500m surrounds the homestead is the Council aware of this?
- Would we as Landholders be able to sub-divide larger block or blocks or would there be a criteria set down by the Department of Planning and Environment or the Walgett Shire Council?

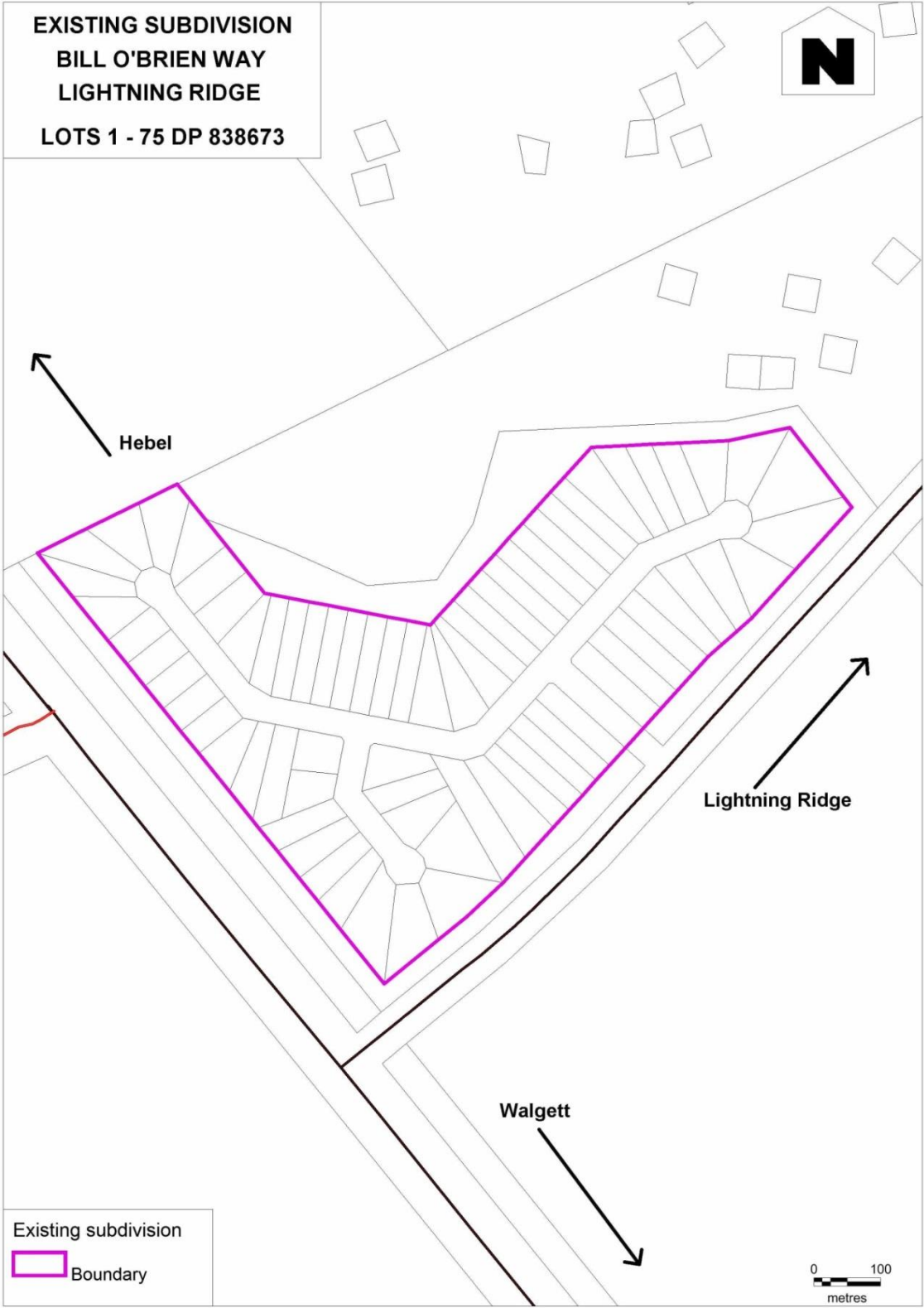
We look forward to hearing the developments of the RRS and look forward to future correspondence.

