

NARRABRI SHIRE COUNCIL

DRAFT PLANNING PROPOSAL

LOTS 1, 4, 5 AND 8 DP 754930

(1489 KAPUTAR ROAD, BULLAWA CREEK, NARRABRI); AND

LOTS 39 AND 47 DP 754930

(1557 KAPUTAR ROAD, BULLAWA CREEK, NARRABRI

BACKGROUND

Council submitted the draft Local Environmental Plan 2012 (DNLEP 2012) to the Department of Planning and Infrastructure (DPI) in August 2012 seeking DPI and Ministerial approval including for re-zonings of nine (9) properties which were the subject of proposed re-zonings in submissions by landowners/proponents in response to public exhibition of the DNLEP 2012.

NLEP 2012 was endorsed by the DPI and the Minister for Planning and Infrastructure in December 2012 but with advice that eight of the post exhibition changes sought by Council were considered to be too significant to endorse without such Planning Proposals being subject of further assessment and public exhibition. These eight proposals included that which is subject of this Planning Proposal.

These eight proposals include the NLEP 2012 amendment proposed through this Planning Proposal. The Planning Proposal was tabled at Council's 3 June 2014 meeting where Council resolved to support the proposal and refer it to Planning & Environment for Gateway Determination.

THE SUBJECT SITE

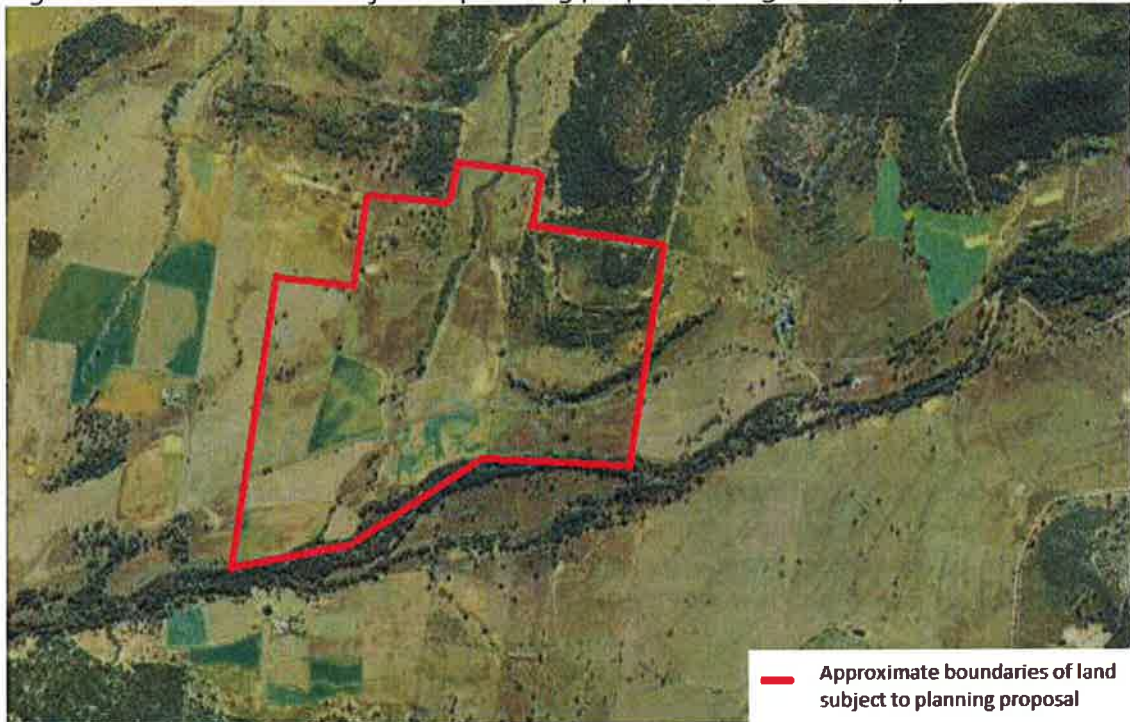
This Planning Proposal relates to two holdings:

- Lots 1, 4, 5 And 8 DP 754930 (1489 Kaputar Road, Bullawa Creek, Narrabri); and
- Lots 39 and 47 DP 754930 (1557 Kaputar Road, Bullawa Creek, Narrabri.

