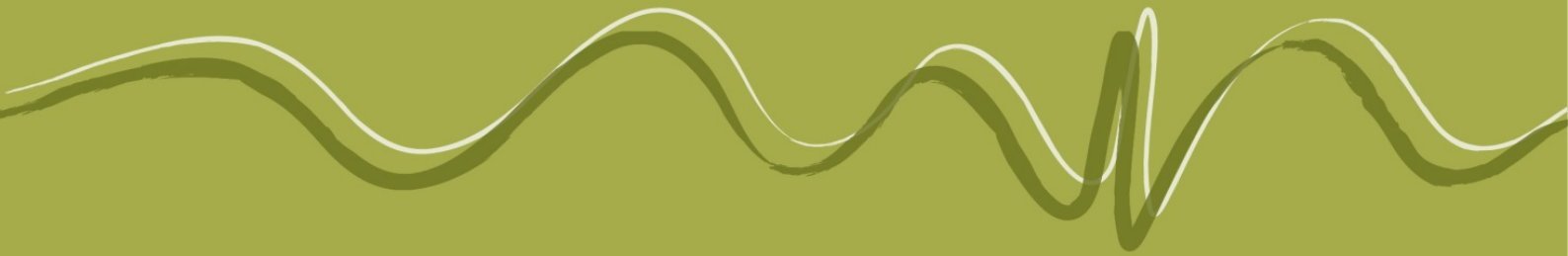


Planning Proposal

Hampton Road, Waterview Heights



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1. Introduction

1.1 Summary of the Planning Proposal

GeoLINK has been engaged by Waterview Heights Developments Pty Ltd to prepare a Planning Proposal for the rezoning of land in Hampton Road, Waterview Heights. The site is described as Lot 5 DP 1179232 (the site). The Proposal is to rezone a portion of the site from RU2 Rural Landscape to R5 Large Lot Residential to allow for the future subdivision of the rezoned land into large lot residential allotments with one larger residue lot containing the existing vegetated land. The remainder of the land is proposed to be rezoned E2 Environmental Conservation. The original Planning Proposal had proposed that this residual land remain as RU2 Rural Landscape, however this was not supported by the Office of Environment and Heritage or Clarence Valley Council both of which advised that the residual land should be rezoned to E2 Environmental Conservation. As a result, the Planning Proposal has been amended and an altered Gateway determination is sought from the Department of Planning and Environment.

The site is located within the Clarence Valley Local Government Area and therefore the Clarence Valley Local Environmental Plan 2011 (CVLEP 2011) applies to the land. The site is currently zoned RU2 Rural Landscape however adjoins land zoned R5 Large Lot Residential. Clause 4.1 - minimum subdivision lot size and associated lot size maps, require that the subdivision of the subject site must result in lots that have a minimum area of 40 ha. It is proposed to undertake a subdivision of the land that involves subdivision of lots less than 40 ha and therefore an amendment to CVLEP 2011 is required.

1.2 The Site and Locality

Lot 5 DP 1179232 is located in Waterview Heights which is a large lot residential (rural residential) subdivision approximately seven kilometres west of Grafton. Waterview Heights is dissected by the Gwydir Highway with the majority of the large lot residential development on the northern side of the Highway. The subject site is located south of the Gwydir Highway. A locality plan of the site is shown as **Illustration 1.1** and an aerial photograph of the site is shown as **Illustration 1.2**. Photographs of the site are shown in **Plates 1.1 to 1.4**.



Plate 1.1 Site Image 1



Plate 1.2 Site Image 2



Plate 1.3 Site Image 3



Plate 1.4 Site Image 4

The site is 51.95 ha in area and comprises a strip of open pastoral land along Hampton Road with individual/ small clusters of trees and forested areas primarily in the west of the cleared land. It is located adjacent to rural (pastoral and forested) land to the west with areas of large lot residential land to the east, north and south-east. **Illustration 1.3** shows the existing zoning of the site and surrounding land.

1.3 Proposed Future Use of the Land

The proponents propose to subdivide the land into 11 lots. 11 lots would have a minimum area of 4,000 m² all with frontage to Hampton Drive and one residue lot with an area of approximately 47.5 ha. A potential lot layout is shown in **Illustration 1.4**. The existing minimum lot size in this area pursuant to CVLEP 2011 is shown as **Illustration 1.5**.

1.4 Previous Subdivision Relating to the Land

Development Consent No. SUB2011/0059 approved a five lot subdivision of Lot 2411 DP709698 and Lot 9 DP 820604 on 01 February 2012. The subject land (Lot 5 DP 1179232) is the residue parcel of this subdivision. The registered plan of subdivision is attached as **Appendix A**.

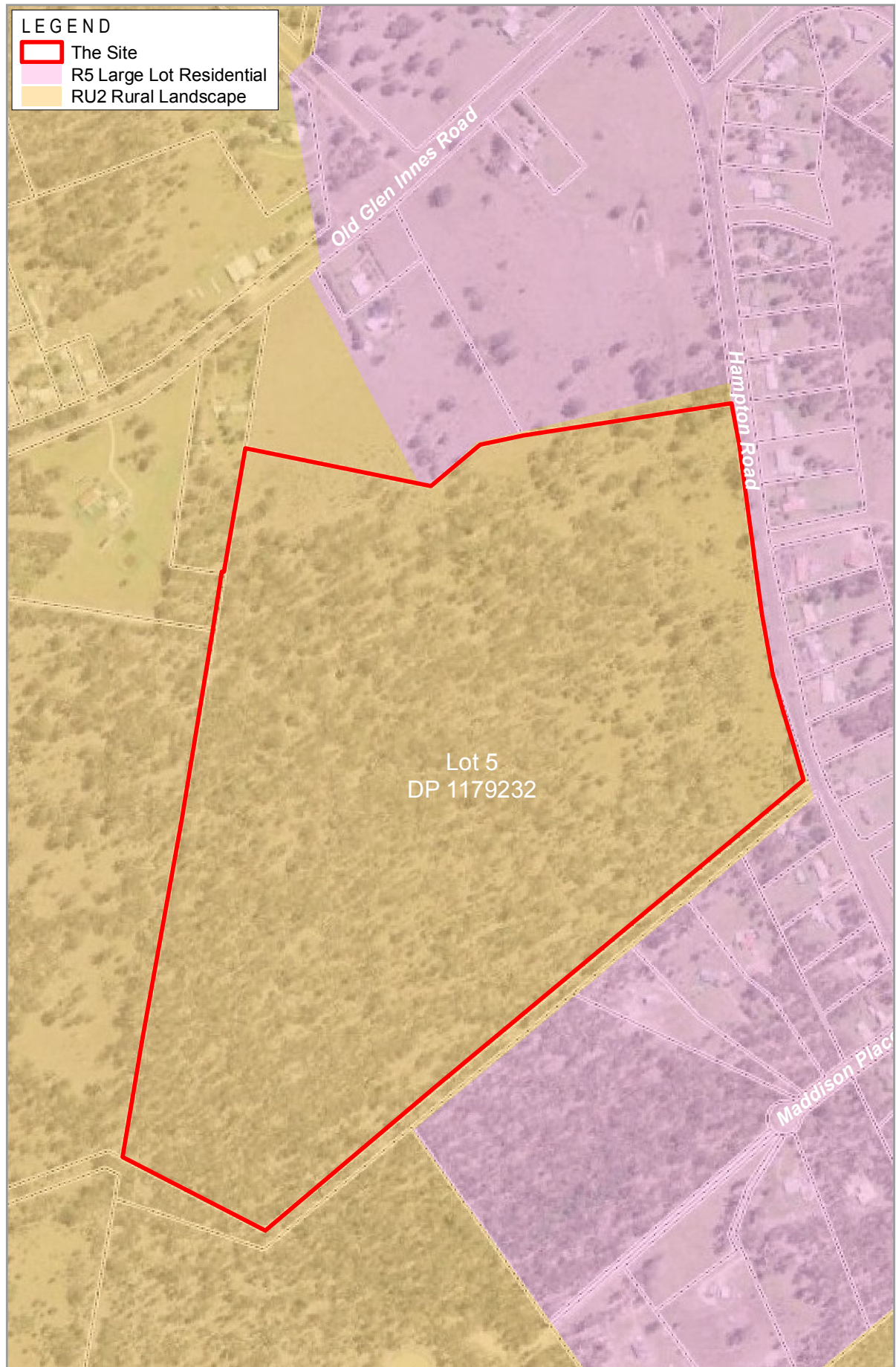


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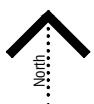
Planning Proposal - Hampton Road, Waterview Heights
2440-1006