Yours faithfully,



Kelly Tishler

Attachment D – Map of existing subdivision on the corner of Castlereagh Highway and Bill O'Brein Way, Lightning Ridge.



Attachment E – Map of proposed amended subdivision and freehold land reserved for future subdivision on the corner of the Castlereagh Highway and Bill O'Brein Way, Lightning Ridge.





RECEIVED 15 JUL 2015

P O Box 342  
LIGHTNING RIDGE 2834  
9<sup>th</sup> July 2015.

Walgett Shire Council  
Town Planner  
Mr Matthew Goodwin  
Fox St  
WALGETT NSW 2832

Dear Mr Goodwin

**Re Walgett Shire Rural Residential Strategy 2015 (RRS)**

Please beware that in the Lightning Ridge Candidate Area 2 there is a bore water pipeline (Llanillo Bore Water Trust) crossing the southern end of the area and also a road into "Baroona" (see enclosed maps) The road has been maintained by us since 2004 and is used by all farming machinery and at harvest time grain trucks Farmers from the north eastern side Lightning Ridge get their farming plant to the Castlereagh Highway via "Baroona" because it is a hazard trying to get large plant through town and in most cases impossible. Where the pipeline and road in candidate area 2 are located is black soil on the flood plain

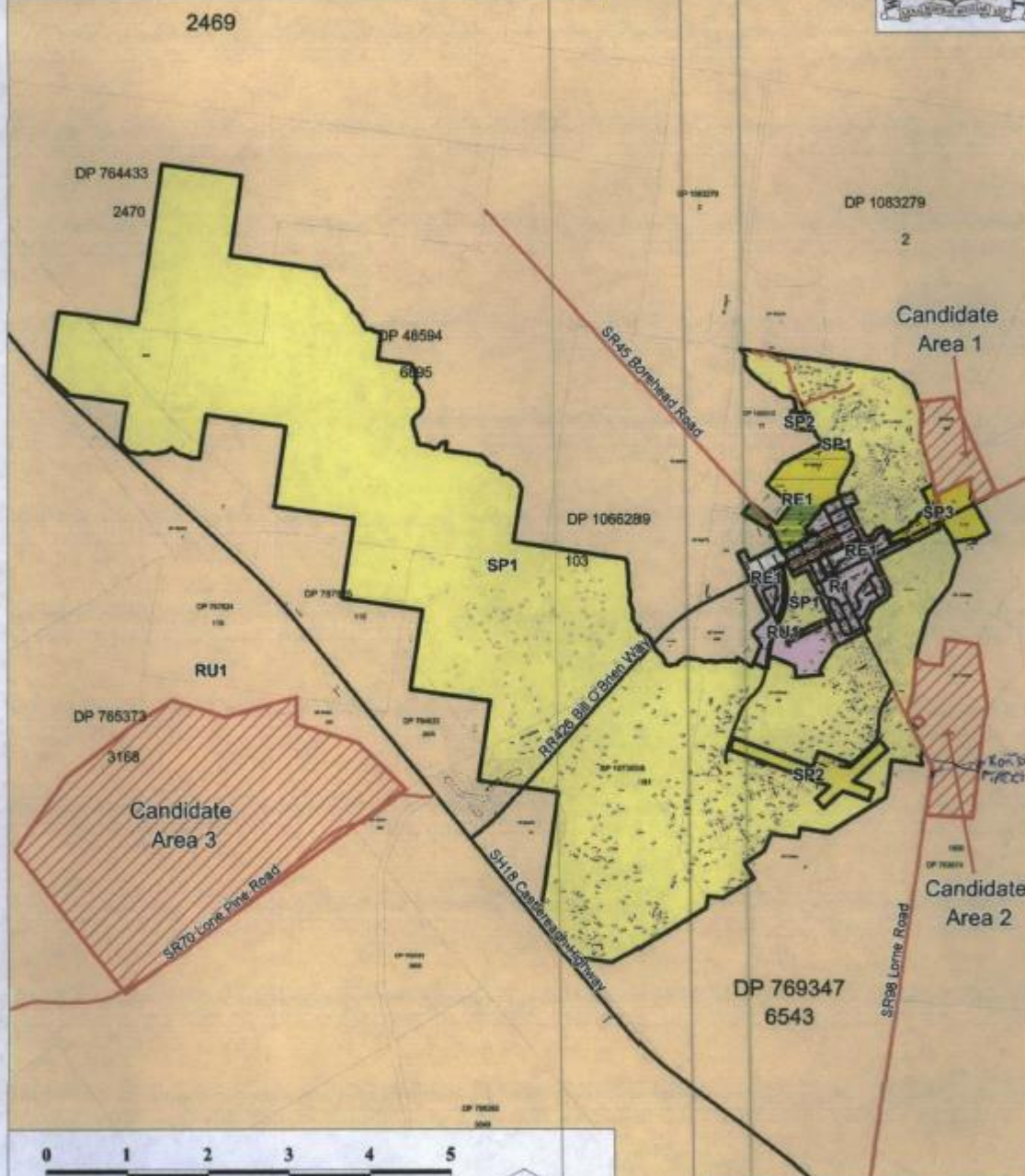
We also note that the boundary to Area No 2 boards onto our farming country, no homes should be allowed to be built so close to any farming activity. We feel to allow new homes to be built it is most unfair if we have to surrender any of our farming country (established in the 1990's) because of our activities or safety reasons, if so we should be highly compensated and that applies to AREA No 1 also.

