

Planning Proposal

Liverpool Plains Shire Council

Strategic Housekeeping Amendment

Liverpool Plains LEP 2011



October 2020

Table of Contents

Legislative Framework	4
Council resolution	4
Overview.....	4
Objectives or Intended Outcomes of the Planning Proposal.....	4
Part 2 – Explanation of Provisions & Part 3 Justification	4
Section A – Need for the Planning Proposal.....	8
Section B – Relationship to strategic planning framework.....	8
Section C – Environmental, social and economic impact.....	17
Section D – State and Commonwealth interests.....	17
Part 4 - Mapping	17
Part 5 – Community Consultation.....	18
Part 6 – Project Timeline.....	19
Appendix A – Mapping.....	20

List of Tables

Table 1 - Schedule of Proposed Amendments, Affected Lands & Justification.	5
Table 2 - Consistency of the Planning Proposal with Section 9.1 Ministerial Directions.....	11

List of Figures

Figure 1. Locality Map of the Affected Lands.	7
Figure 2. Aerial image of Lots 1 & 2 DP 1102411 (Map Ref. No.1).....	20
Figure 3. Aerial image of Lot 101 DP 1247789 (Map Ref. No. 2).....	21
Figure 4. Existing Land Zoning for Map Ref. No. 1 & No. 2.	22
Figure 5. Existing Minimum Lot Size for Map Ref. No. 1 & No. 2.....	23
Figure 6. Proposed Minimum Lot Sizes for Map Ref. No. 1 & No. 2.	24
Figure 7. Aerial Image of Lots 5 & 6 Section 40 DP 758863 (Map Ref. No. 3).....	25
Figure 8. Existing Land Zoning for Map Ref. No. 3.	26
Figure 9. Proposed Land Zoning for Map Ref. No.3.	27

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Version 3.0	April 2020	Updated PP based on feedback from DPIE
Version 4.0	October 2020	Updated PP based on feedback from DPIE

Legislative Framework

Pursuant to Section 3.33(1) of the *Environmental Planning and Assessment Act 1979* ('the Act'), a Planning Proposal must be prepared before a draft Local Environmental Plan amendment is made. The Planning Proposal must explain the intended effect, and provide justification for the making of, an amendment to a Local Environmental Plan. The Planning Proposal must also address the matters identified by Section 3.33(2) of the Act.

Council resolution

This amendment to the *Liverpool Plains Local Environmental Plan 2011* (LPLEP 2011) was considered by Liverpool Plains Shire Council at their meeting on 26 June 2019.

Overview

The LPLEP 2011 was first gazetted on the 9 December 2011 and follows the format of the Standard Instrument Order, 2006. Since the gazettal of the original LPLEP 2011, there have been eight (8) amendments made to the Plan.

The purpose of this amendment is to give effect to a housekeeping review that has been carried out by Council and to implement changes to the LPLEP 2011 that have been requested by the community. This Planning Proposal has been prepared in accordance with the NSW Department of Planning, Industry and Environment's (DPIE) *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans*.

Objectives or Intended Outcomes of the Planning Proposal

The objectives of this amendment are:

1. To reduce the minimum lot size for certain lands in Quirindi in order to deliver rural living development in accordance with the *Liverpool Plains Shire Council Growth Management Strategy 2009 (GMS)*; and,
2. To rezone certain lands in Quirindi for cemetery purposes.

Part 2 – Explanation of Provisions & Part 3 Justification

Table 1 outlines the proposed changes to the LPLEP 2011 and justification for the same:

Table 1 - Schedule of Proposed Amendments, Affected Lands & Justification.

Map Ref #	Lot/Sec/DP	Address	Land Area (Ha)	Current Zone	Proposed Zone	Current MLS (Ha)	Proposed MLS (Ha)	Justification
1	Lots 1 & 2 DP 1102411 (Ass. No. 200)	201 Borah Creek Road, Quirindi	8.2	R5	R5	40	2	<ul style="list-style-type: none"> • The landowner has lodged a written request to Council to reduce the prescribed minimum lot size (40 Hectares) to 2 Hectares in order to facilitate a future rural-residential subdivision of the subject lands; • There is existing reticulated (low flow) water infrastructure in proximity to the allotments. Council's Engineering Department have advised that there is capacity for the new allotments to be serviced by existing water infrastructure; • A minimum lot size of 2 Hectares will generate a lot yield of 4 x 2 Hectare allotments. The 2 Hectare sized allotments will have sufficient area to accommodate an on-site sewage system in lieu of reticulated sewer infrastructure. Council's <i>Development Control Plan</i> (2012) also requires on-site sewage management systems to be provided where lots are ≥ 1 Hectare; • The subject lands are not identified as being liable to inundation by flooding but are prone to bushfire hazards (Vegetation Category 3); • The subject lands are located within the Borah Creek Road 'rural living' designation under Council's adopted <i>Growth Management Strategy</i> (2009); and, • The proposed changes are considered to be compatible with surrounding patterns of development along Borah Creek Road.
2	Lot 101 DP 1247789 (formerly Lot 14 DP 1125485)	130 Borah Creek Road, Quirindi	6.036	R5	R5	40	3	<ul style="list-style-type: none"> • Council has received a written request from the landowner who has asked for the prescribed minimum lot size (40 Hectares) to be changed in order to facilitate a future two (2) lot subdivision; • There is existing reticulated (low flow) water infrastructure in proximity to the allotment. Council's Engineering Department have advised that there is