Zoning Map

Illustration 1.3



LEGEND
— Lot boundary



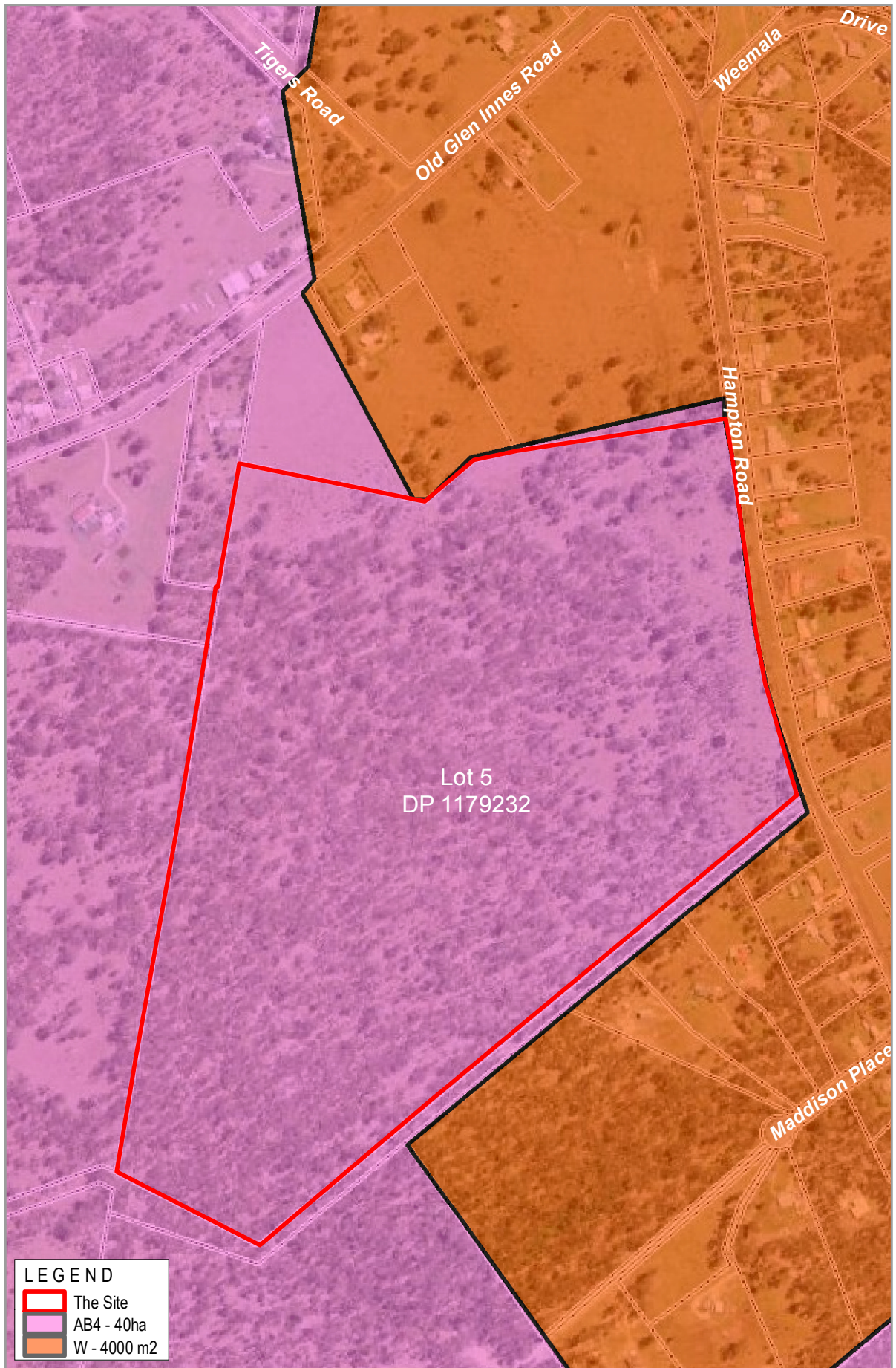
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Proposed Plan of Subdivision

Planning Proposal - Hampton Road, Waterview Heights
2440-1021

Illustration 1.4



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Planning Proposal - Hampton Road, Waterview Heights
2440-1018

Minimum Lot Size

Illustration 1.5



2. Proposal Objective (Part 1)

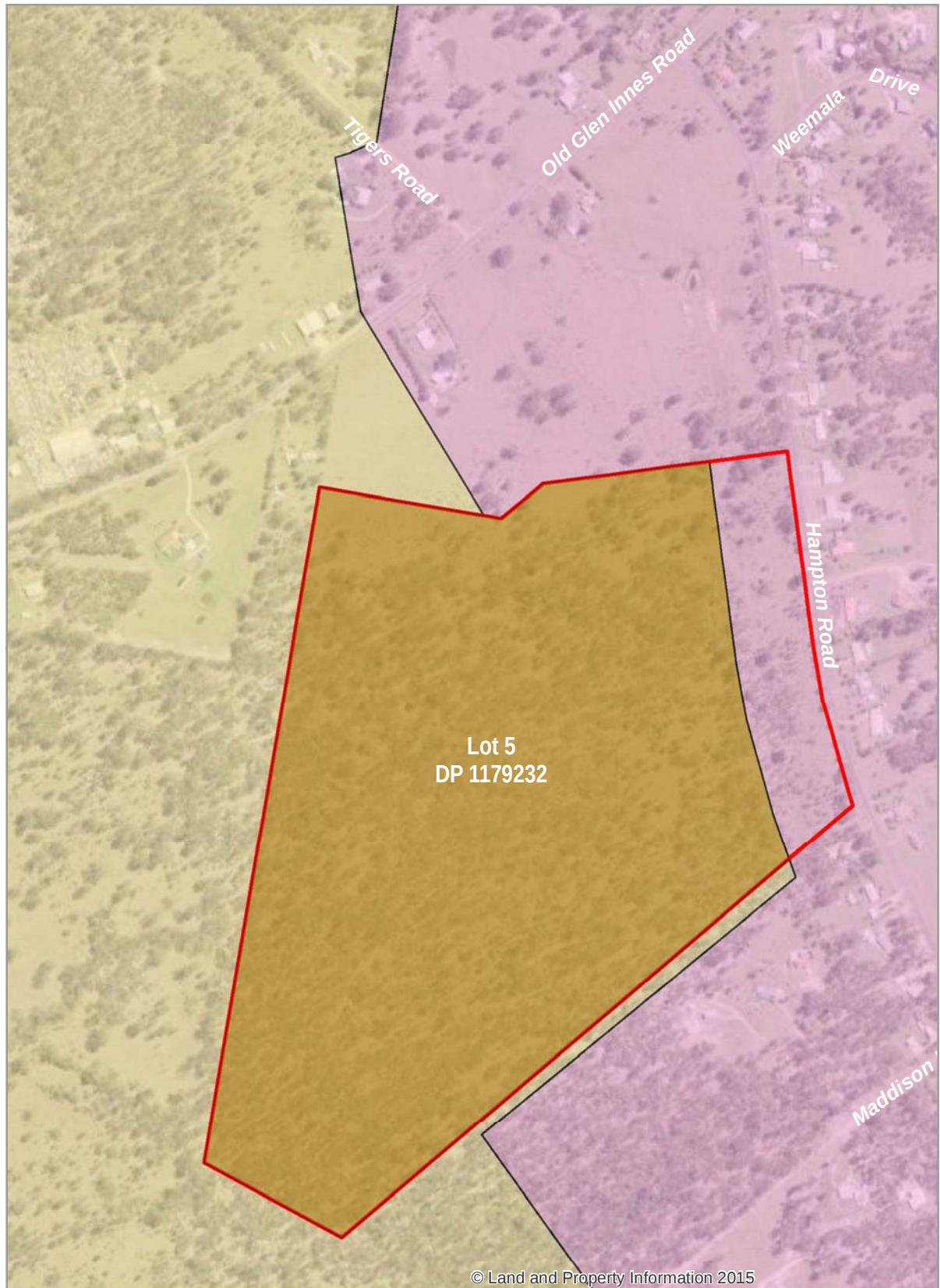
This Planning Proposal seeks to amend Clarence Valley Local Environmental Plan 2011 by rezoning a portion of Lot 5 DP 1179232 which is located adjacent to the existing Waterview Heights large lot residential estate from the current RU2 Rural Landscape Zone to R5 Large Lot Residential Zone to provide for sustainable infill development. The land will provide opportunities for conventional large lot residential development on land that is suitable for such development. The Planning Proposal also seeks to amend the Lot Size Map to allow for a minimum lot size of 4000 m² for the land proposed to be rezoned. The remainder of the land is proposed to be rezoned E2 Environmental Conservation and would be contained within a future residue lot. This lot, which would have frontage to Hampton Road, will also include land zoned R5 Large Lot Residential (to which any future dwelling would be restricted).