The combined properties have an area of approximately 190 hectares. The property owners have agreed to combine for the Planning Proposal. Indicative lot yield has been expressed by the proponents as about 17 lots – reflecting the proposed minimum lot size of 10 hectares.

The subject site comprises predominantly grazing land and scattered remnant vegetation. An aerial view of the site is contained in Figure.1 below.

Fig.1 Aerial view of land subject to planning proposal (Image: Six Maps Online).



1. **OBJECTIVES OR INTENDED OUTCOMES**

The objectives/intended outcomes of this Planning Proposal are to:-

- *Enable the development of additional rural residential living opportunities within reasonable accessibility of the Narrabri township and thereby contribute to the response to additional demand for such land resulting from the coal mining and coal seam gas mining growth in Narrabri Shire;*
- *Re-zone the subject site as a reasonable extension of land already zoned RU4 Primary Production – Small Lots; and*
- *Contribute to the catchment population of Narrabri town-ship and the economic and social support of the Narrabri retail, commercial and community facilities.*

2. **Explanation of Provisions**

The Planning Proposal is to amend:

- The zoning in the Narrabri Local Environmental Plan 2012 for the subject land from RU1 Primary Production to RU4 Primary Production - Small Lots; and
- The lot size map in the Narrabri LEP 2012 from a 100 hectare minimum lot size to a 10 hectare minimum lot size.

Proposed amendments to the Narrabri LEP 2012 will also seek to enable long term management of the vegetation clusters on the subject land, particularly in the north-eastern sector and to ensure subdivision layout and design is compatible with the landscape values of the area and the visual effects as observed from the tourist road which serves the subject land and is an approach road to Mount Kaputar National Park from the Narrabri township.???

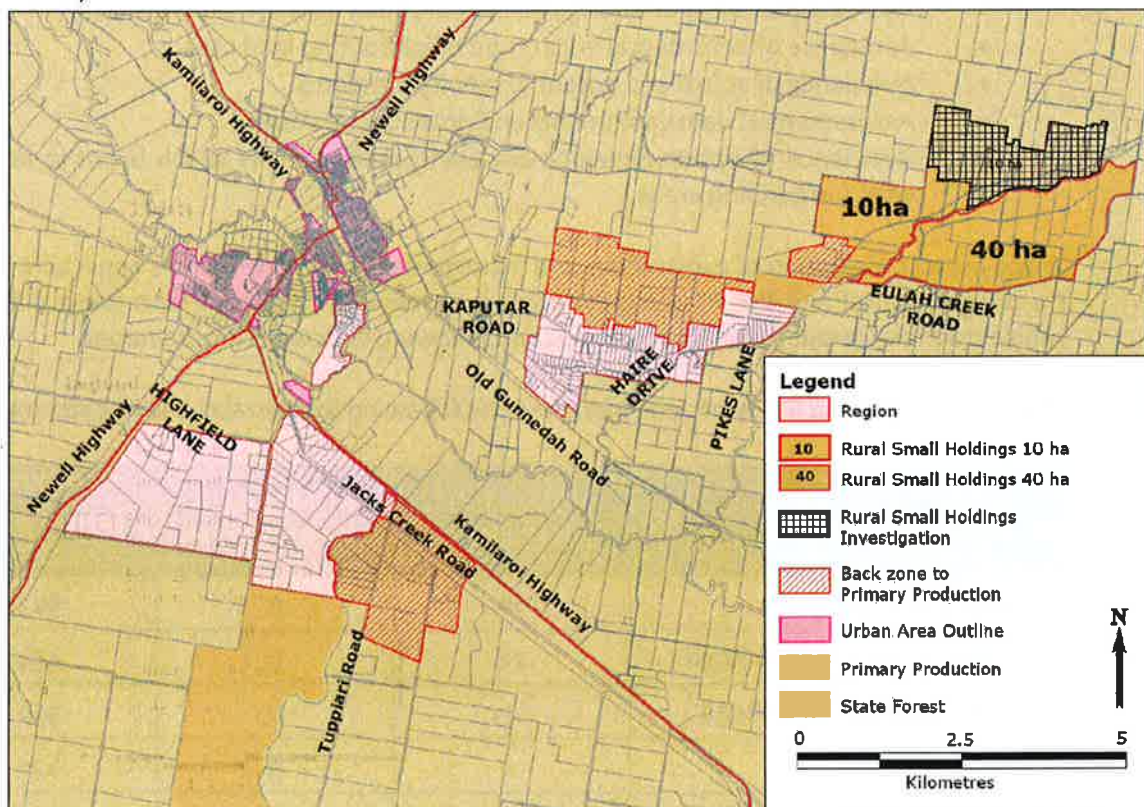
3. JUSTIFICATION

Section A – Need for the Proposal

Strategic Study or Report

This planning proposal is supported by the Narrabri Growth Management Strategy 2008. Lots 1, 4, 58, 39 & 47 DP 754930 were identified within the Rural Small Holdings Investigation Area by this study, see Fig2. below.

