

PLANNING PROPOSAL – MINOR AMENDMENTS TO MOREE PLAINS SHIRE LEP 2011

INTRODUCTION

Moree Plains LEP 2011 has now been in operation for over 12 months. As a result of early operational experience with the plan it has become evident that the plan would benefit from a series of minor changes. These changes, in summary are:

1. To make secondary dwellings permissible within the R5 Zone;
2. To expand permissible uses within the RU1 Zone to include detached dual occupancies with certain restrictions;
3. To provide for additional flexibility relating to rural workers dwellings;
4. To amend a minor mapping anomaly where an area identified as R5 should remain as RU1;
5. To provide for a temporary worker accommodation, in particular to meet the needs of the cotton and mining industries;
6. Make water storage facilities permissible within the RU1 Zone; and
7. Vary the minimum lot size map for land within the RU4 Zone at Ashley.

The Planning Proposal addresses each of these seven items under the various Parts below.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

1. **To make secondary dwellings permissible within the R5 Zone.** The intended outcome is to have secondary dwellings permissible within all residential zones. At the present time the R5 zone is the only residential zone not to permit secondary dwellings.
2. **To expand permissible uses within the RU1 Zone to include detached dual occupancies with certain restrictions.** The intended outcome is to permit detached dual occupancies within the RU1 Zone while ensuring that they remain in close proximity to an existing dwelling, share the same access and remain on the same title.
3. **To provide for additional flexibility relating to rural workers dwellings.** The intended outcome is to permit more than one rural workers dwelling on land where this is justified by the agricultural operation of the land.
4. **To amend a minor mapping anomaly where an area identified as R5 should remain as RU1.** The intended outcome is to clarify the zoning of an area of land labelled R5 but uncoloured on the map.
5. **To provide for a temporary worker accommodation, in particular to meet the needs of the cotton and mining industries.** The intended outcome is to provide for two types of accommodation for temporary workers. This would include permanently constructed accommodation for seasonal workers (for example for the cotton ginning industry) and also temporarily constructed accommodation for temporary workers such as mining camps.
6. **Make water storage facilities permissible within the RU1 Zone.** The intended outcome is to permit water storage facilities as a use within the RU1 zone

7. **Vary the minimum lot size map for land within the RU4 Zone at Ashley.** The intended outcome is to vary the lot size map to require a minimum lot size of 10ha instead of the 20 ha currently required.

PART 2 – EXPLANATION OF PROVISIONS

1. To make secondary dwellings permissible within the R5 Zone;

Proposed provision:

To insert, in alphabetical order, the words “secondary dwellings,” in Subclause 3, Zone R5 Large Lot Residential in the Land Use Table

2. To expand permissible uses within the RU1 Zone to include detached dual occupancies with certain restrictions;

Proposed provisions:

To delete the word “(attached)” where it appears after the words “Dual occupancies” in Subclause 3, Zone RU1 Primary Production in the Land Use Table, and

To insert the additional local provision as outlined below:

7.8 Detached dual occupancies – RU1 Zone

- (1) The objective of this clause is to permit detached dual occupancies within the RU1 Zone provided they are within close proximity of an existing approved dwelling, are on the same title and share the same access.
- (2) This clause applies to land within the RU1 Zone
- (3) Development consent must not be granted to the erection of a detached dual occupancy on land to which this clause applies, unless the consent authority is satisfied that the detached dual occupancy:
 - (a) is located within 200 m of an existing approved dwelling;
 - (b) is on the same title and is to remain on the same title as the existing approved dwelling in subclause (3)(a);
 - (c) shares the same access as the existing approved dwelling in subclause (3)(a); and
 - (d) would not occupy land currently being utilised for agricultural purposes.

3. To provide for additional flexibility relating to rural workers dwellings

Proposed provision:

To replace the existing Clause 7.2 Erection of rural workers’ dwellings with the following clause:

7.2 Erection of rural workers’ dwellings in Zone RU1

- (1) The objective of this clause is to ensure the provision of adequate accommodation for employees of existing agricultural or rural industries.
- (2) This clause applies to land in Zone RU1 Primary Production.
- (3) Development consent must not be granted to the erection of a rural worker’s dwelling on land to which this clause applies, unless the consent authority is satisfied that:

- (b) the development will be on the same lot as an existing lawfully erected dwelling house, and
- (c) the development will not impair the use of the land for agriculture or rural industries, and
- (d) the agriculture or rural industry being carried out on the land has a demonstrated economic capacity to support the ongoing employment of rural workers, and
- (e) the development is necessary considering the nature of the agriculture or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land.