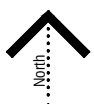
3. Explanation of Provisions (Part 2)

The Planning Proposal will amend the CVLEP 2011 by an:

- amendment of the CVLEP 2011 Land Zoning Map in accordance with the proposed zoning amendment map shown in **Illustration 3.1** to change the zoning of part of the subject land from RU2 Rural Landscape to R5 Large Lot Residential with the remainder of the land proposed to be rezoned E2 Environmental Conservation; and
- amendment of the CVLEP 2011 Lot Size Map in accordance with the proposed amendment map shown in **Illustration 3.2** change the minimum lot size to 4000 m².



LEGEND	
	The site
	E2 Environmental Conservation
	R5 Large Lot Residential
	RU2 Rural Landscape



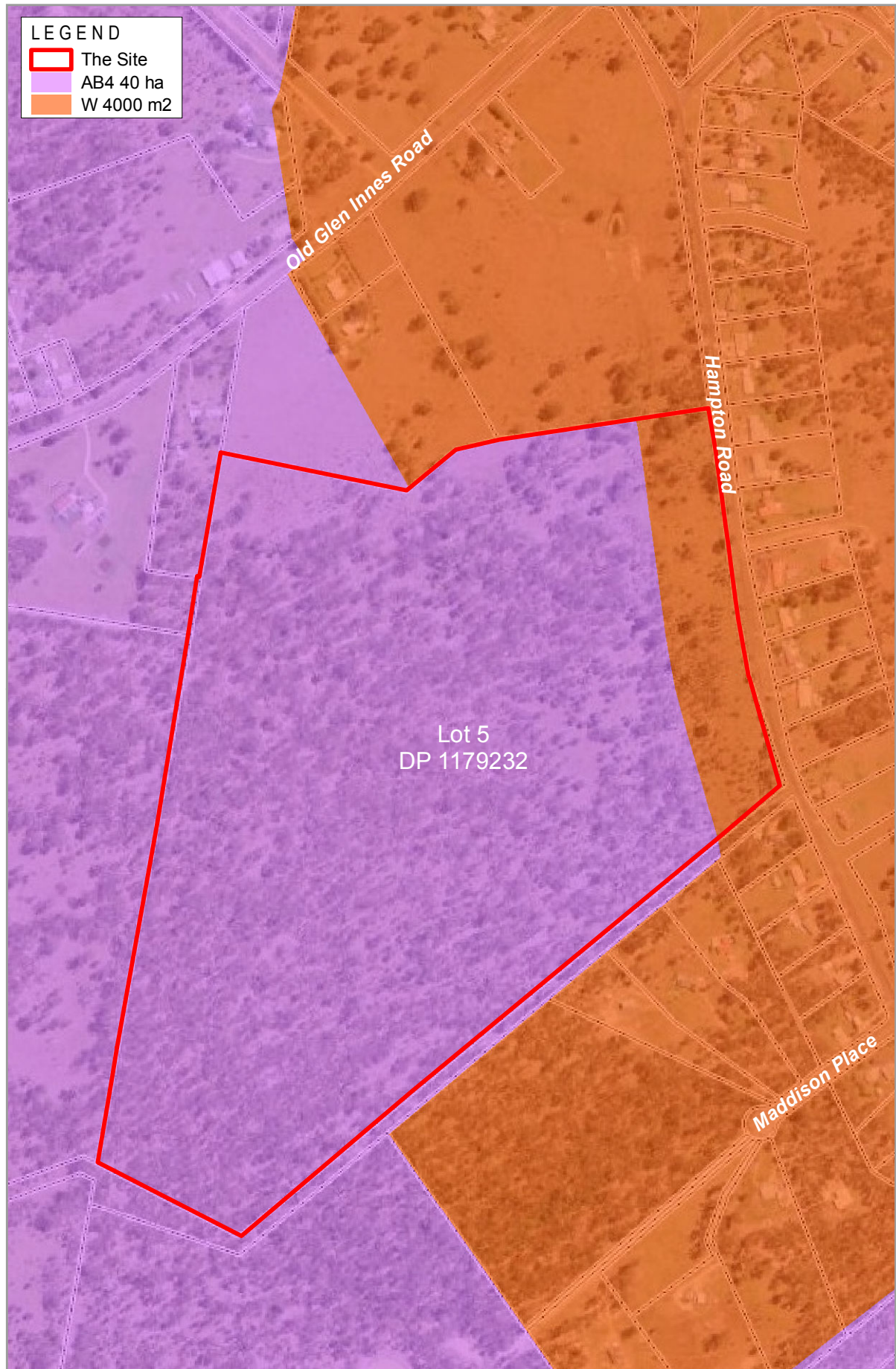
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Proposed Ammendment to Zoning Plan

Planning Proposal - Hampton Road, Waterview Heights
2440-1024

Illustration 3.1



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Proposed Amendment to Minimum Lot Size Map

Planning Proposal - Hampton Road, Waterview Heights
2440-1009

Illustration 3.2



4. Justification (Part 3)

4.1 Need for Planning Proposal

4.1.1 Is the Planning Proposal a result of any strategic study or report?

There is no local or state strategic study or report that specifically references the site or the Planning Proposal. The Planning Proposal is therefore not the result of any such study or report. The sites' relationship to relevant local and state strategic plans is discussed further in **Section 4.2**. The land proposed for rezoning is located between land that is already zoned R5 Large Lot Residential and would provide for infill development.

4.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The proposed outcome is to allow for the rezoning and future subdivision of a small strip of land that adjoins an existing large lot residential area that is generally developed. It is considered that the Planning Proposal is the most appropriate way to achieve this.

4.1.3 Is there a community benefit?

The community benefit associated with the development would be in the provision of additional large lot residential land options/ diversity in a manner that minimises environmental, social and economic impacts. The proposal will also involve the protection of most of the land under an E2 Environmental Conservation zone.

4.1.4 Planning justification for rezoning additional large lot residential land

Council has requested more information on the need for the proposed rezoning. Council has advised that a cursory analysis has indicated that existing land already zoned R5 Large Lot Residential at Waterview Heights has the capability of yielding approximately 180 lots. Which, based on an optimistic demand of 10-12 lots per annum, suggests that a supply of 15 years exists in this locality.