	(Ass. No. 199)							<p>capacity for the new allotments to be serviced by the low flow water supply;</p> <ul style="list-style-type: none"> • A minimum lot size of 3 Hectares will generate a lot yield of 2 x 3 Hectare allotments, which is sufficient area to accommodate an on-site sewage system in lieu of reticulated sewer infrastructure. Council's Development Control Plan (2012) also requires on-site sewage management systems to be provided where lots are \geq 1 Hectare; • The subject lands are not identified as being liable to inundation by flooding but are prone to bushfire hazards (Vegetation Category 3); • The subject land is located within the Borah Creek Road 'rural living' designation under Council's adopted <i>Growth Management Strategy</i> (2009); and, • The proposed changes are considered to be compatible with surrounding patterns of development along Borah Creek Road.
3	Lots 5 & 6 Section 40 DP 758863 (Ass. No. 72147)	Quirindi Cemetery, 90 Russell Street, Quirindi	1.019	RU1	SP1 'Cemetery'	200	No MLS	<ul style="list-style-type: none"> • It is proposed to rezone the subject allotments to SP1 'Cemetery'. The lands are currently used for the purpose of the Quirindi Cemetery; and, • The lands are a reserve (R97714) within the meaning of Part 5 of the <i>Crown Lands Act 1989</i>. Council has been appointed Land Manager of the Reserve.

Maps showing the proposed amendments outlined in Table 1 are contained in Appendix A. Figures 1 below shows a locality map of the affected lands.