Fig2. Proposed Rural Residential Zoning – Narrabri (Narrabri Growth Management Strategy – PP182)



In addition to identifying the subject land within a Rural Small Holdings Investigation Area the Narrabri Growth Management Strategy of 2008 encourages the growth of rural residential development within proximity of the Shire's townships.

In December 2006 a Narrabri Rural Residential Study was completed by Edge Land Planning for the Department of Planning and Narrabri Shire Council. This rural residential study followed the Council's preparation in 2001 of a settlement (rural small holdings) strategy. In combination, the Council's applicable criteria for rural residential development can be interpreted as being as follows:-

- Location within 20kms of Narrabri and Wee Waa.
- Location close to existing services.
- The provision of a buffer between agricultural uses and rural residential dwellings.
- Adequacy of road access including dedicated roads.

- Ability to dispose of domestic effluent on site.
- Be self-sufficient and sustainable in water supply as well as capacity for dams.
- Have utility services available (electricity, communications etc.)
- Have minimal impact on existing infrastructure and cost imposition on public service providers in terms of roads, electricity, communications, and thereby not create uneconomic demands on infrastructure and services.
- Exclusion of areas of high bushfire hazard and the inclusion of a buffer to State Forests and National Parks as applicable.
- Exclusion of forestry land, industrial land and contaminated land as relevant.
- Exclusion of land with slopes greater than 18 degrees.
- Exclusion of areas with threatened species and known critical habitats.
- Exclusion of areas with known mineral and extractive industries.
- Avoid prime crop and pasture land where possible.
- Avoid environmentally sensitive land including land subject to the 1% AEP flood event.
- Avoidance of areas with soil erosion problems and characteristics.
- Avoidance of flood prone areas and areas with high water tables.
- Avoidance of areas of Aboriginal and European heritage significance.
- Avoidance of detrimental impacts on neighbouring land uses.
- Avoidance of actual and potential salinity problems.
- Assessment of dam catchments and potential locations.
- Avoidance of ribbon development along arterial roads which is not in keeping with surrounding areas.

These are a combination of explanatory and management criteria which are applicable to this Planning Proposal and the Planning Proposal is essentially consistent with these criteria – subject to more detailed studies and evaluation following Gateway Determination.

The Rural Residential Study of 2006 identified the following for Narrabri and its catchment:-

	NUMBER OF DWELLINGS	NUMBER OF VACANT LOTS	POTENTIAL SUBDIVIDED LOTS
Jacks Creek Road	16	9	623
Highfield Lane/Gun Club Road	22	8	454
Old Gunnedah/Kaputar Road	133	45	378
Kaputar Road	1	9	227
TOTAL	172	71	1682

Source: Land Use Survey for the Rural Residential Study 2006.

Hence, in 2006 there was significant excess of supply of land for rural residential purposes. Significant areas of land in proximity to the subject site are zoned RU4 Primary Production – Small Lots and have a ten (10) hectare minimum lot size. The subject site is adjacent to this other land zoned RU4 north and south of Kaputar Road as shown in Attachment 1. There has been limited but progressive take up of such large lot residential opportunities and the Council considers that the opportunity should also be taken to propose to rezone the subject site to consolidate the existing areas of land zoned RU4 Primary Production – Small Lots and present the opportunity for such land to be subdivided and developed for such purposes to provide for volume and diversity of choice for small holdings in reasonable proximity to the Narrabri township.

Planning Proposal as best way to achieve the objectives

This Planning Proposal is the best way to achieve the objectives as expressed above. Council places emphasis on strategic, local economic development and creating diverse opportunities for housing and employment – particularly in close proximity to Narrabri and other townships in the Shire.

- A1) The Planning Proposal is not directed by a strategic study or report and there is no applicable Regional Strategy for the Narrabri Shire.