It is agreed that there exists a number of undeveloped parcels of land within the Waterview Heights locality. It is also agreed that Council's preliminary analysis of 180 lots is accurate. However, it is considered that Council is not taking into consideration the numerous development constraints that exist with many of the sites in this locality. Jim O'Donohue from Bothamley & O'Donohue Surveying, who has substantial knowledge of this area, has assessed the development potential and constraints of the vacant land that exists within the Waterview Heights estate. These lots are identified in **Illustration 4.1**. A commentary on the constraints of each lot is outlined in **Table 4.1** below.

Table 4.1 Assessment of Development Yield

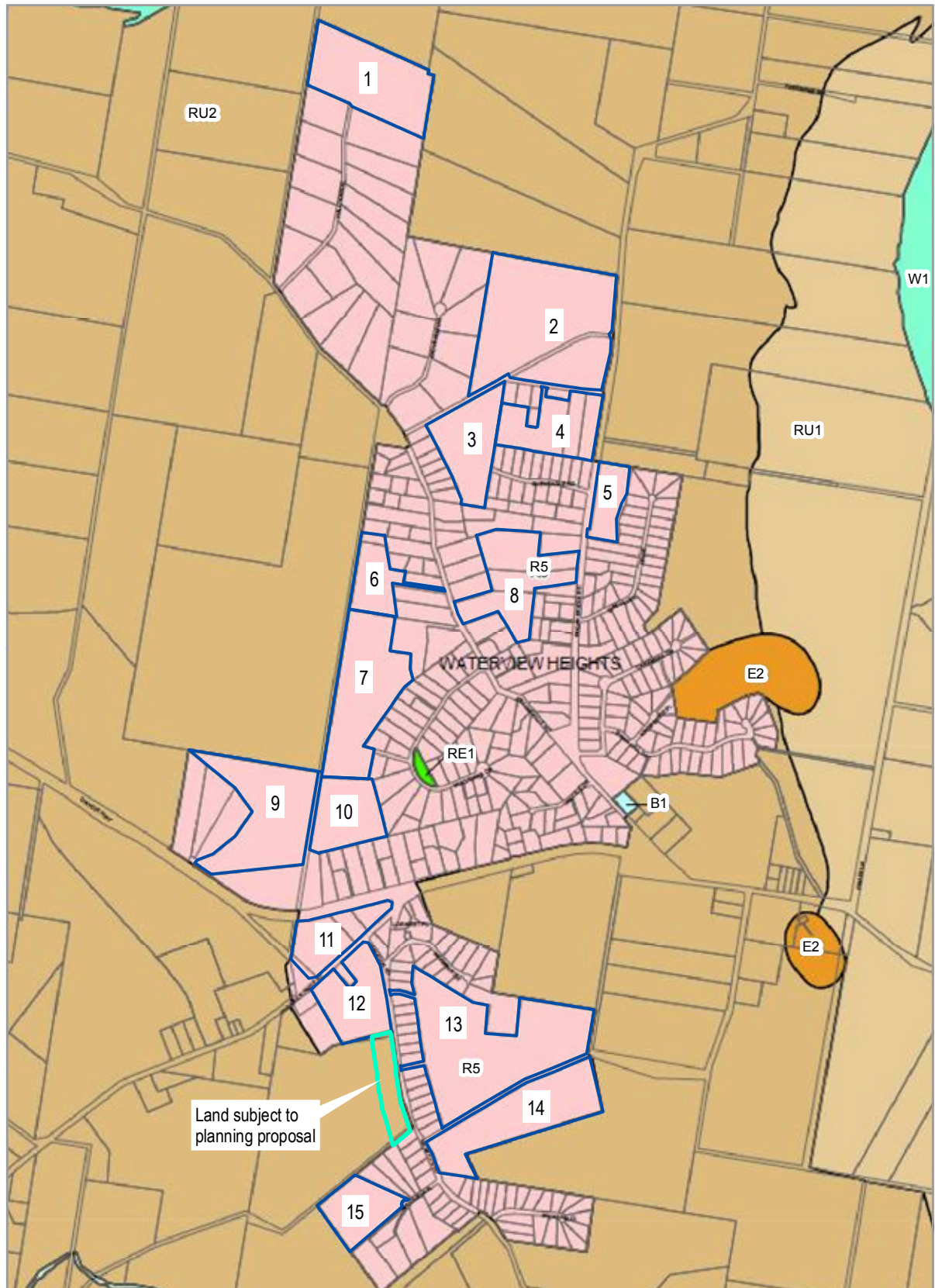
Map Identifier	Property Description	Comment on Development Potential	Likely Lot Yield
1	Lot 14 DP749852	- Minimum Lot Size of 4 ha - Half the lot is vegetated	4
2	Lot 5 and 7 DP259600	Lot 5 is dissected by a water course and contains a small amount of flood prone land	8
3	Lot 3 DP827437	- Contains scattered vegetation - Was subject of a previous development application which was not supported by the then Pristine Waters Council due to the presence of a square tailed kite nest - Would require construction of a new road	15
4	Lot 6 DP 801497	- Would require upgrade to Eucalypt Drive - Expensive to develop	10
	Lot 1 DP705800	Access to Rogan Bridge Road may be very limited due to poor sight distances	4
5	Lot 79 DP1101418	Is almost entirely flood prone – very limited development potential	0
6	Lot 3 DP1174732	- Is a 'battle axe style block - Access would be problematic due to sight distances - Is vegetated and is likely to contain core Koala Habitat - Has limited development potential and very expensive to develop	10
7	Lot 30 DP 851051	- Has been the subject of a long running DA that was withdrawn due to ecological issues - Contains core koala habitat - Has limited development potential and very expensive to develop	40
8	Various	Might be able to be developed to create a few infill lots.	10
9	Various	- Minimum Lot Size of 4 ha. - Vegetated land - Limited development potential	0
10	Lot 55 DP621142	- Is effectively land locked - Vegetated land - Limited development potential	0
11	Lot 3 DP569153	- Relatively constraint free - No access to Gwydir Highway	8
12	Lot 4 DP1179232	Relatively unconstrained	25



Map Identifier	Property Description	Comment on Development Potential	Likely Lot Yield
13	Lot 281 DP1088091	▪ Previous DA assessment revealed issues with contamination from waste tyre disposal ▪ DA was subsequently reduced from 66 to 16 lots ▪ Contains some vegetated lands ▪ Would require construction of new roads	30
14	Lot 1 DP 528751	▪ Would require construction of new road and be very expensive to develop	15
15	Lot 17 DP1031477	▪ Vegetated ▪ Access limited via cul-de-sac ▪ Limited development potential	3
Maximum land supply in the Waterview Heights area			182

As can be identified by the land supply analysis contained in **Table 4.1**, the yield analysis for the Waterview Heights locality is similar to Council's analysis. However, much of the land is subject to constraints that create significant obstacles that delay and often restrict approval of development of the land. These development constraints include ecological, flooding, access and contamination.

As outlined previously, the land proposed for rezoning is located within land that is already zoned R5 Large Lot Residential. We believe that this minor adjustment would simply provide for infill development and would not have a significant impact on the supply of large lot residential land. Although there still remains a number of potential lots (approximately 180) within the locality, it is contended that the land proposed for rezoning should be rezoned as it has very limited development constraints, can utilise existing infrastructure (sealed road, power and telecommunications) without the need for a substantial upgrade and is relatively in expensive to develop. It is also argued that the subject land should have been zoned for rural residential development when the Waterview Estate was previously planned. It is therefore considered that the proposed rezoning is justified and should proceed.