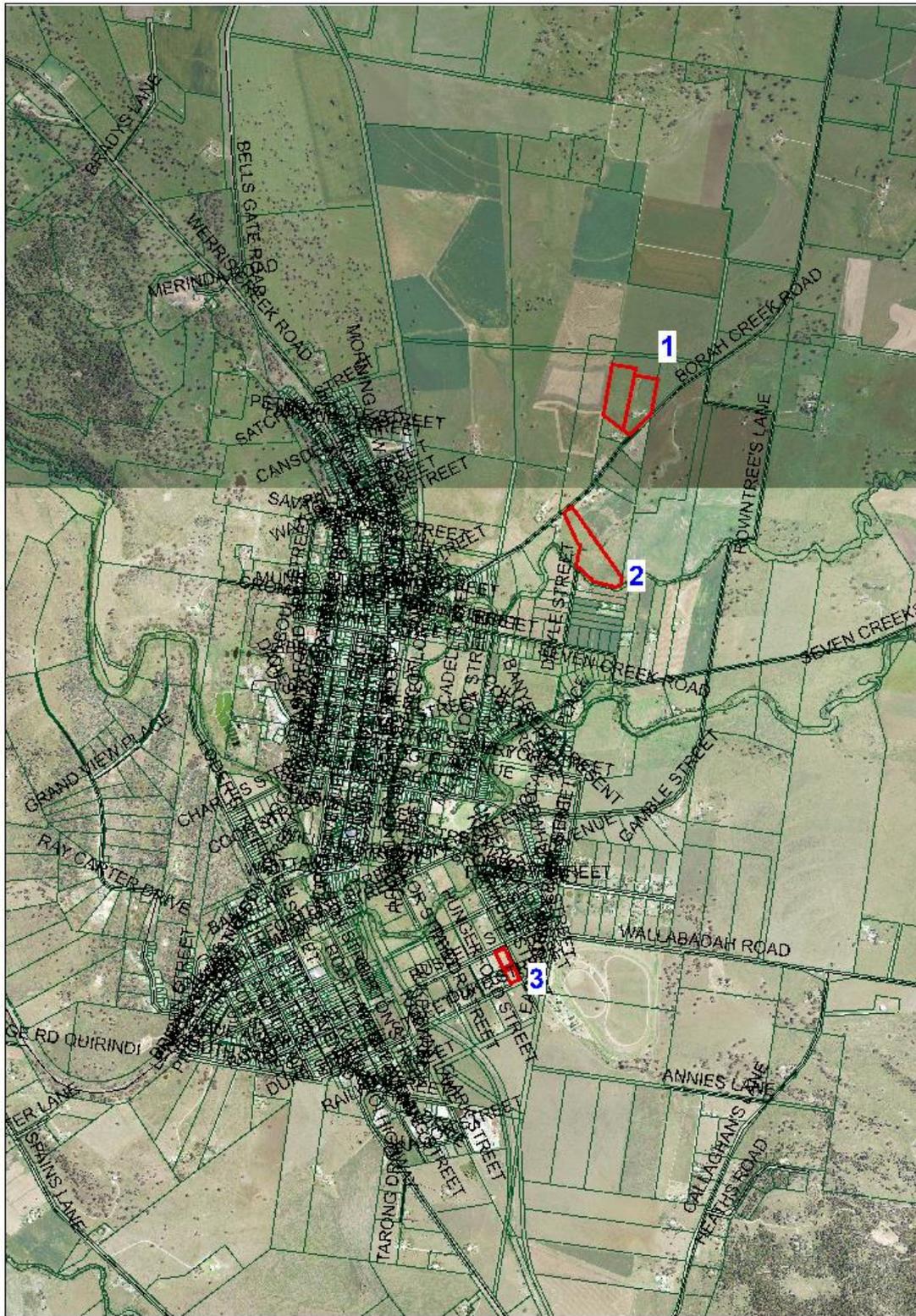


Figure 1. Locality Map of the Affected Lands.

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any endorsed local strategic planning statement, strategic study or report?

The changes sought via this Planning Proposal have resulted from a review of the LPLEP 2011 and an Expression of Interest (EOI) process undertaken by Council via an 'Open to Change' campaign. The 'Open to Change' campaign was launched in November 2018 to invite feedback on the LEP in relation to zoning, minimum lot size, permissible uses, heritage items and dwelling opportunities. The objective of the consultation process was to identify any planning constraints to economic development that could be amended as part of the LPLEP 2011 review.

To some extent, the changes also give effect to the objectives and recommendations under Council's adopted *Growth Management Strategy (2009)*, as identified in Table 1.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Council considers that a Planning Proposal is the best means of achieving the intended outcomes.

Section B – Relationship to strategic planning framework

Q3. Will the planning proposal give effect to the objective and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The *New England North West Regional Plan 2036* (NENW Plan) was reviewed in relation to the Planning Proposal. The proposed amendments are considered to be generally consistent with the Vision, Goals and Interim Settlement Planning Principles under the NENW Plan.

Q4. Will the planning proposal give effect to Council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Yes, the proposed amendments are considered to be consistent with the following key strategic directions under Council's Council Community Strategic Plan (CSP) and Local Strategic Planning Statement (LSPS):

- *Town planning reflects the diversity of our towns and villages (CSP);*
- *Value beautiful landscapes, dynamic town and villages and safe communities (CSP); and,*
- *Investigate potential for land use and lot size changes that have negligible environmental impacts and provide a point of difference from current supply to encourage economic investment (LSPS).*

Q5. Is the planning proposal consistent with application of State Environmental Planning Policies?

State Environmental Planning Policy Koala Habitat Protection (2019)

This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. This Policy

applies to each Local Government Area listed in Schedule 1, which includes the Liverpool Plains.

The following lands affected by this Planning Proposal are identified on the Koala Development Application Map:

- Lots 5 – 6 in Section 40 of DP 758863 – 90 Russell Street, QUIRINDI NSW 2343; and,
- Lot 101 in DP 1247789 – 130 Borah Creek Road, QUIRINDI NSW 2343.

As such, this Planning Proposal is considered to be consistent with this SEPP. The identified tracts of trees on the Koala Development Application Map occupy a small portion of the affected lands. It is therefore anticipated that future development can occur without necessitating the clearing of native vegetation. Additionally, the identified tracts of trees are not known to constitute core koala habitat.

State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery of infrastructure across the State. This Planning Proposal is not expected to have any adverse implications in respect to the provisions under this Policy.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

This Policy aims to facilitate the orderly and economic use and development of lands for primary production, to reduce land use conflict and sterilisation of rural land, to encourage sustainable agriculture and identify State significant agricultural land to ensure the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations.

It is considered that the proposed changes sought via this Planning Proposal are consistent with the aims of this Policy. None of the affected lands are listed under Schedule 1 of this Policy as being State Significant Agricultural land. The existing RU1 zoned lands identified under Table 1 are not considered to be of a size that could be used for meaningful primary production activities. The proposed rezoning of the allotments from RU1 to SP1 will also better reflect existing and intended land uses, being for cemetery purposes.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

This Policy aims to protect and preserve the biodiversity values of trees and other vegetation in non-rural areas of the State. This Policy applies to the non-rural areas of the State, which includes land zoned R5 Large Lot Residential and SP1 Special Activities.

It is deemed that this Planning Proposal is consistent with the provisions under this Policy. The lands that are proposed to be rezoned to SP1 are devoid of significant tracts of trees. The recommended minimum lot sizes for the existing R5 zone lands have also been designated in order to provide adequate area for development to occur whilst avoiding and minimising the need to clear vegetation.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

Table 2 below addresses the consistency of the Planning Proposal with the applicable Section 9.1 Ministerial Directions:

Table 2 - Consistency of the Planning Proposal with Section 9.1 Ministerial Directions.