The Narrabri Growth Management Strategy of 2008 generally encourages the provision of rural residential living opportunities and to that extent the Planning Proposal is consistent with growth management planning in Narrabri Shire.

- A2) Trends in rural residential living demand in this sector of Narrabri in particular, support the Planning Proposal as being a means of enhancing opportunities for such rural residential living and supply of such land.

The subject site is located approximately 18kms to 20kms from Narrabri township and travel time to the Narrabri town centre is approximately 20 minutes at the speed limits. There are about 20 homes within 10kms to the east of the subject site and the Narrabri to Mount Kaputar National Park Road is characterised by a number of similar rural residential developments.

There are two property holdings – and two ownerships - comprising the site subject of the Planning Proposal with Lots 1, 4, 5 And 8 DP 754930 (1489 Kaputar Road, Narrabri) and Lots 39 and 47 DP 754930 (1557 Kaputar Road, Narrabri).

- A3) It is considered by Council that there is a net community benefit as indicated below.

Net Community Benefit

Council considers that there is a net community benefit as indicated below:-

COSTS	BENEFITS
Potential over-supply of land zoned for Rural Residential/ Primary Production – Small Lots in Narrabri Shire.	The Planning Proposal enhances the availability and diversity of Primary Production Small Lots living/lifestyle opportunities in the context of increased population growth in the Shire. This Proposal would enable the provision of more land for potential horticultural uses in the area. Council also considers that the best potential uses of the subject land are enabled by the RU4 Primary Production – Small Lots zoning given that it has limited potential for productive agriculture and the Proposal will lead to housing opportunities which give some distinctive attraction and which are in proximity to Narrabri township which in itself is highly constrained for more development by flood liability.

	The Planning Proposal also consolidates the area of land zoned Primary Production – Small Lots on Kaputar Road and will extend that zone and the associated rural residential opportunities.
Loss of rural scenic and landscape character.	The subject site is in an attractive location within reasonable proximity of Narrabri township and is compatible with the landscape and visual characteristics of the surrounding area and the visible landscape travelling along Kaputar Road. Design aspects can ensure no adverse effects on the scenic quality on the main approach road to the Mt Kaputar National Park.

Section B – Relationship to Strategic Planning Framework

Regional Strategies

There is no applicable Regional Strategy for the Narrabri Shire.

Community Strategic Plan and other Local Strategic Plan

The Planning Proposal is consistent with the Narrabri Shire Council's Community Strategic Plan. It will create additional land zoned Primary Production – Small Lots with the opportunity for development, encouraging additional population with consequent social and economic benefits to the district and Narrabri township in particular. Local employment opportunities will be created through the construction of the subdivision and the subsequent dwellings on the lots thereby created.

Consistency with State Environmental Planning Policies (SEPP's)

The State Environmental Planning Policies (SEPP's) which apply to this Planning Proposal and the subject land are: SEPP 55 – Remediation of Land and SEPP 8 (Rural Lands). Nothing in the Planning Proposal affects the aims and provisions of the other SEPP's

SEPP 55 Clause 6 deals with "Contamination and remediation to be considered in zoning or rezoning proposal" and states that

(1) *In preparing an environmental planning instrument, a planning authority is not to include in a particular zone (within the meaning of the instrument) any land specified in subclause (4) if the inclusion of the land in that zone would permit a change of use of the land, unless:*

(a) *the planning authority has considered whether the land is contaminated, and*

- (b) *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

Note. *In order to satisfy itself as to paragraph (c), the planning authority may need to include certain provisions in the environmental planning instrument.*

Council's records and knowledge of the site indicate that the land has historically been used for light agricultural activities and rural living. Council is unaware of any activities to have taken place on the site that are likely to have led to its contamination that would require its remediation for this Planning Proposal to proceed and this has been confirmed by the current owners.

SEPP 8 (Rural Lands) contains relevant aims, principles and provisions.
The aims of this SEPP are as follows:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (b) 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,
- (c) to implement measures designed to reduce land use conflicts,
- (d) 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,
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

The Rural Planning Principles contained in the SEPP are as follows:

- (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.