LEGEND

 Subject site	 B1 Neighbourhood Centre	 RU1 Primary Production
 Properties	 E2 Environmental Conservation	 RU2 Rural Landscape
	 R5 Large Lot Residential	 W1 Recreational Waterways
	 RE1 Public Recreation	



0 600

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Planning Proposal - Hampton Road, Waterview Heights
2440-1015

Assessment of Development Yield

Illustration 4.1



4.2 Relationship to Strategic Planning Framework

4.2.1 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Mid North Coast Regional Strategy

The Mid North Coast area has increased in popularity as a place to live and work. As a result, the region has seen a 70% increase in population over the past 25 years.

The overall aims of the Mid North Coast Regional Strategy (MNCRS) are to:

- *protect high value environments, including significant coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that new urban development avoids these important areas and their catchments;*
- *cater for a housing demand of up to 59 600 new dwellings by 2031 to accommodate the forecast population increase of 94 000 and any anticipated growth beyond this figure arising from increased development pressures in the southern part of the Region;*
- *ensure that new housing meets the needs of smaller households and an ageing population by encouraging a shift in dwelling mix and type so that 60 percent of new housing will be in greenfield locations and 40 percent in existing urban areas;*
- *ensure an adequate supply of land exists to support economic growth and the capacity for an additional 48 500 jobs in the Region by protecting existing commercial and employment areas and securing sufficient land to support new employment opportunities;*
- *encourage the growth and redevelopment of the Region's four major regional centres and six major towns through urban design and renewal strategies as a means of protecting sensitive coastal and natural environments and strengthening the economic and administrative functions of these centres as well as meeting increased housing density targets;*
- *protect the coast and the character of coastal villages by limiting growth to the agreed growth areas of towns and villages leaving greenbelts between settlements;*
- *direct new rural residential development to areas close to existing settlements away from the coast;*
- *only consider additional development sites outside of agreed local strategies if they can satisfy the Sustainability Criteria (Appendix1);*
- *designate a Coastal Area east of the proposed final alignment of the Pacific Highway from which application of the Sustainability Criteria will be excluded (noting that approximately 70 per cent of the future dwelling capacity identified within growth areas is already within the Coastal Area);*
- *limit development in places constrained by coastal processes, flooding, wetlands, important farmland and landscapes of high scenic and conservation value;*
- *protect the cultural and Aboriginal heritage values and visual character of rural and coastal towns and villages and surrounding landscapes; and*
- *where development or rezoning increases the need for State infrastructure, the Minister for Planning may require a contribution to the infrastructure having regard to the NSW Government State Infrastructure Strategy and equity considerations.*



Waterview Heights is located approximately seven kilometres from the town of Grafton, which is located in the Clarence Valley subregion, as defined by the MNCRS. Growth in this subregion is expected to occur in a number of new release areas in and around Grafton. As part of the strategy, the Department of Planning has prepared Growth Areas Maps for each of the subregions, to clearly identify where growth will occur. The site is not specifically identified as being a “Proposed Future Urban Release Area” in the Growth Areas Map No. 2 – Clarence South. The reason for this, however, is that the MNCRS did not identify any existing or future Large Lot Residential/ Rural Residential areas outside of the Coastal Zone. As identified in the aims of the MNCRS, additional development sites outside of growth areas can only be considered if they can satisfy the Sustainability Criteria of the strategy. The MNCRS Sustainability Criteria allow the NSW Government to take a strong position in relation to matters of urban settlement in the Mid North Coast confident in the knowledge that innovative development proposals can still be considered even though they may be outside of the Regional Strategy process. The Sustainability Criteria represent a clear, transparent list of matters that any new proposal will be assessed against. **Appendix B** provides an assessment of the Planning Proposal against these sustainability criteria.

MNCRS also outlines a number of considerations for the release of land for development. This Planning Proposal has considered the aims and principles and other requirements outlined in the strategy and, as demonstrated in **Appendix B**, it considered that the future development of the site is consistent with the MNCRS given its small scale and proximity to land that is zoned R5 Large Lot Residential.

4.2.2 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Clarence Valley Settlement Strategy 1999

Clarence Valley Council has no specific Large Lot Residential/ Rural Residential Strategy that guides the provision of future large lot residential development within the Clarence Valley LGA. The most current plan that provides guidance on the future zoning and subsequent development of land for large lot residential purposes is the Clarence Valley Settlement Strategy 1999 (CVSS 1999).

The objectives of the CVSS 1999 are to:

- accommodate future growth in suitable locations so as to minimise social, environmental and economic costs to State and local government, and to the wider community;
- build strong, self-reliant communities emphasising well-being and lifestyle;
- acknowledge and protect the natural environment and ecological processes;
- maintain and enhance biodiversity;
- preserve and enhance the Clarence Valley's urban, rural and scenic character; and
- build on the role of Grafton as the sub-regional centre and optimise the level of services offered.

CVSS 1999 states that rural residential settlement will be contained in areas linked to existing settlements which can provide services and community identity and is to be clustered in areas having a direct functional relationship with town or village settlements. The Strategy discourages dispersed residential settlement at locations such as Halfway Creek, Kungala, Lanitza, Whiporie, Ewingar, Seelands, Coaldale, Braunstone, Blaxlands Flat-Kangaroo Creek and Pillar Valley, and dispersed agricultural populations in these and other parts of the Upper Clarence Valley.



The Waterview Heights locality is referenced in the Clarence Valley Settlement Strategy as an area that has the potential to be developed as an urban village. The strategy states that:

“Waterview Heights has the potential to increase services for residents while reducing costs and impacts of development, improving energy and water conservation and maintaining some of the elements of the rural lifestyle. This would entail creating a carefully designed village precinct on undeveloped land north of the Gwydir Highway. A precinct could offer a range of smaller allotments from 700-1000 square metres, and would be designed as a whole to achieve a settlement which is oriented to the natural features of the site, and maximises rural outlook while creating a sense of neighbourhood.”

The subject land is not located within the area identified for the potential village precinct and therefore would not frustrate its future development. It is, however, located adjacent to land that is zoned R5 Large Lot Residential which is south of the Gwydir Highway and part of the Waterview Heights large lot residential estate. The subject land is located between land that is already zone R5 Large Lot Residential and it is considered that the rezoning of this land would provide for sustainable infill development through the use of existing road, water, electricity and telecommunication services.

4.2.3 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following section provides an outline of the State Environmental Planning Policies potentially applicable to the Planning Proposal and future development of the site and provides commentary on issues to be considered by this Planning Proposal.

State Environmental Planning Policy No 44 - Koala Habitat Protection

State Environmental Planning Policy No. 44 (SEPP 44) was gazetted in January 1995. It encourages the conservation and management of naturally vegetated areas that provide habitat for Koalas to ensure that permanent free-living populations will be maintained over their present range. The policy applies to 106 local government areas. Local councils cannot approve development in an area affected by the policy without an investigation of core Koala habitat. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of Koalas and their habitat.

A Koala Plan of Management (KPoM) was prepared for the site as part of Development Application No. SUB2011/0059 (refer **Section 1.4** for further details on the subdivision) and also for a future subdivision of Lot 4 which has not been submitted as yet. The status of the KPoM is unclear as it is not referenced in Development Consent No. SUB2011/0059. It is also not attached, by way of a “restriction as to user”, to any of the lots created by this subdivision. The KPoM is attached as **Appendix C** and the Ecological assessment for the approved subdivision is attached as **Appendix D**.

The land proposed to be rezoned contains a small patch of vegetation (estimated to consist of less than ten trees) that has been assessed as Potential Koala Habitat (refer **Appendix C**). This vegetation would not require removal as part of any future large lot residential development of the site. The KPoM outlines measures to alleviate the impacts of the proposal to at least maintain the current habitat values of the study area for the Koala. The site’s broader residual land outside the proposed R5 zone would be protected under an E2 Environmental Conservation zone.

The KPoM could be updated as part of any future development application for the subdivision.



State Environmental Planning Policy No 55 - Remediation of Land

GeoLINK has prepared a Stage 1 Preliminary Site Investigation (PSI) report to assess the likelihood of the subject land being contaminated by past practices. The PSI is attached as **Appendix E** and was required by Clarence Valley Council after initial review of the Planning Proposal.