Direction No.	Provisions	Consideration
<p>1.2 Rural Zones</p>	<p>Where this direction applies Clause 4(a) of this direction applies to all relevant planning authorities.</p> <p>When this direction applies This Direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).</p> <p>What a relevant planning authority must do if this direction applies</p> <p>(4) A planning proposal must:</p> <p>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village)</p> <p>Consistency</p> <p>(5) 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:</p> <p>(a) justified by a strategy which:</p> <ul style="list-style-type: none"> (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 <p>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</p> <p>(d) is of minor significance.</p>	<p>This Planning Proposal is not inconsistent with this Direction. This Planning Proposal does not involve the rezoning of any land from rural to a residential, business, industrial or tourist zone. Furthermore, the Planning Proposal does not seek to add provisions that will increase the permissible density of land within a rural zone.</p>

<p>1.5 Rural Lands</p>	<p>When this direction applies</p> <p>(3) This direction applies when:</p> <p>(a) A relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</p> <p>(b) A relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>What a relevant planning authority must do if this direction applies</p> <p>A Planning Proposal to which Clauses (3)(a) or (3)(b) apply must consider the matters under Clauses (4) and (5) of this direction.</p>	<p>Clause (3)(a) and (b) of this Direction applies. As identified in Table 1, this Planning Proposal seeks to rezone Lots 5 and 6 in Section 40 of DP 758863 from RU1 with a minimum lot size of 200 Hectares to SP1 with no minimum lot size.</p> <p>Although not identified in the GMS, the proposed changes to the affected lands are sought to reflect the existing and intended use of the lands for the purpose of the Quirindi Cemetery. The allotments are not considered to be of a size to support meaningful primary production activities and are not known to be State Significant Agricultural Land.</p> <p>Furthermore, the proposed changes to the affected lands are not expected to result in land use conflict or fragmentation. The SP1 zoning will limit development to only that for, or ancillary to, the purpose of a cemetery.</p>
<p>2.6 Remediation of Contaminated Land</p>	<p>Where and when this direction applies</p> <p>(2) This direction applies to:</p> <p>a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</p> <p>b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to</p>	<p>It is considered that the Planning Proposal is not inconsistent with Direction 2.6. None of the affected lands are recorded on the NSW Environment Protection Authority's contaminated land register. A search of Council's records has not produced any records for contaminating land uses, activities, industries and chemicals listed under Table 1 in the <i>Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land (1998)</i>. Furthermore, no evidence of contamination was observed during the site inspections undertaken by Council of the</p>

	<p>in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p>This direction applies when a planning proposal authority prepares a planning proposal applying to land specified in paragraph (2).</p> <p>What a planning proposal authority must do if this direction applies</p> <p>A planning proposal authority must not include in a particular zone any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of land use of the land, unless the planning proposal authority has considered the matters under (4)(a) – (c).</p> <p>Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p>	<p>subject lands.</p>
<p>2.3 Heritage Conservation</p>	<p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What a planning authority must do if this direction applies</p> <p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by 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, which identifies the area, object, place 	<p>A search of the Aboriginal Heritage Information Management System (AHIMS) indicates that there are no Aboriginal places or Aboriginal objects on the lands affected by this Planning Proposal. No items of State or local heritage significance prescribed under Schedule 5 of the LPLEP 2011 are located on the subject lands.</p>

	or landscape as being of heritage significance to Aboriginal culture and people.	
3.4 Integrating Land Use and Transport	<p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>What the relevant planning authority must do if this direction applies</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ul style="list-style-type: none"> (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001). 	<p>As the Planning Proposal will create opportunities for further residential development, this Direction applies. <i>Improving Transport Choice – Guidelines for planning and development</i> and <i>The Right Place for Business and Services – Planning Policy</i> aim to reduce growth in the number and length of private car journeys and make walking, cycling and public transport use more attractive.</p> <p>The lands affected by this Planning Proposal are located either in, or in proximity to, Quirindi and adjoin areas approved for residential use. The most common mode of transport for residents is expected to be private motor vehicles, which is consistent with many rural and remote areas of Australia with low levels of public transport access. The dominant mode of public transport in the area is bus which provides access within Quirindi as well as to the surrounding region, while train services link the township with the wider district.</p> <p>The Planning Proposal is not considered to be inconsistent with this Direction as opportunities to utilise public transport will be available to residents, and the location of the subject area in proximity to the townships will allow for walking and cycling to town, if desired.</p>