Yours sincerely



AH & HE MORRIS  
Lindella Super Pty Ltd

# **LIGHTNING RIDGE AREA - RURAL RESIDENTIAL STRATEGY - CANDIDATE AREAS**



0 1 2 3 4 5

Kilometres

Scale: 1:65,000 @ A4

Projection: GDA 1994 (MGA94 Zone 55)



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## **Cadastre**

— Cadastre 2012 © Land and Property Information (LPI)

## **Public Roads**

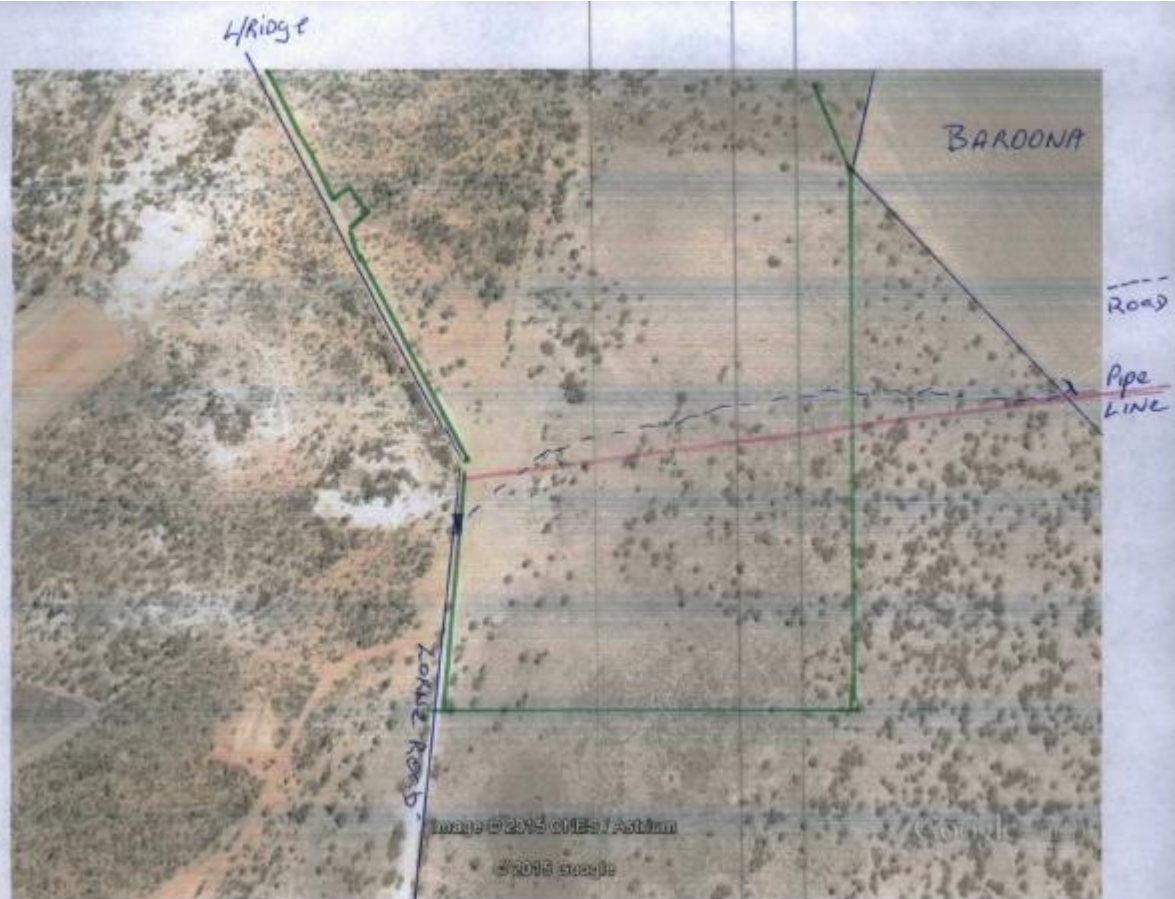
— Sealed  
— Unsealed

## **Areas under consideration**

▨ Candidate Areas

BPA00018





Google earth

feet 2000  
meters 700

↓  
To Castle Reagh  
Highway

— Area 2  
— Pipe Line  
- - - "BAROONA Road"

1 RECEIVED 15 JUL 2015

P O Box 342  
LIGHTNING RIDGE 2834  
9<sup>th</sup> July 2015.

Walgett Shire Council  
Town Planner  
Mr Matthew Goodwin  
Fox St  
WALGETT NSW 2832

Dear Mr Goodwin

**Re Walgett Shire Rural Residential Strategy 2015 (RRS)**


**Reasons for not building over the Pipeline in LIGHTNING RIDGE  
CANDIDATE AREA 2**

Buildings cannot be erected over the pipeline as the pipe can be damaged in the process and if pipe erupts under any constructions it is impossible to repair. Constructing road or levee banks can also cause damage. The planting of trees is also a problem with their roots invading or strangling the pipe. No new owner of land within the Area 2 can get water from the Llanillo Bore Water Trust as the trust was designed to cater for its trust area only

**Reasons for not building over the road in LIGHTNING RIDGE CANDIDATE  
AREA 2**

The road has been placed in the most suitable wet weather access to "Baroona". During harvest roadtrains from other properties along with ours use the road 24 hours a day causing huge amounts of dust and noise (less noise and wheat dust for residents the town). The road is used throughout the year moving our farming machinery and also farming plant from properties on the northeastern side of Lightning Ridge to the Castlereagh Highway as in most cases it is impossible to get large plant through Lightning Ridge

Yours sincerely



AH & HE MORRIS

Lindella Super Pty Ltd



RECEIVED 23 JUL 2015



Transport  
Roads & Maritime  
Services

SF2012/024036; WST12/00104/03

General Manager  
Walgett Shire Council  
PO Box 31  
WALGETT NSW 2832

Dear Sir

**Draft Walgett Shire Rural Residential Strategy 2015**

Thank you for your letter dated 25 June 2015 inviting Roads and Maritime Services to comment on the Draft Walgett Shire Rural Residential Strategy 2015.