The subject land has historically been used for extensive agriculture (cattle grazing). Based on a review of the available desktop data and observations made during an inspection of the site, the PSI has determined that the site is unlikely to have been contaminated by previous land uses and practices. No specific contaminants have been identified onsite as a result of observations made during the site inspection and the searches of the various databases related to land contamination did not reveal any potential for contamination on the site. Locations that previously contained waste material (metal, tyres, wire etc.) did not present signs of contamination. As the waste and rubbish material have been removed and the site remediated, it is considered unlikely that contamination to underlying soils from this waste would present a risk to the surrounding environment. The PSI has therefore determined that the proposed rezoning can proceed without laboratory testing or further investigation.

State Environmental Planning Policy (Rural Lands) 2008

The aims of this Policy are as follows:

- To facilitate the orderly and economic use and development of rural lands for rural and related purposes.
- To identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State.
- To implement measures designed to reduce land use conflicts.
- To identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations.
- To amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

This SEPP provides for the protection of agricultural land that is of State or regional significance. The SEPP contains specific provisions that relate to the assessment of development applications over rural land. Under section 117 of the Act, the Minister has directed that councils exercise their functions relating to local environmental plans in accordance with the Rural Planning Principles contained in the Rural Lands SEPP.

The SEPP contains the following rural planning principles:

- a. *The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.*
- b. *Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State.*
- c. *Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development.*
- d. *In planning for rural lands, to balance the social, economic and environmental interests of the community.*

- 
- e. *The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.*
 - f. *The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities.*
 - g. *The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing.*
 - h. *Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proximity of the proposed rezoning site to existing large lot residential development and vegetated land offers little or no opportunity for broad acre farming and severely limits the scope of agricultural pursuits on the site, given the potential for future land use conflicts. The vegetated land to the east of the land proposed to be rezoned and the presence of the existing and approved large lot residential development would provide a buffer to any surrounding agricultural activities such as small scale cattle grazing and cropping.

The subject site is currently zone RU2 Rural Landscape under the provision of CVLEP 2011. The site is not mapped as State or regionally significant agricultural land on the NSW Government Mid North Coast Farmland Mapping 2008. It is mapped as other rural land and is adjacent to land mapped as rural residential development.

Given the low capability of the land for agricultural land uses and its proximity to existing large lot residential development and vegetated land, the proposed rezoning is considered to be generally consistent with the rural planning principles contained within this SEPP.

4.2.4 Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Directions made under section 117 of the Environmental Planning and Assessment Act 1979, issued on 1 July 2009, which are relevant to the site, are identified and addressed in **Table 4.2** below.

Table 4.2 Section 117 Directions

Direction No.	Requirements/Objectives/Relevance	Consideration
1. Employment and Resources		
1.1 Business and Industrial Zones	Not Relevant	The Planning Proposal does not affect land within an existing or proposed business or industrial zone.
No. 1.2 – Rural Zones	A Planning Proposal must: ■ not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. ■ not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This Planning Proposal seeks to rezone a small section of land that is located between land zoned and developed as lot residential land. The proposal is not specifically referenced in the CVSS 1999 however the Waterview Heights area is specifically referenced in the strategy as having potential to be developed further as a village.



Direction No.	Requirements/Objectives/Relevance	Consideration
	A Planning Proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the Planning Proposal that are inconsistent are: a. justified by a strategy which: i. gives consideration to the objectives of this direction; ii. identifies the land which is the subject of the Planning Proposal (if the Planning Proposal relates to a particular site or sites), and iii. is approved by the Director-General of the Department of Planning. b. justified by a study prepared in support of the Planning Proposal which gives consideration to the objectives of this direction, or c. in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or d. is of minor significance	The proposed rezoning would not impact on the development/ creation of this village precinct. It would, in fact, assist in its development by providing additional large lot residential land around the precinct area. The proposal is not specifically referenced in the MNCRS however an assessment against the Sustainability Criteria of the Strategy demonstrates that the proposal is consistent with the suggested threshold sustainability Criteria for defining potential development boundaries (refer Appendix B). Given the small amount of land proposed to be rezoned and the fact that the proposal adjoins existing large lot residential land, the proposal provides for infill development and is therefore considered to be of minor significance.
1.3 Mining, Petroleum Production and Extractive Industries	Not relevant	The Planning Proposal would not have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials.
1.4 Oyster Aquaculture	Not relevant	The Planning Proposal does not seek a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate".
1.5 – Rural Lands	A Planning Proposal must be consistent with the Rural Planning Principles listed in <i>SEPP Rural Lands</i> .	See above in Section 4.2.3 . The proposal is consistent with the Rural Planning Principles and Rural Subdivision Principles listed in <i>SEPP Rural Lands</i> .



Direction No.	Requirements/Objectives/Relevance	Consideration
	A Planning Proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the Planning Proposal that are inconsistent are justified by a strategy which: a. gives consideration to the objectives of this direction; e. identifies the land which is the subject of the Planning Proposal (if the Planning Proposal relates to a particular site or sites), and f. is approved by the Director-General of the Department of Planning.	
2. Environment and Heritage		
2.1 Environment Protection Zones	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The Office of Environment (OEH) has recommended that the remaining land be rezoned from RU2 Rural Landscape to Zone E2 Environmental Conservation.	The Planning Proposal has been amended to rezone the residual land from RU2 Rural Landscape to Zone E2 Environmental Conservation to be consistent with OEH and Council recommendations.
2.2 Coastal Protection	Not applicable	The Planning Proposal does not impact on any land that is within the Coastal protection zone.
2.3 Heritage Conservation	Not applicable	The Planning Proposal is considered to be consistent with this direction.
2.4 Recreation Vehicle Areas	Not applicable	The Planning Proposal does not seek to enable land to be developed for the purpose of a recreation vehicle area within the meaning of the Recreation Vehicles Act 1983.
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within: a. an existing or proposed residential zone (including the alteration of any existing residential zone boundary);	The proposal is adjacent to existing large lot residential development and seeks to rezone the land to allow for such development. The proposal is not inconsistent with this direction.



Direction No.	Requirements/Objectives/Relevance	Consideration
	b. any other zone in which significant residential development is permitted or proposed to be permitted.	
3.2 Caravan Parks and Manufactured Home Estates	Not applicable	The Planning Proposal does not affect a caravan park or manufactured home estate.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses. Planning Proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	The proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: ■ improving access to housing, jobs and services by walking, cycling and public transport; ■ increasing the choice of available transport and reducing dependence on cars; ■ reducing travel demand including the number of trips generated by development and the distances travelled, especially by car; ■ supporting the efficient and viable operation of public transport services; and ■ providing for the efficient movement of freight.	The proposal adjoins and existing large lot residential area and would utilise an existing sealed road for access to all future lots. The proposal is considered to be consistent with this direction.
3.5 Development Near Licensed Aerodrome	Not Applicable	The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.
3.6 Shooting Ranges	Not applicable	The Planning Proposal does not seek to create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.

Direction No.	Requirements/Objectives/Relevance	Consideration
4. Hazard and Risk		
4.1 Acid Sulfate Soils	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The site is not within land likely to contain acid sulfate soils.
4.2 Mine Subsidence and Unstable Land	Not applicable	The Planning Proposal is not within a designated mine subsidence district and is not identified as being unstable.
4.3 Flood Prone Land	Not applicable	The site is not subject to flooding
4.4 Planning for Bushfire Protection	A Planning Proposal must: a. have regard to Planning for Bushfire Protection 2006, b. introduce controls that avoid placing inappropriate developments in hazardous areas, and c. ensure that bushfire hazard reduction is not prohibited within the APZ.	The Planning Proposal is considered to be consistent with this direction. The land subject to this Planning Proposal is not mapped as being bushfire prone land on Council's bushfire prone land mapping. However the site is adjacent to vegetated land that would create a bushfire risk for future large lot residential development. The Planning Proposal was referred to the NSW Rural Fire Service on 10 November 2015 and comments from the agency were provided on 10 December 2015 supporting the proposed rezoning (refer to section 4.4.2).
5. Regional Planning		
No. 5.1 Implementation of Regional Strategies	Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.	The proposal is subject to the Mid North Coast Regional Strategy. MNCRS does not identify the site as a growth area, a proposed future urban release area or proposed employment lands. The land falls within the "environmental assets and rural land, national parks and state forests" land use category. The strategy however does not identify any existing or future large lot residential areas outside of the Coastal Zone. The Planning Proposal is therefore not inconsistent with the Regional Strategy.