4. To amend a minor mapping anomaly where an area identified as R5 should remain as RU1

Proposed Provision:

To substitute the map shown in Appendix C for the existing map, also shown in Appendix C.

5. To provide for a temporary worker accommodation, in particular to meet the needs of the cotton and mining industries

Proposed provisions:

To insert, in alphabetical order, the words “temporary workers’ accommodation;” in Subclause 3, Zone RU1 Primary Production in the Land Use Table

To insert after proposed Clause 7.8 the following clause:

7.9 Temporary workers’ accommodation in Zone RU1.

- (1) The objectives of this clause are as follows:
 - (a) to enable development for temporary workers’ accommodation if there is a demonstrated need to accommodate employees due to the nature of the work or the location of the land on which that work is carried out,
 - (b) to ensure that temporary workers’ accommodation is appropriately located,
 - (c) to ensure that the erection of temporary workers’ accommodation is not likely to have a detrimental impact on the future use of the land or to conflict with an existing land use,
 - (d) to minimise the impact of temporary workers’ accommodation on local roads and infrastructure.
- (2) This clause applies to land in Zone RU1 Primary Production.
- (3) Development consent must not be granted to development for the purposes of temporary workers’ accommodation unless the consent authority is satisfied of the following:
 - (a) the development is to be located:
 - (i) if the development relates to a mine—within 5 kilometres of the relevant mining lease under the Mining Act 1992, or

- (ii) in any other case—within 5 kilometres of the large-scale infrastructure in which persons are to be employed,
 - (b) there is a need to provide temporary workers' accommodation due either to the large-scale infrastructure or because of the remote or isolated location of the land on which the large-scale infrastructure is being carried out,
 - (c) the development will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument,
 - (d) water supply systems and sewerage treatment systems will be provided to adequately meet the requirements of the development,
 - (e) when the development is no longer in use, the land will, as far as practicable, be restored to the condition in which it was before the commencement of the development.
- (4) In this clause:

temporary workers' accommodation means any habitable buildings and associated amenities erected on either a permanent or temporary basis for the purpose of providing a place of temporary accommodation for persons employed to carry out large-scale infrastructure, including development for the purposes of an agricultural industry, rural industry, extractive industry, mining, renewable energy or an electricity transmission or distribution network.

6. Make water storage facilities permissible within the RU1 Zone

Proposed provisions:

To insert, in alphabetical order, the words "water storage facility;" in Subclause 3, Zone RU1 Primary Production in the Land Use Table

7. Vary the minimum lot size map for land within the RU4 Zone at Ashley.

Proposed Provision:

To substitute the map shown in Appendix C for the existing map, also shown in Appendix C.

PART 3 – JUSTIFICATION

Section A. Need for the Planning Proposal

Q1. Is the Planning Proposal a result of any strategic study or report?

The origin of the Planning Proposal was in the comprehensive LEP Moree Plains LEP 2011. As part of operational experience with the new LEP and to correct minor anomalies a Planning Proposal is required. The Planning Proposal is consistent with the Moree Plains Growth Management Strategy which underpins Moree Plains LEP 2011. Specific justification for each of the proposed changes is outlined below:

1. **To make secondary dwellings permissible within the R5 Zone**

Secondary dwellings were prohibited in the R5 Zone, although they were included as permissible in the matrix for Moree plains LEP 2011. This appears to be a drafting error. The inclusion of secondary dwellings within this zone would improve consistency by making them permissible within all residential zones.

2. **To expand permissible uses within the RU1 Zone to include detached dual occupancies with certain restrictions**

With constraints on minimum area and subdivision there does not appear to be any planning reason why dual occupancies should be attached.

People in the rural zone in particular wish a degree of separation between dwellings when undertaking a dual occupancy. This is particularly the case where a dual occupancy is occupied by older members of a farming family who want to remain "on the land" but not live in a household adjoining that of other family members.

Traditional reasons against supporting detached dual occupancies within the RU1 Zone relate to the loss of agricultural land, the potential for subdivision facilitating the dual occupancy on a separate allotment, and the impacts associated with additional access roads /tracks.