<p>4.4 Planning for Bushfire Protection</p>	<p>When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.</p> <p>What the relevant planning authority must do if this direction applies In preparing a Planning Proposal, the relevant planning authority must consult with the NSW Rural Fire Service, have regard to <i>Planning for Bushfire Protection 2006</i> and consider bushfire protection measures for development, as detailed under clauses (4) – (6) of this Direction.</p>	<p>This Planning Proposal affects lands located in a mapped bushfire prone area. In this regard, consultation will be carried out with the NSW Rural Fire Service, following receipt of the Gateway Determination.</p> <p>As identified in Table 1, the affected bushfire prone lands are mapped as being Category 3, which represents a medium bushfire risk. The affected bushfire prone lands are all accessible from a public road and it is expected that the proposed minimum lot sizes will allow appropriate Asset Protection Zones to be achieved within the confines of the allotment boundaries.</p>
<p>5.10 Implementation of Regional Plans</p>	<p>When this direction applies This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What the relevant planning authority must do if this direction applies Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.</p>	<p>This Planning Proposal is considered to be consistent with the Vision, Goals and Interim Settlement Planning Principles under the NENW Plan. Therefore, the proposal is not inconsistent with this Direction.</p>
<p>6.1 Approval and Referral Requirements</p>	<p>When this direction applies This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What the relevant planning authority must do if this direction applies A planning proposal must:</p> <ul style="list-style-type: none"> (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> (i) the appropriate Minister or public authority, and 	<p>This Planning Proposal is considered to be substantially consistent with this Direction. As mentioned above, consultation will need to be carried out with the NSW Rural Fire Service in accordance with Direction 4.4.</p>

	<p>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p> <p>(c) not identify development as designated development unless the relevant planning authority:</p> <p>(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</p> <p>(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</p>	
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Section C – Environmental, social and economic impact

Q7. 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?

This Planning Proposal is not expected to adversely impact critical habitat or threatened species, populations or ecological communities, or their habitats in relation to the lands identified in Table 1. Most of the affected lands are either devoid of significant vegetation; or, have been previously disturbed due to historical land uses.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects envisaged as a result of this Planning Proposal.

Q9. Has the planning proposal adequately addressed any social and economic effects?

It is considered that the Planning Proposal is unlikely to result in adverse social impacts. This Planning Proposal has been prepared based on written requests from the local community and a housekeeping review of the LPLEP 2011. Community consultation will be undertaken in accordance with the conditions of the Gateway determination from the Department of Planning, Industry and Environment.

This Planning Proposal is not expected to have adverse economic impacts. It is envisaged that the proposed changes will help to stimulate development in the LGA.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

It is considered that there is adequate public infrastructure for this Planning Proposal. Consultation has been carried out with Council's Engineering Department in order to ascertain whether the proposed changes are able to be serviced by reticulated infrastructure and has formed part of the justification for this Planning Proposal, as outlined in Table 1.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

State and Commonwealth public authorities will be consulted following the outcome of the gateway determination, if required, in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

Part 4 - Mapping

The following maps will be affected by the Planning Proposal:

- Land zoning map:
 - LZN_004C
- Lot size map:
 - LSZ_004C

Maps showing the existing framework and proposed changes are contained in Appendix A.

Part 5 – Community Consultation

It is anticipated that the Planning Proposal will address any issues of community interest, and it is considered appropriate to apply the recommended community consultation guidelines which include the following:

- An exhibition period of 28 days commencing on the date that a notice of exhibition is printed in the local news press.
- Advertising in the local newspaper at the start of the exhibition period.
- Advertising on Council's website and social media sites for the duration of the exhibition period.
- Targeted consultation with affected landholders.

Part 6 – Project Timeline

Action	Indicative Date
Council Resolution	June 2019
Gateway Determination	December 2020
Government Agency Consultation	January/February 2020
Public exhibition Period	January/February 2020
Submission assessment	March 2020
RPA assessment of Planning Proposal and exhibition outcomes	March/April 2020
Liaison with Parliamentary Counsel and submission of endorsed LEP Amendment to Department of Planning, Industry and Environment for finalisation.	April/May 2020

Appendix A - Mapping



Figure 2. Aerial image of Lots 1 & 2 DP 1102411 (Map Ref. No.1).



Figure 3. Aerial image of Lot 101 DP 1247789 (Map Ref. No. 2).