Direction No.	Requirements/Objectives/Relevance	Consideration
		MNCRS requires that additional development sites outside of growth areas should only be considered if they can satisfy the Sustainability Criteria of the strategy. Appendix B of the Planning Proposal provides an assessment of the Planning Proposal against this sustainability criteria.
5.2 Sydney Drinking Water Catchment	Not applicable	The Planning Proposal is not within the Sydney Drinking Water Catchment.
No. 5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	The site is not identified as being regionally significant farmland.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	This direction does not apply to the Planning Proposal.
5.8 Second Sydney Airport: Badgerys Creek	Not applicable	This direction does not apply to the Planning Proposal.
5.9 North West Rail Link Corridor Strategy	Not applicable	This direction does not apply to the Planning Proposal.
6. Local Plan Making		
6.1 Approval and Referral Requirements	Not applicable	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a minister or public authority and does not identify development as designated development.
6.2 Reserving Land for Public Purposes	Not applicable	This direction does not apply to the Planning Proposal.



Direction No.	Requirements/Objectives/Relevance	Consideration
6.3 Site Specific Provisions	Not applicable	The Planning Proposal is considered to be consistent with this direction. The proposal does not intend to amend another environmental planning instrument in order to allow a particular development proposal to be carried out. The Planning Proposal does not refer to drawings for any such development.
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable	This direction does not apply to the Planning Proposal.

4.3 Environmental, Social and Economic Impact

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

The site was previously subject to an application for subdivision (approved under Development Consent SUB2011/0059). A flora and fauna survey and impact assessment (GeoLINK 2011) was prepared to accompany a development application (refer **Appendix D**). The purpose of this assessment was to:

- provide baseline data on the ecological attributes of the site via intense ecological survey;
- identify any ecological constraints for the proposed developments;
- identify opportunities to avoid or mitigate potential impacts;
- address the following legislation in relation to native flora and fauna:
 - *Environmental Planning and Assessment Act 1979 (EP&A Act)*;
 - *Threatened Species Conservation Act 1995 (TSC Act)*;
 - *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*; and
 - *State Environmental Planning Policy (SEPP) 44 – Koala Habitat Protection*.

The flora and fauna survey and impact assessment found that the study area and surrounding properties have experienced an extensive disturbance history due to agricultural and rural-residential development. The local landscape now comprises a mosaic of cleared grazing land, rural-residential development and forest/ woodland. Three vegetation communities were identified on the site: Pastoral Grassland, Spotted Gum Forest and Aquatic Dam Vegetation. No threatened flora species or EECs listed under the TSC Act or EPBC Act were recorded or considered likely occurrences on or directly adjacent to the site.



Three threatened fauna species were recorded during the survey: the Koala, Grey-headed Flying-fox and the Little Bent-wing bat. Fifteen other threatened fauna species listed under the TSC Act were variably considered potential occurrences. A SEPP 44 Koala Habitat Assessment identified the site as SEPP 44 Potential Koala Habitat. A subsequent Core Koala Habitat assessment was undertaken. Review of local records found scattered Koala records in the Waterview Heights area. While no Koalas were directly recorded during the previous survey, Koala scats (and scratches) were detected across the study area at varying intensities indicating variable levels of Koala activities from low and no activity, to medium and high levels of activity. The areas indicating medium and high levels of Koala activity were located in the large stand of Spotted Gum forest on the subject lot. Overall it was found that the study area supports a core part of local Koala/s range, and constitutes core Koala habitat as defined under SEPP 44. A Koala Plan of Management was therefore prepared to accompany the Development Application (Refer **Appendix C**). The status of the KPOM is unclear as it is not referenced in Development Consent No. SUB2011/0059. It is also not attached, by way of a “restriction as to user”, to any of the lots created by this subdivision.

The area of the site proposed for rezoning comprises mostly cleared grazing land, with the main area of habitat in the study area to be retained under an E2 Environmental Conservation zone. Despite an extensive disturbance history, the previous ecological study found that the Spotted Gum forest still retained some ecological values for the Koala and mobile and somewhat habitat generalist threatened fauna. Key habitat features on the site include Koala browse species and three hollow-bearing trees.

The main ecological impacts of the Planning Proposal would be associated with removal of scattered pastoral grassland trees and associated small patches of forest and would likely cause minimal loss of vegetation and habitat. The other main potential impacts of the proposal are generally low risk, existing threats which would not be significantly increased (e.g. traffic collision), minor in nature (e.g. erosion and sedimentation impact) and/or can be readily mitigated against (e.g. domestic pet predation). A range of mitigation measures would be provided to minimise the impacts of any future development of the land on local biodiversity. The approximately 44 ha of Spotted Gum forest in the remainder of the study area, would be retained and would not be directly affected by the Planning Proposal.

The NSW Office of Environment and Heritage (OEH) was consulted by council on the Planning Proposal. Comments received are discussed in **Section 4.4**. OEH's main concern in regard to biodiversity is the protection of the forested residue land. The OEH did request that this land be rezoned to E2 Environment Conservation. Council met with representatives of the Department of Planning & Environment (DPE) and the OEH on Wednesday 20 January 2016 to discuss the concerns raised by the OEH. The DPE advised that other options for protecting the biodiversity values on the residue lot should be considered. In response to the Office of Environment and Heritage and Clarence Valley Council requests; the residual land is proposed to be rezoned E2 Environmental Conservation.

The land owner proposes that land to be retained as E2 Environment Conservation would be wholly contained within a future residue lot which would have frontage to Hampton Road and would also include land zoned R5 Large Lot Residential. Any future dwelling for the residue land would be restricted to land zoned R5 and this would form a conditional part of any future subdivision application.



4.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Contamination

A PSI was prepared to determine the likelihood of site being contaminated from previous land uses and practices (refer **Appendix E**). The subject land has historically been used for cattle grazing. Based on an analysis of historical photographs and previous use, the PSI has determined that it is unlikely that any source of contamination would have impacted on the site. Searches of relevant databases indicate that the site or adjacent sites are not affected by contamination (refer **Section 4.2.3**).

Aboriginal Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) indicated that there are no Aboriginal objects or places registered with the OEH, NSW. In addition, most of the site is cleared of vegetation and has been highly disturbed from past agricultural practices. Although it was considered unlikely that the rezoning and development of the site would impact on Aboriginal Cultural Heritage, OEH requested that a suitable Aboriginal Cultural Heritage assessment be prepared to inform the Planning Proposal.

Accordingly Spinifex was engaged to prepare a Cultural Heritage Due Diligence Assessment Report for the Planning Proposal (refer **Appendix F**). The purpose of the assessment was to identify Aboriginal material and Cultural Heritage values that may be present within the project area. The information gathered during the assessment has been used to determine potential legislative implications associated with the proposal.

The assessment contains background and contextual information in conjunction with findings of an inspection of the proposal area by a representative of the Grafton Ngerrie Local Aboriginal Land Council (LALC) and Brett Duroux (recommended by Grafton Ngerrie LALC). During inspection of the proposal area no Aboriginal sites or objects were identified and the recommendation from Brett Duroux was that the proposal could proceed.