Roads and Maritime notes the purpose of the strategy is to identify areas of land at Walgett, Lightning Ridge and Collarenebri to rezone for rural residential purposes.

Roads and Maritime does not object to the draft strategy and provides the following comments for Council's consideration:

- A number of candidate areas adjoin classified roads. Roads and Maritime notes under Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007*, that before granting consent for vehicular access to a classified road, Council, as the consent authority, must be satisfied vehicular access to the land(s) cannot practicably be obtained via a road other than the classified road, and, that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by operation of the development. Classified roads within the Walgett Shire local government area possibly affected by the draft strategy are:
  - Castlereagh Highway (HW18)
  - Kamilaroi Highway (HW29)
  - Gwydir Highway (HW12)
  - Bill O'Brien Way (MR426)
  - Cumberland Way (MR333)
  - Come By Chance Road (MR7716)
  - Gundabloui Road (MR457)
  - Ridge Road (MR426)
- Under Section 138(2) of the *Roads Act 1993*, prior to consent being granted for any new vehicular access to a classified road, the concurrence of Roads and Maritime is required.

Roads and Maritime Services

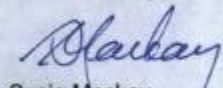
51 - 55 Currajong Street Parkes NSW 2870  
PO Box 334 Parkes NSW 2870  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 13 17 82



- Planning for Candidate Area 3 near Lightning Ridge will need to consider vehicular access between this area and the Castlereagh Highway and, most likely, an upgrade to the existing Lone Pine Road and Castlereagh Highway intersection.

Roads and Maritime appreciates the opportunity to provide comment on the draft strategy. Should you require further information please contact Andrew McIntyre on 02 6861 1453

Yours faithfully



Susie Mackay  
Network & Safety Manager  
Western

20 JUL 2015



## NSW RURAL FIRE SERVICE



RECEIVED 28 JUL 2015

The General Manager  
Walgett Shire Council  
PO Box 31  
**WALGETT NSW 2832**

**Attention: Mr Matt Clarkson**

Your Ref: 12/256-07/0026  
Our Ref: L12/0033  
DA15070297519 AB

23 July 2015

Dear Mr Clarkson

### Agency Comment: Walgett Rural Residential Land Use Strategy 2015

I refer to your correspondence dated 25 June 2015 seeking the NSW Rural Fire Service (NSW RFS) comments for the above land use strategy. The NSW RFS notes that the strategy has mapped environment constraints around the towns of Walgett, Lightning Ridge and Collarenebri and has identified land suitable for rural residential purposes.

The RFS notes the strategy considered bush fire prone land mapping as part of the constraints process and the land identified as suitable for rural residential land use purpose is not mapped bush fire prone land. The NSW RFS has no objection to the Rural Residential Strategy in its current form.

Finally the RFS advises that AS3959-2009 'Construction of Buildings in Bush Fire Prone Areas' also identifies grasslands as a bush fire hazard. It is acknowledge that large lot residential land use zones can generally accommodate grassland construction and asset protection zone requirements. Council should be aware that vegetation consisting of grasslands attributes should be considered in any development application process under 79C of the Environment Planning and Assessment Act 1979.

For any enquiries regarding this correspondence please contact Alan Bawden on 6655 7002.

Yours faithfully,

**John Ball**  
**Manager – Customer Service Centre**

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under *Planning for Bush Fire Protection 2006*.

#### Postal address

NSW Rural Fire Service  
Coffs Harbour Customer Service Centre  
Suite 1, 129 West High Street  
COFFS HARBOUR NSW 2450

#### Street address

NSW Rural Fire Service  
Coffs Harbour Customer Service Centre  
Suite 1, 129 West High Street  
COFFS HARBOUR NSW 2450

T (02) 6691 0400  
F (02) 6691 0499  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)





Transport  
for NSW

RECEIVED 30 JUL 2015

Mr Donald Ramsland  
General Manager  
Walgett Shire Council  
PO Box 31  
Walgett NSW 2832

**Attention:** Matthew Goodwin, Director Planning and Regulatory Services

Dear Mr Ramsland

**Walgett Shire Rural Residential Strategy 2015 (RRS)**

Thank you for Walgett Shire Council's letter dated 25 June 2015 requesting Transport for NSW (TfNSW) comment on the above Strategy.