Comments in response to the SEPP's aims and principles are:

- The subject site has limited opportunities for current or future productive and sustainable agriculture as land zoned RU1 Primary Production and the best economic activity, given the sites proximity to the Narrabri township, is for the primary production small lots development opportunities to be created;
- There is limited net additional infrastructure demand created by the proposals with road access capacity being available, and ability with a 10 hectare minimum lot size to provide for on-site effluent disposal and for water supply to be obtained for the combination of a bore and rain water tank catchment. In the event of need, during a drought etc., town water can be provided by truck transport to the lots created as a result of this sites development;

Consistency with s 117 Ministerial Directions for Local Plan Making

The Planning Proposal needs to be considered in relation to the local planning directions issued by the Minister under Section 117(2) of the Environmental Planning and Assessment Act 1979.

The Proposal is affected by, and requires comments to respond to potential inconsistencies in relation to Ministerial Directives 1.2, 1.5 & 4.4. These Directives are considered and commented on below:

Ministerial Direction 1.2 Rural Zones

Objectives of this Direction

to protect the agricultural production value of rural land.

Direction 1.2 (4) Rural Zones requirements:

A planning proposal must:

- (a) *not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- (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).*

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:

 - (i) gives consideration to the objectives of this direction,*
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
 - (iii) is approved by the Director-General of the Department of Planning, or**
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) is of minor significance.*

Given the sites proximity to other Small Lot Rural Development, its size and geographical constraints Council considers that the subject site has limited potential as productive agricultural land. It is therefore considered that this Planning Proposal and the rezoning of the site are justified as the loss to potential agricultural production is of minor significance.

Ministerial Direction 1.5 Rural Land

Objective of this Direction

- a) protect the agricultural production of rural land*
- b) facilitate the orderly development of rural lands for rural and related purposes*

This Direction applies when

- 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*
- 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. The direction applies to a proposal that will affect rural or environmental zoned land. The site subject to this proposal is zoned R1 Primary production accordingly this Direction is relevant to the proposal.*

This proposal will affect land zoned RU1Primary Production and the minimum lot size of that land. This Direction is therefore applicable. Where the Directive applies the relevant planning authority must be satisfied that the proposal is compatible with the Rural Subdivision Principles specified by the SEPP Rural Lands 2008. These principles are considered and commented on below.

- (a) the minimisation of rural land fragmentation,*

The proposal will reduce the minimum lot size for land zoned R1 Primary Production from 100 hectares to 10 hectares. The proposal conflicts with this principle.

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

The site subject to this proposal adjoins land zoned RU4 Primary Production Small lots and the rezoning of the site for small rural lot development is a logical expansion to this current land use of adjoining properties. The proposal is not anticipated to give rise to any land use conflict.

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

The proposal will not impact any significant agricultural holdings and will allow the rural small lot development of land in close proximity to lots previously developed for such a purpose.

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

A portion of the site is identified as bushfire prone. There are no further significant natural or physical constraints affecting the land.

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

There are sufficient opportunities for the construction of dwellings at a number of locations across the site. Any future development application for such a development will be required to take into consideration the bushfire risk of the land and appropriate bushfire protection measures put in place.

Consistency

The proposal is compatible with the SEPP Rural Lands 2008 Subdivision Principles b, c, d & e. The proposed reduction to the minimum lot size from 100 hectares to 10 hectares is not considered compatible with Subdivision Principle a. The proposal is therefore inconsistent with this Ministerial Directive. A proposal may be supported despite an inconsistency where it is supported by one or a combination of the following:

- (6) *(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*
- (b) is of minor significance.*

The Narrabri Growth Management Strategy encourages the development of rural residential land. This proposal will increase the availability of such land. Considering the proposals proximity to a large lot rural zoned land the proposal is considered to be a logical extension of an existing large lot rural growth area supported by previous strategies. This rezoning and reduction of the minimum lot size is therefore considered justified as a logical expansion of an existing large lot rural locality and is of minor significance to this Directive.

Ministerial Direction 4.4 Bushfire Prone Land

Objectives of this Direction

- a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- b) to encourage sound management of bush fire prone areas.*

Direction applies when

- a) 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.*

Lots 1, 4, 39 & 47 DP 754930 are identified as bushfire prone land and this Direction must therefore be considered in relation to this proposal.

Consistency

Where this Direction applies a planning authority is required to consult with the NSW RFS. It is anticipated that this will be undertaken as a requirement of any Gateway Determination. A planning proposal affected by this Direction may proceed where written correspondence is provided from the NSW RFS indicating no objection to the progress of the proposal.