It is suggested that the best method of addressing these issues would be to include a local provision which requires a shared access road, the dual occupancy to be on the same title, and the dual occupancy to be within 200 m of an existing approved dwelling.

It should be noted that within Moree Plains Shire, particularly within the RU1 Zone, the "homestead" area would typically be some 5 ha and would include not only a homestead building but a range of outbuildings and other facilities. This land is not part of land used for agricultural production and the proposed clause would ensure this was the case. The 200 m provision would keep any detached dual occupancy within the vicinity of the existing homestead and would also ensure that no additional access road or track were provided which again would ensure no additional impacts on agricultural land and which would reinforce that the dual occupancy is part of the homestead group.

Consideration was given to utilising a Development Control Plan provision however these are non-statutory and it is considered that enhanced protection would be provided by the use of a local provision rather than relying on a DCP which can be varied by Council.

3. **To provide for additional flexibility relating to rural workers dwellings**

The restriction on rural workers' dwellings in Moree plains LEP 2011 is more restrictive than in the former LEP. Several situations have arisen where there is a legitimate need for more than one rural workers dwelling on a large property. Recently gazetted LEPs have a slightly different 'rural workers' dwelling clause' that does not limit the number of rural workers dwellings, while still maintaining an appropriate set of "tests" for demand. The proposed replacement clause is drawn from the Tenterfield LEP 2013.

4. **To amend a minor mapping anomaly where an area identified as R5 should remain as RU1;**

Map 4BA shows an area of R5 zone (although not coloured) to the west of Birrawee Place, Moree. This should be revised as area should remain in the RU1 Zone.

5. **To provide for a temporary worker accommodation, in particular to meet the needs of the cotton and mining industries;**

There is a growing need for seasonal and longer term worker accommodation in particular for the cotton industry but also potentially for other rural and mining industries. At the present time there is no clear statutory path in Moree Plains LEP 2011 for providing such accommodation. A local provision can introduce the term “temporary workers’ accommodation”. Examples include Liverpool Plains LEP 2011 and Mid-Western Regional LEP 2012.

The proposed provision adapts the Mid-Western Regional LEP definition with minor changes to provide for this form of accommodation. The proposed changes are:

- a) To limit the zoning for this form of accommodation to the RU1 Zone;
- b) A minor change to the wording for water and sewerage systems; and
- c) A minor change to the definition to add agricultural and rural industries.

6. **Make water storage facility is permissible within the RU1 Zone**

This provision is to correct a drafting oversight and is considered unproblematic.

7. **Vary the minimum lot size map for land within the RU4 Zone at Ashley**

This was an item that was the subject of discussion with the Department as part of the preparation of Moree Plains LEP 2011. The Moree Growth Management Strategy proposed a minimum lot size of 10ha. As gazetted, the minimum lot size is 20 ha. Indications are that this size is not proving desirable in the market as both the cost of and the maintenance of allotments of this size is considered excessive by potential purchasers. 10ha is probably at the upper end of the range to allow this use to achieve its planning intent in that area, and a change to 10 ha is recommended.

- Q2. **Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

A Planning Proposal is required for statutory reasons.

Section B. Relationship to Strategic Planning Framework

- Q3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The proposal is consistent with the objectives and actions of the applicable regional strategy. In particular, the proposal has been considered against the provisions of the New England North West Strategic Regional Land Use Plan.

The proposal is considered to be consistent with the following identified relevant areas for the reasons as stated:

Economic Development and Employment

The proposal would facilitate the use of land for development and employment.

- Q4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?**

The proposal is consistent with the Moree Growth Management Strategy which identifies, in particular, an appropriate size for RU4 land at Ashley. Other changes are of minor consequence.

- Q5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with applicable State Environmental Planning Policies (refer to Appendix A).

- Q6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?**

Refer to Appendix B.

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?**

No additional adverse effects are anticipated, subject to normal merit assessment of development.

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

No significant environmental effects are anticipated, in particular given proposed requirements on temporary worker's accommodation.

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

The Planning Proposal would enhance the operation of both existing and likely future agricultural industries, mining industries and the like through the fermentation of a framework for temporary workers' accommodation. No other provisions of the Proposal are considered to have significant social or economic effects.

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

There are no infrastructure implications from the proposal except for the provision of temporary workers accommodation. The proposed Clause requires specific consideration of infrastructure requirements to support such housing.