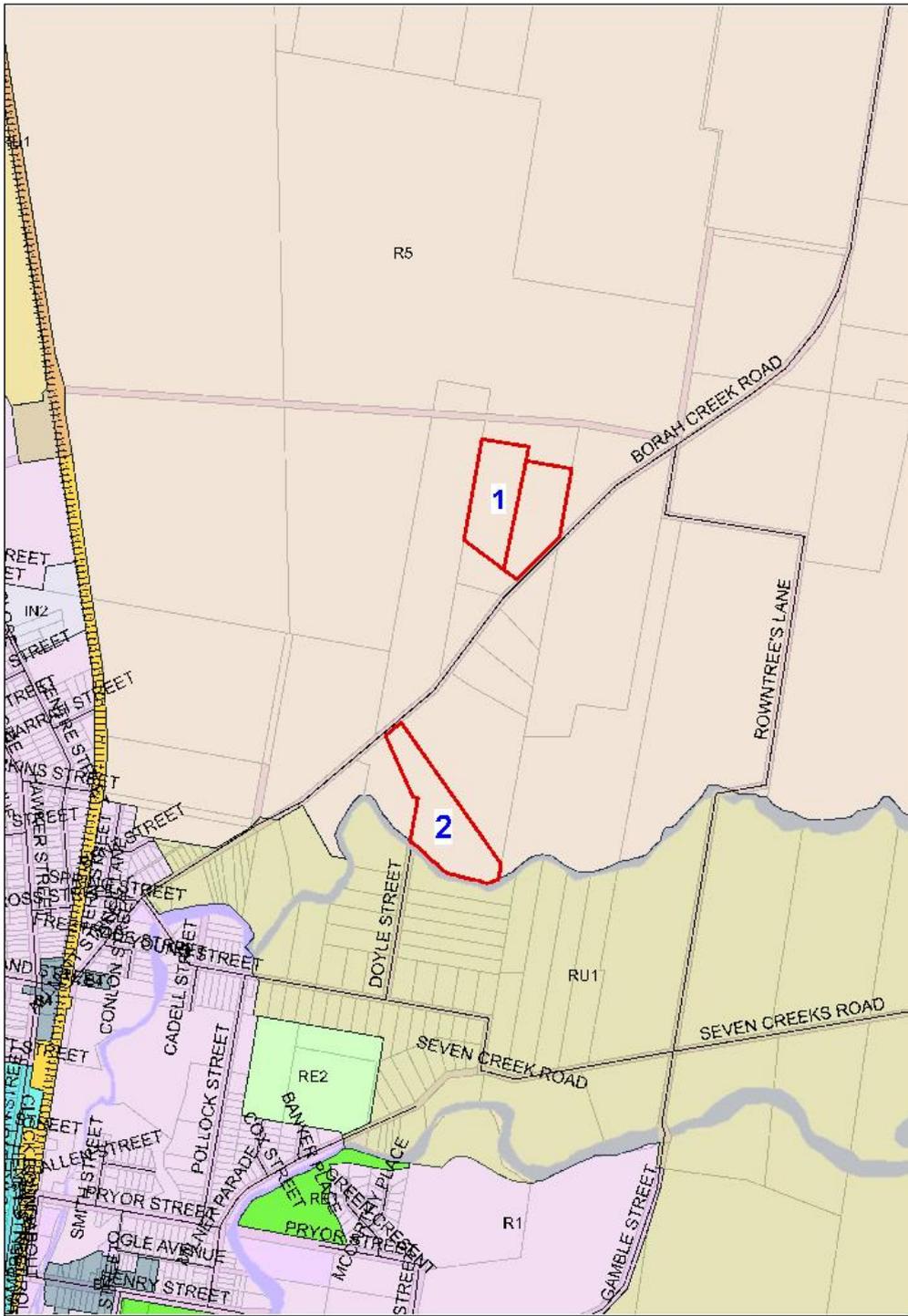


Figure 4. Existing Land Zoning for Map Ref. No. 1 & No. 2.