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

It is considered that this Planning Proposal will have a positive social and economic impact. The rezoning of the identified land will increase the availability of land zoned RU₄ Primary Production Small Lots with the opportunity for rural residential development. It is anticipated that this will increase the supply and diversity of land in the Narrabri locality with the opportunity to be developed.

It is considered that this Planning Proposal will have a positive social and economic impact. The rezoning of the identified land will increase the availability of land zoned RU₄ Primary Production Small Lots with the opportunity for rural residential development. It is anticipated that this will increase the supply and diversity of land in the Narrabri locality with the opportunity to be developed.

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?

Council is unaware of any habitats of threatened species or populations of ecological communities present within the site given its history of use as grazing land. An aerial image of the site suggests that the land is predominantly cleared of significant vegetation associated with this past use, while scattered areas of vegetation remain the most prominent of which is situated in the north eastern corner of Lots 39 and 47. This pocket of vegetation covers an area of less than 5% of the site. To clarify the significance of the vegetation in the north eastern corner of the site Council staff undertook a site survey. The survey identified that the majority of vegetation in the locality comprised of pine and pine regrowth. Photos of the vegetation of site are included in Attachment C of this report.

Considering its agricultural use and the composition of vegetation on-site the site is unlikely to be of environmental significance and contain significant habitats of threatened or endangered species.

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

It is considered that there are unlikely to be natural hazards and issues pertinent to the Planning Proposal in terms of land slip or bushfire hazard.

How has the planning proposal adequately addressed any social and economic effects?

There are social and economic benefits of the Planning Proposal in terms of providing net additional population, rural residential living and opportunities for horticultural pursuits. This net additional land supply and rural residential living opportunities responds to increased demand in the area from the growth of the coal mining and coal seam gas production sectors in Narrabri Shire. Although the villages provided for temporary accommodation by MAC Property Services Pty Ltd in Narrabri and Boggabri provide for significant temporary accommodation, there will be a proportion of

employees at the operational stages of the coal mines and coal seam gas operations which will choose to live in Narrabri Shire – given the long term operational plans and commitments of these industries in Narrabri Shire.

The location of net additional lifestyle development opportunities within reasonable proximity to the Narrabri town centre will add economic support to the retail and commercial outlets in the town centre and “social support” to local schools, community facilities and clubs.

Additional demands will be placed on the public road between Narrabri township and the Mount Kaputar National Park, a significant tourist route, but the road capacity is adequate to handle the extra traffic being fully sealed. Consultation with the Roads and Maritime Services post gateway determination would be applicable to enable full assessment of this issue. National Parks should also be consulted in terms of the scenic impacts.

The following needs for public services and infrastructure are commented upon as follows:-

- Water Supply – to be provided by rain water tanks and bore supply, with tank water provided from Narrabri township in the event of drought and need for such supply;
- Effluent Disposal – to be provided on-site;
- Roads – capacity of the Narrabri Township to Mount Kaputar National Park would seem to be adequate but should be further assessed, with further consultation held with the Roads and Maritime Services;
- Waste Management and Recycling Services – consultation should occur with relevant internal management in Narrabri Shire Council;
- Health and Education – adequate provision is available in the Narrabri township and indeed net additional population in the catchment area of these facilities would add support and economic viability;
- Emergency Services – the distance and flood liability of intervening land between the subject site and Narrabri township is a key issue. Consultation therefore should certainly occur post gateway determination with: the Office of Environment and Heritage, State Emergency Services, NSW Police, NSW Fire Brigade and NSW Ambulance Services.

COMMUNITY CONSULTATION

At this stage the Planning Proposal is anticipated to be placed on formal public exhibition for 28 days in accordance with legislation as essentially a relatively “low impact” proposal of local rather than being of sub-regional or regional significance.

A public hearing is not considered necessary.