Q11. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

No specific consultations have been undertaken other than the consultations undertaken with Draft Moree Plains LEP 2011. No additional consultations are considered necessary for this Proposal. Should the Gateway Determination identify any additional consultations these would be undertaken.

PART 4 - MAPPING

Proposed mapping changes are as described in Appendix C.

PART 5 - COMMUNITY CONSULTATION

Community consultation would commence by giving notice of the public exhibition of the planning proposal:

- (1) in the Council's news page of the Moree Champion; and
- (2) on Council's web-site at www.mpsc.nsw.gov.au;

Public exhibition of the Planning Proposal would be for 14 days.

The written notice would provide:

- (1) a description of the objectives or intended outcomes of the planning proposal;
- (2) the land affected by the planning proposal;
- (3) advise and when the planning proposal can be inspected;
- (4) give the name and address of the Council for the receipt of submissions; and
- (5) indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- (1) the planning proposal, in the form approved for community consultation by the Director General of Planning;
- (2) the gateway determination; and
- (3) any studies or reports relied upon by the planning proposal (such as the Growth Management Strategy and the Report to Council).

Public exhibition of the Planning Proposal would be carried out in accordance with the requirements of the EPA Act, EPA Regulations and the Gateway determination.

PART 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 2013
Completion of required technical information, studies	September
Government agency consultation (pre exhibition as required by Gateway Determination)	No additional consultation is anticipated.
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.	End September 2013 for 14 days
Dates for public hearing	End October
Consideration of submissions, report from public hearing and Planning Proposal post exhibition	Early November
Date of submission of proposal to Department to finalise the LEP.	Mid November

Appendix A: Consideration of State Environmental Planning Policies

SEPPs apply to the Moree Plains local government area, as at 30th of May 2013. These are as set out in Table 2, below:

Table 2 – SEPPS applying to Moree Plains LGA

SEPP	Relevant	Consistent	Comment
No. 6 Number of Storeys in a Building	No	n/a	Proposal does not involve changes to any buildings.
No. 21 Caravan Parks	No	n/a	The proposal would not affect items addressed by the SEPP
No. 22 Shops and Commercial Premises	No	n/a	No shops and commercial premises would be affected
No. 30 Intensive Agriculture	Yes	Yes	Proposal would enhance the successful operation of intensive agriculture and rural industries.
No. 32 Urban Land Consolidation (Redevelopment of Urban Land)	No	n/a	The proposal would not lead to the re-development of urban land as described in the SEPP.
No. 33 Hazardous and Offensive Development	No	n/a	No areas involving hazardous or offensive development would be affected. Should temporary workers' accommodation be sought for such development the 5km proximity criterion would provide ample buffers to such development.
No. 36 Manufactured Home Estates	No	n/a	The proposal would not affect items addressed by the SEPP
No. 44 Koala Habitat Protection	No	n/a	No rezonings are proposed that would affect koala habitat. The provisions of the SEPP would continue to apply to any land the subject of an application following the proposed changes.
No. 50 Canal Estate Development	No	n/a	Proposal would not affect canal estates.
No. 55 Remediation of Land	No	n/a	None of the land is identified as requiring remediation. The provisions of the SEPP would continue to apply to any land the subject of an application following the proposed changes.
No. 62 Sustainable Aquaculture	No	n/a	Proposal does not affect any relevant land.
No. 64 Advertising and Signage	No	n/a	Proposal would not affect items addressed by the SEPP

Appendix A: Consideration of State Environmental Planning Policies

SEPP	Relevant	Consistent	Comment
No. 65 Design Quality of Residential Flat Development	No	n/a	Proposal would not affect items addressed by the SEPP
Housing for Seniors or People with a Disability 2004	Yes	Yes	Proposal would facilitate additional scope for secondary dwellings.
Building Sustainability Index: BASIX 2004	No	n/a	Proposal would not affect items addressed by the SEPP
Major Development 2005	Yes	Yes	The Proposal through providing for temporary workers' accommodation would facilitate development types addressed by the SEPP
Mining, Petroleum Production and Extractive Industries 2007	Yes	Yes	The Proposal through providing for temporary workers' accommodation would facilitate development types addressed by the SEPP
Temporary Structures 2007	No	n/a	Proposal would not affect items addressed by the SEPP
Infrastructure 2007	Yes	Yes	The Proposal through providing for temporary workers' accommodation would facilitate development types addressed by the SEPP
Rural Lands 2008	Yes	Yes	Proposal for detached dual occupancies in the RU1 Zone would be consistent with the matters for consideration at Clause 10 of the SEPP. The Proposal would not lead to additional subdivision.
Exempt and Complying Development Codes 2008	No	n/a	Proposal would not affect items addressed by the SEPP
Affordable Rental Housing 2009	Yes	Yes	Proposal would facilitate additional secondary dwellings which represent affordable housing.
SEPP (State and Regional Development) 2011	Yes	Yes	The Proposal through providing for temporary workers' accommodation would facilitate development types addressed by the SEPP
Draft State Environmental Planning Policy (Competition)	No	n/a	Proposal would not affect items addressed by the SEPP