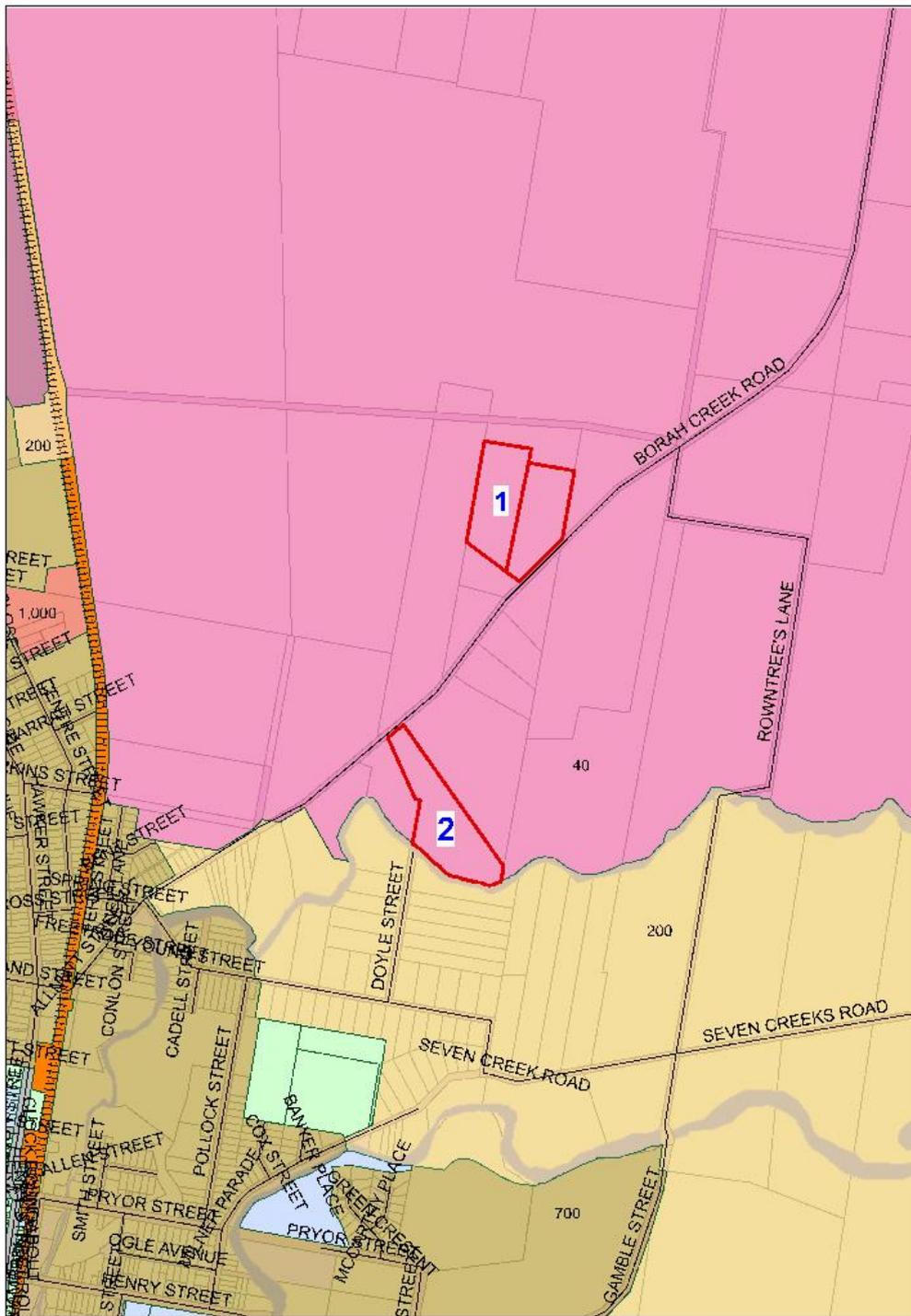


Figure 5. Existing Minimum Lot Size for Map Ref. No. 1 & No. 2.