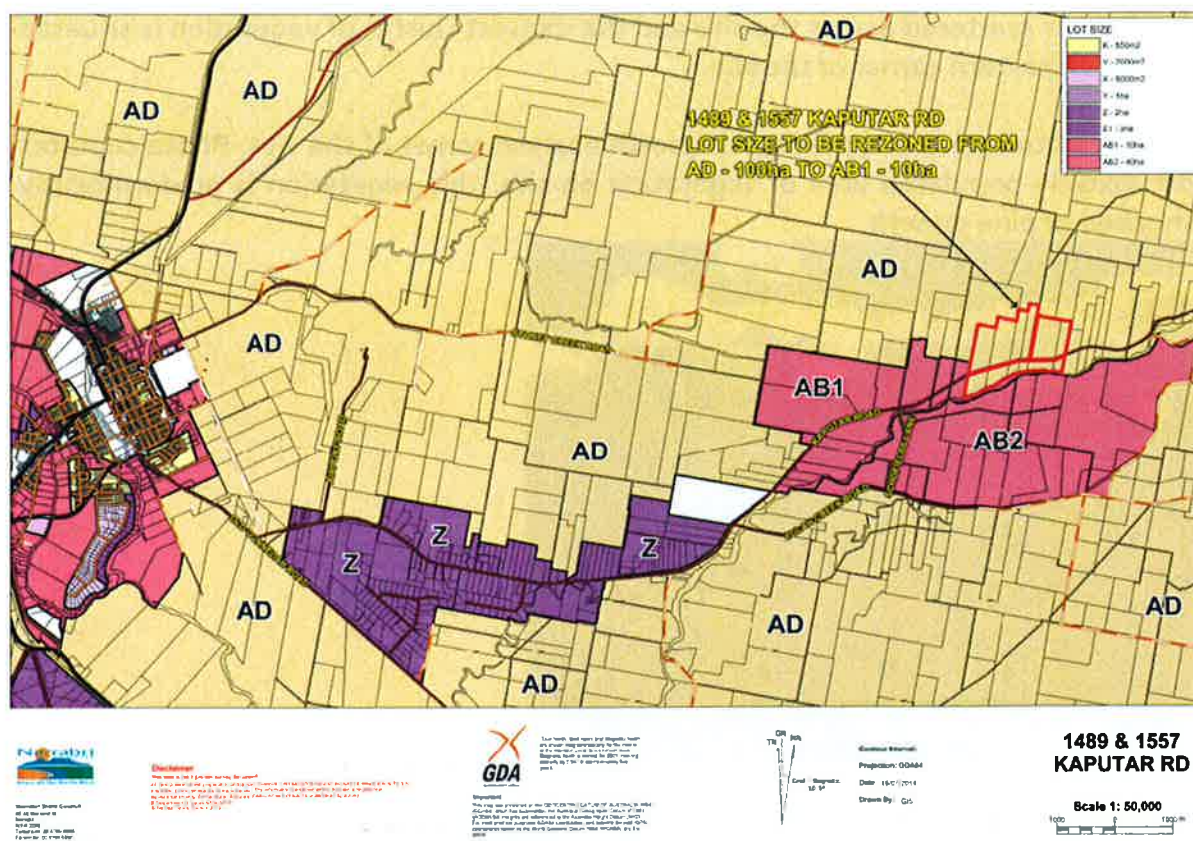
6. PROJECT TIMELINE

The anticipated project timeline for completion of the Planning Proposal is outlined in Table 1.

Table.1 - Project Timeline

Task	Anticipated timeframe
------	-----------------------

Date of Gateway Determination	September 2014
Completion of required technical information, studies	No additional studies required
Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required.	No specific changes are anticipated.
Commencement and completion dates for public exhibition.	September – October 2014
Consultation with public authorities under Section 56 (2)(d) of the EPA Act	Not anticipated
Dates for public hearing	Not anticipated
Consideration of submissions, report from public hearing and Planning Proposal post exhibition	None likely to be required
Refer Planning Proposal to Parliamentary Counsel to obtain an Opinion	November 2014
Obtain Parliamentary Counsel Opinion	January 2014
Council resolve to adopt LEP	January 2015
LEP forwarded to Department of Planning & Environment for notification	January 2015



Attachment C Site Survey Photos

Survey of the site was undertaken by Council Staff to determine topography and significance of vegetation. Survey revealed site predominantly cleared, remnant vegetation is scattered across the site and the densest cluster of vegetation is situated in the north eastern corner of the site.

Image1. Photo from Lot 47 facing the north eastern corner of the site. Photo captures most densely populated area of vegetation on-site, this vegetation is predominantly comprised of pine growth.



Image2. Photo from Lot 47 facing southwest across the site. Majority of the site cleared with scattered vegetation.



Image3. Photo from north eastern corner of Lot 47. Pine growth dominant vegetation type.