Appendix B: Consideration of Section 117 Ministerial Directions

The planning proposal is consistent with the applicable Section 117 directions. Refer to the Checklist against the Section 117 Directions set out in Table 3, below.

Table 3 – Section 117 Directions Consistency

1. Employment and Resources

Direction	Relevant	Consistent	Reason
1.1 Business and Industrial Zones	No	n/a	No business or industrial zones are affected
1.2 Rural Zones	Yes	Partially	Specific provisions have been incorporated to protect agricultural land. The proposed increase in density in land zoned RU4 at Ashley is consistent with the Moree Plains Growth Management strategy and is therefore in accordance with the inconsistency provisions at Clause 5.
1.3 Mining, Petroleum Production and Extractive Industries	No	n/a	No changes to these industries are proposed.
1.4 Oyster Aquaculture	No	n/a	Does not apply to any of the land within the proposal
1.5 Rural Lands	Yes	Yes	The Direction applies as a minimum lot size is being varied for RU4 zoned land at Ashley. The Proposal is consistent with SEPP (Rural Lands) 2008 as outlined above.

2. Environment and Heritage

Direction	Relevant	Consistent	Reason
2.1 Environment Protection Zones	No	n/a	Proposal would not alter provisions relating to protection and conservation of environmentally sensitive areas.
2.2 Coastal Protection	No	n/a	Land is not within the Coastal Zone.
2.3 Heritage Conservation	No	n/a	The proposal would not alter existing provisions related to the conservation of heritage items.
2.4 Recreation Vehicle Areas	No	n/a	The Proposal would not affect existing restrictions on development of land for recreational vehicles.

Appendix B: Consideration of Section 117 Ministerial Directions

3. Housing, Infrastructure and Urban Development

Direction	Relevant	Consistent	Reason
3.1 Residential Zones	Yes	Yes	The proposal would encourage wider variety and choice of housing within the R5 Zone, make better use of existing infrastructure, and reduce the consumption of land for housing. Existing provisions ensure satisfactory servicing arrangements.
3.2 Caravan Parks and Manufactured Home Estates	No	n/a	Provisions relating to an existing Caravan Park and its permissibility would not be changed.
3.3 Home Occupations	No	n/a	Provisions relating to home occupations would not be affected
3.4 Integrating Land Use and Transport	No	n/a	Provisions relating to integrating land use and transport would not be affected.
3.5 Development Near Licensed Aerodromes	No	n/a	Provisions would not affect land near Moree Airport.
3.6 Shooting Ranges	No	n/a	No land is close to a shooting range.

4. Hazard and Risk

Direction	Relevant	Consistent	Reason
4.1 Acid Sulfate Soils	No	n/a	Land is unaffected by acid sulfate soils
4.2 Mine Subsidence and Unstable Land	No	n/a	Land is unaffected by mine subsidence
4.3 Flood Prone Land	Yes	Yes	Relevant provisions are included within MPLEP 2011.
4.4 Planning for Bushfire Protection	Yes	Yes	The Proposal may facilitate development on bushfire prone lands. The requirements of Planning for Bushfire Protection would apply to any development applications.