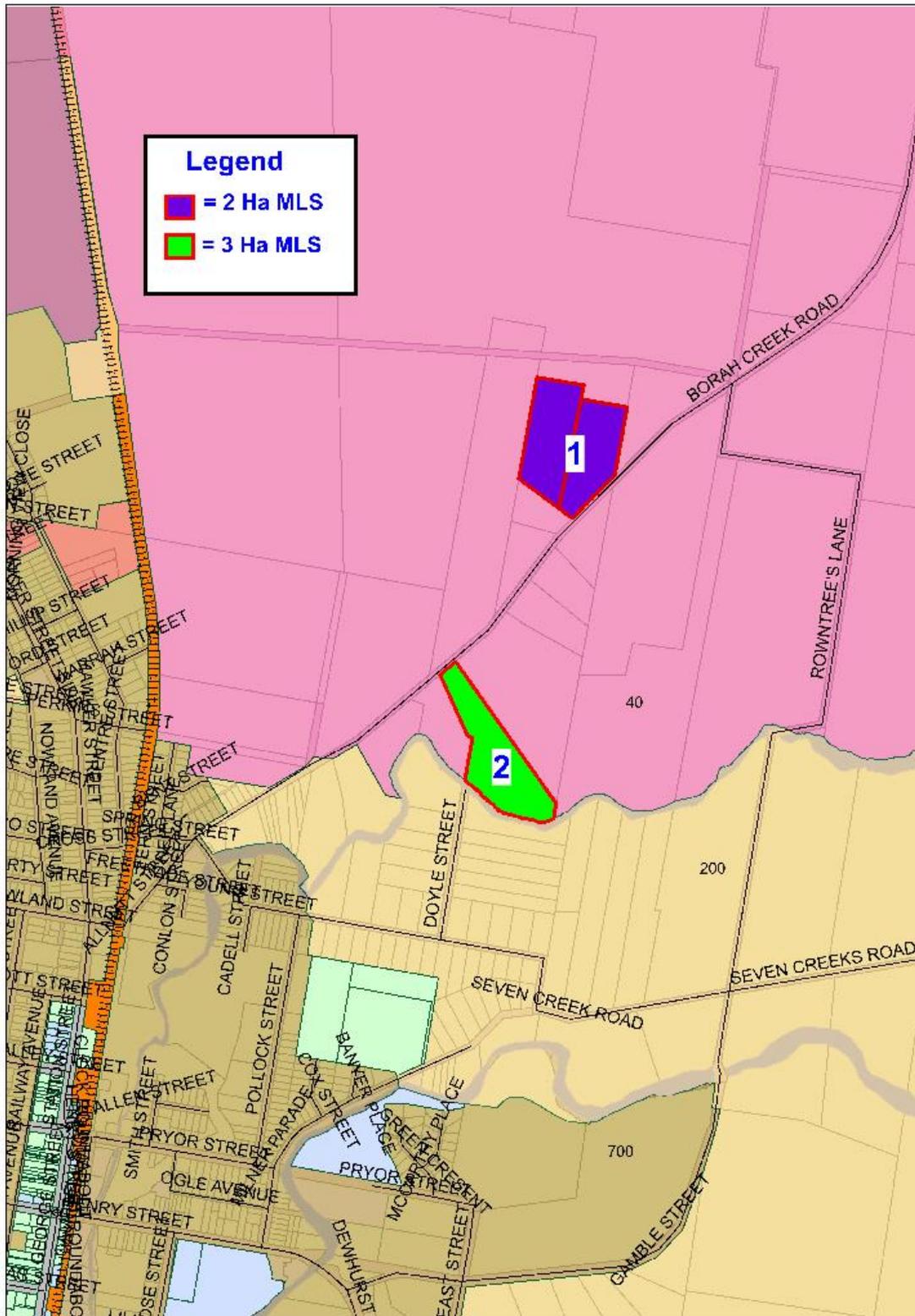


Figure 6. Proposed Minimum Lot Sizes for Map Ref. No. 1 & No. 2.



Figure 7. Aerial Image of Lots 5 & 6 Section 40 DP 758863 (Map Ref. No. 3).



Figure 8. Existing Land Zoning for Map Ref. No. 3.

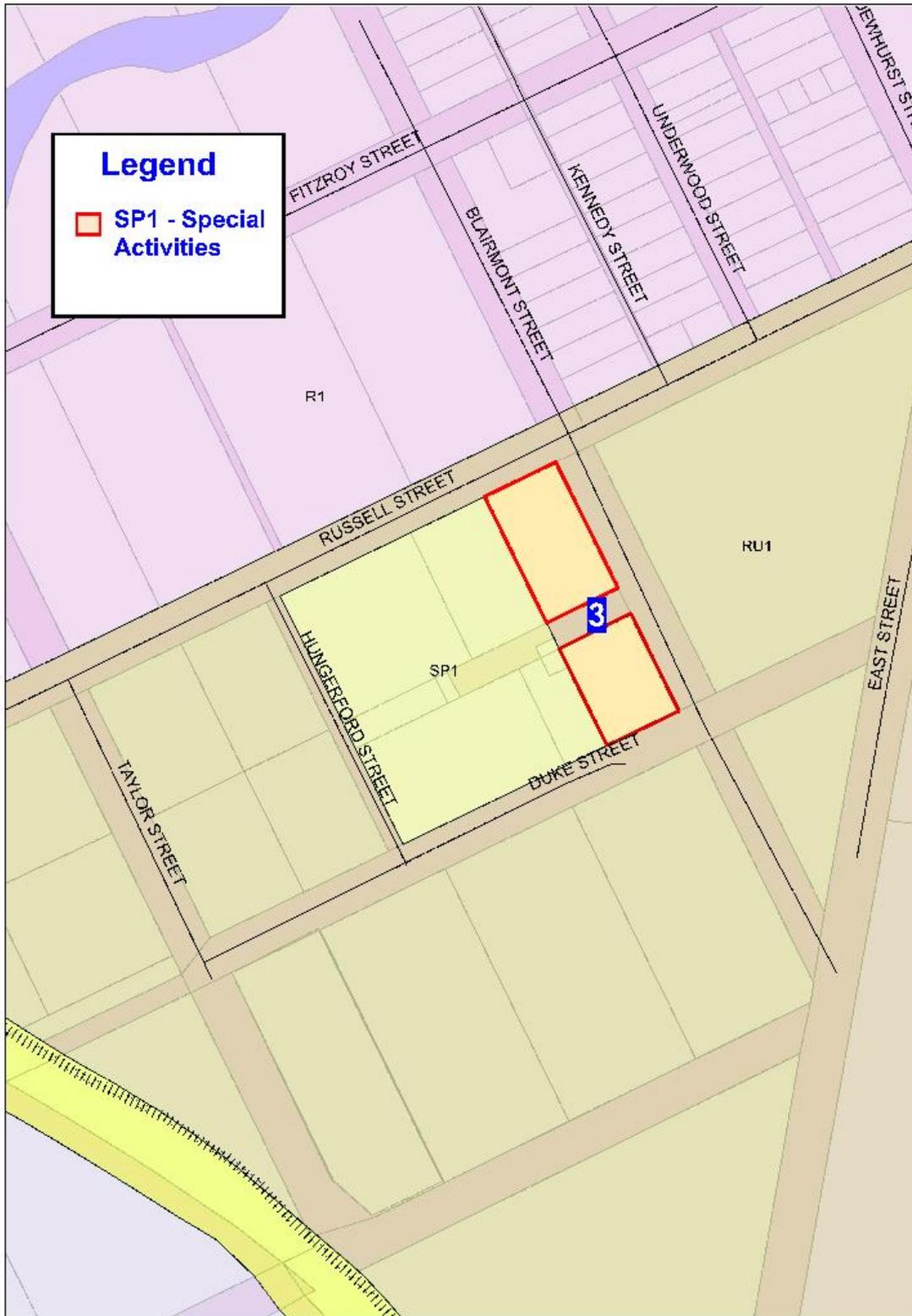


Figure 9. Proposed Land Zoning for Map Ref. No.3.