TfNSW has reviewed the submitted information and has no comment on the above Strategy.

Roads and Maritime Services will provide a separate response to the above Strategy.

If you require further clarification regarding this matter, please don't hesitate to contact Para Sangar, Senior Transport Planner on 8202 2672.

Yours sincerely

20/7/15

Mark Ozinga  
Manager Land Use Planning and Development  
Planning Division

CD15/11851

18 Lee Street Chippendale NSW 2008  
PO Box K659 Haymarket NSW 1240  
T 8202 2200 F 8202 2209  
www.transport.nsw.gov.au  
ABN 18 804 239 602



**Department  
of Industry**  
Resources & Energy

21 August 2015

The General Manager  
Walgett Shire Council  
PO Box 31  
Walgett NSW 2832

RECEIVED 31 AUG 2015

ATTENTION: Matthew Goodwin

Your Reference: MG:112/256-07/0026  
Our Reference: OUT15/22224

Dear Matthew

**Re: Walgett Shire Rural Residential Strategy 2015**

Thank you for the opportunity to provide advice regarding the proposals to rezone areas of land within Walgett Shire from Rural to Rural Residential. This is a response from NSW Department of Industry – Geological Survey of New South Wales (GSNSW). The Department of Primary Industries (incorporating advice from Agriculture and Fisheries) and the Forestry Corporation of NSW may respond separately.

GSNSW has previously provided general comments in relation to this matter at the discussion paper stage on the 12 February 2013 (our reference OUT14/4631). That correspondence discussed the GSNSW's Mineral Resource Audit data for the Walgett Shire, the significance of opal and extractive resources and mining and exploration titles in the area.

Based upon available information there are no recognised mineral or extractive resources within or adjacent to the candidate areas in the vicinity of Walgett and Collarenebri. Hence those areas pose no potential for conflict with any current or future mining or extractive industry.

The three candidate areas in the vicinity of Lightning Ridge overlap to various extents with the Lightning Ridge Opal Field Identified Resource Area and/or its one kilometre wide transition area, as defined in the latest Mineral Resource Advice to Walgett Shire Council. However, closer scrutiny of the three areas in relation to the known geology, current and historic opal mining activity, likely future opal mining activity and the current distribution of residential dwellings adjacent to the areas, indicates that there is very low potential for conflict between future rural residential dwellings in those areas and opal mining.

In conclusion, therefore, the GSNSW has no objection to the proposed rezonings.

Should you have any queries regarding mineral resources in relation to this matter please contact the GSNSW Land Use team at [landuse.minerals@industry.nsw.gov.au](mailto:landuse.minerals@industry.nsw.gov.au).

Yours sincerely

Cressida Gilmore  
Team Leader - Land Use

NSW Department of Industry, Skills and Regional Development  
RESOURCES & ENERGY DIVISION  
PO Box 344 Hunter Region Mail Centre NSW 2310  
Tel: 02 4931 6666 Fax: 02 4931 6726  
ABN 51 734 124 190  
[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au)

Mr Paul & Kelly Tishler  
PO Box 1463 "Baroona Homestead"  
Lightning Ridge, NSW, 2834  
02 68291 470  
p.tishler@bigpond.com

9/9/2015

Walgett Shire Council  
PO Box 31  
Walgett NSW, 2832

**RE: WALGETT SHIRE RURAL RESIDENTIAL STRATEGY 2015 (RRS)**

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We look forward to hearing the developments of the RRS and look forward to future correspondence.

Yours faithfully,



Kelly Tishler