European Heritage

Heritage database searches and CVC 2011 revealed that no items of non-Indigenous/European heritage significance are known within or immediately adjacent to the subject site. No impacts are anticipated.

Visual Amenity

Impacts of the Planning Proposal would be minor. Future development of the site would involve removal of some vegetation, yet this would be minor. Considering that any trees that make up pastoral woodland may potentially be removed, they are relatively sparse and are not combined with understory bushland, and therefore the removal of such trees would have a negligible visual impact. The creation of additional residential large lots would not constitute significant change in terms of visual impacts on the Waterview Heights estate or the surrounding rural areas. Considering the presence and nature of surrounding rural and rural residential development, further rural residential development in this area would be appropriate and be consistent with the character of the area.



Cumulative Impacts

The proposed future development of the land has the potential to result in cumulative environmental effects with other existing or likely future development and activities; however the effects would be negligible due to the limited scope of works and the existing disturbed state of the site. In addition, potential impacts on the environment would be minimised with the effective implementation of the safeguards and mitigation measures required under a future development application.

4.3.3 How has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal is not expected to generate any significant adverse social or economic impacts. The proposal will enable a minor expansion (10 lots) to the existing Waterview Heights large lot residential estate.

4.4 State and Commonwealth Interests

4.4.1 Is there adequate public infrastructure for the Planning Proposal?

The site is adjacent to the Waterview Heights large lot residential area west of Grafton. The estate does not have reticulated sewer. The estate is serviced by a sealed road, reticulated water and electricity and telecommunication infrastructure. The land proposed for rezoning would be accessed via Hampton Road which is sealed and would connect to existing electrical and telecommunication infrastructure.

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

Council consulted with the NSW Rural Fire Service and the OEH as specified in the Gateway determination. This section summarises any issues raised by public authorities not already dealt with in the Planning Proposal, and addresses those issues as applicable to the Planning Proposal. The comments received and issues raised are addressed below.

NSW Office of Environment and Heritage

OEH first reviewed the planning proposal on 16 December 2016. In summary the OEH recommended that prior to finalising the Planning Proposal for public exhibition, the council should:

- *Amend the Planning Proposal so that the part of the planning area identified as the residue lot in the Planning Proposal is rezoned to E2 Environmental Conservation.*
- *Amend the Planning Proposal to more appropriately address the sustainability criteria in the Mid North Coast Regional Strategy and council's Sustainability Framework 'Protection of Ecological Systems'.*
- *Require the preparation of suitable Aboriginal Cultural Heritage assessment to inform the Planning Proposal.*
- *Provide the OEH with an opportunity to review the Aboriginal Cultural Heritage assessment and the revised Planning Proposal.*



Council advised that 'OEH's comments effectively constitute an objection to the Planning Proposal in its current form without the additional assessments and amendments requested. Hence council is unable to utilise any delegations until these matters can be resolved'.

Council met with representatives of the DPE and the OEH on Wednesday 20 January 2016 to discuss the concerns raised by the OEH. The DPE advised that other options for protecting the biodiversity values on the residue lot should be considered.

The planning proposal was updated to address OEH comments and resubmitted to OEH for further comment during the exhibition period for the proposal. The revised Planning Proposal's aim was still to rezone a portion of the site R5 Large Lot Residential to enable large lot allotments with one lot containing the residual vegetated land and RU2 zoning.

OEH provided further comment on the Planning Proposal on 17 June 2016, as summarised below:

- OEH supports the Aboriginal cultural assessment and field survey undertaken with representatives of Grafton Ngerrie Local Aboriginal Land Council. The assessment concluded that there are no tangible or intangible Aboriginal cultural heritage values within the planning area and the OEH had no further issues regarding Aboriginal cultural heritage.
- OEH objects to the Planning Proposal in its current form and recommends the residual vegetated land and RU2 zoning within the site is zoned E2; to provide for the protection of the biodiversity values associated with the land.

Subsequently, the Planning Proposal has been amended in line with OEH recommendations such that a portion of the site will be zoned R5 Large Lot Residential and the remaining residual land zoned E2 Environmental Conservation zone.

NSW Rural Fire Service

The NSW Rural Fire Service provided comment on the Planning Proposal on 10 December 2015, as summarised below:

"The NSW RFS notes that while the land to which the Planning Proposal applies is not mapped as bush fire prone land, it contains vegetation attributes that can be classified as a potential bush fire hazard. It is further noted that council is currently reviewing its bush fire prone lands map and this land is likely to be mapped in accordance with NSW RFS mapping guidelines."

The RFS has no objection to the Planning Proposal proceeding and provides the following comments:

- *Future subdivision will be required to comply with S100B of the Rural Fires Act 1997 and the relevant provisions of Planning for Bush Fire Protection 2006.*
- *Future dwellings on the 'Large Lot Residential' estate may require vegetation management. Council needs to ensure that the vegetation management will be permissible to ensure asset protection zone (APZ) requirements can be satisfied.*
- *Secondary dwellings or dual occupancies (no subdivision) on lands mapped bush fire prone are required to be assessed under S79BA of the EP&A Act 1979. Council should note that when assessing such applications the relevant provisions of Planning for Bush Fire Protection 2006 and NSW RFS Factsheet 4/12 'Increased Density of a Single parcel of Land' applies.*
- *Council should note that Australian Standard AS 3959-2009 Construction of buildings in bushfire prone areas includes grasslands as a hazardous vegetation category. Any future dwellings will need to consider this at the design and construction stage.*

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- *Council should also note that the minimum specifications for asset protection zones for residential and rural-residential subdivisions in Table A2.5 of Planning for Bush Fire Protection 2006 do not correspond directly with the minimum separation distances for BAL-29 construction under Table 2.4.3 of AS3959-2009 Construction of buildings in bushfire-prone areas. Minimum asset protection zones for future development should be designed to achieve separation distances consistent with BAL 29 under AS 3959-2009."*



5. Mapping (Part 4)

Planning Proposals are required to be supported by relevant and accurate mapping where appropriate. Mapping for the proposal is included in **Section 1** of this planning proposal.



6. Community Consultation (Part 5)

The original Planning Proposal was publicly exhibited for 28 days under the original Gateway determination dated 28 October 2015. The Planning Proposal has since been amended to rezone the balance of the residual lot from RU2 Rural Landscape to E2 Environmental Conservation. Further public exhibition of the amended Planning Proposal is anticipated under the altered Gateway determination. A 28 day exhibition period is considered appropriate.



7. Project Time Line (Part 6)

The Gateway Determination originally required that the timeframe for completion of the LEP is to be nine months from the week following the date of the Gate Determination; to be completed by the end of July 2016. Council requested an extension to the timeframe and was subsequently granted Ministerial approval on 8 July 2016 to complete the LEP by 30 January 2017. A more detailed timeframe for the completion of the LEP will be prepared once the requirements of the altered Gateway determination are known.



8. Conclusions and Recommendations

This proposal is to rezone part of Lot 5 DP 1179232 from RU2 Rural Landscape to R5 Large Lot Residential, to enable subdivision of the site into an estimated 11 large residential lots. The remainder of the site will be rezoned to E2 Environmental Conservation. The site is located adjacent to the existing Waterview Heights large lot residential estate and is not inconsistent with the Clarence Valley Settlement Strategy 1999.

An analysis of potential environmental constraints to rezoning the subject land include a Flora and Fauna Survey and Impact Assessment and Koala Plan of Management which were prepared as part of a previous subdivision of the land. The results of this analysis indicate that part of the site is suitable for rezoning and development. The Planning Proposal is also generally consistent with the strategic and statutory planning framework that applies to the site.

The objective of the Planning Proposal is to rezone part of Lot 5 DP 1179232 from RU2 Rural Landscape to R5 Large Lot Residential with the balance to be rezoned to E2 Environmental Conservation. The rezoning is considered the most appropriate way for the proposal to proceed.



Simon Waterworth

Senior Planner/Principal



References

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