5. Regional Planning

Direction	Relevant	Consistent	Reason
5.1 Implementation of Regional Strategies	No	n/a	No regional strategy applies

Appendix B: Consideration of Section 117 Ministerial Directions

Direction	Relevant	Consistent	Reason
5.2 Sydney Drinking Water Catchments	No	n/a	Land is not within a water catchment
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	n/a	Land is not on the NSW Far North Coast
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	n/a	Land is not on the NSW Far North Coast
5.8 Second Sydney Airport: Badgerys Creek	No	n/a	Land is not within the relevant area

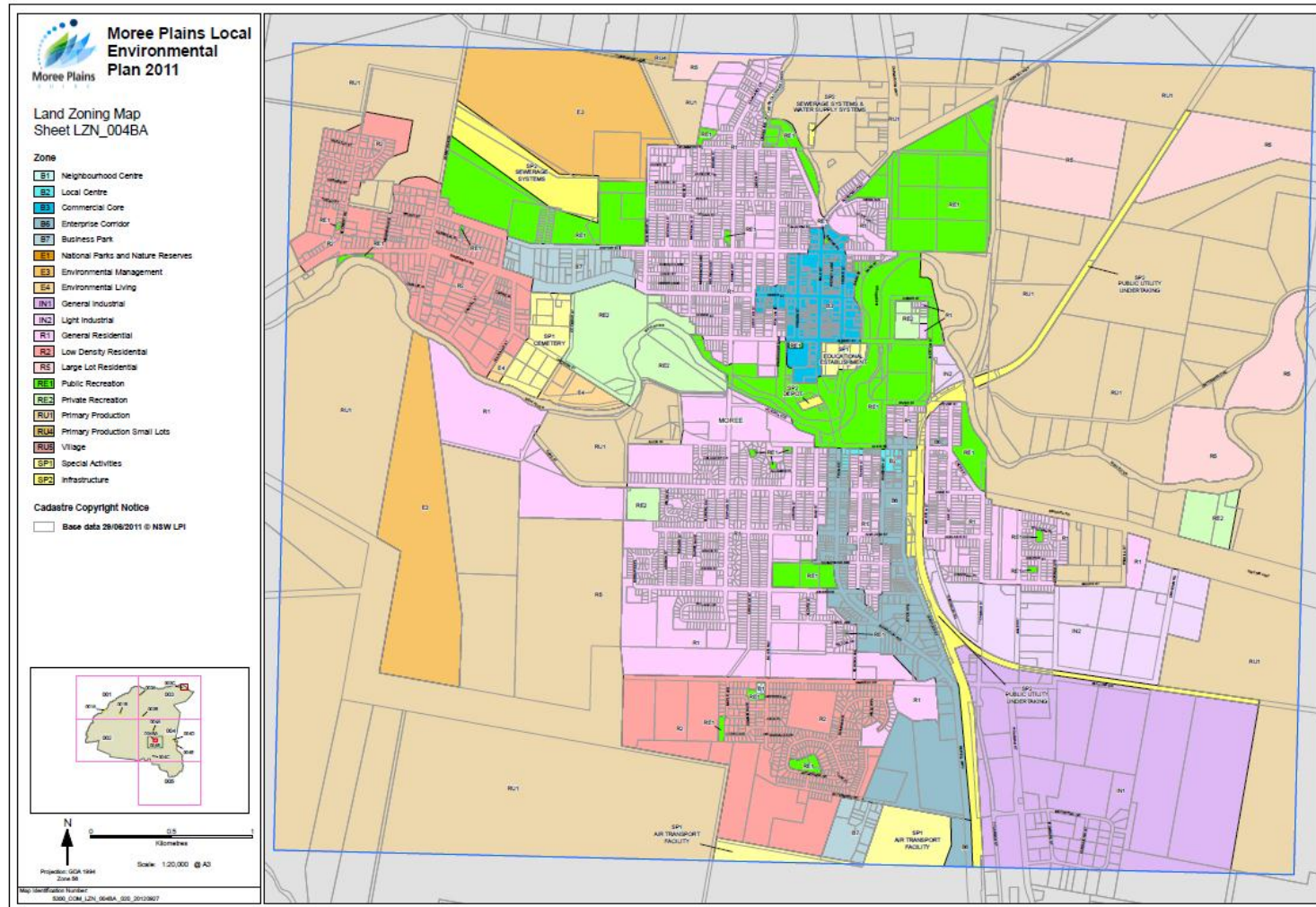
6. Local Plan Making

Direction	Relevant	Consistent	Reason
6.1 Approval and Referral Requirements	Yes	Yes	No additional concurrence, consultation or referral procedures are included
6.2 Reserving Land for Public Purposes	Yes	Yes	No existing zonings or reservations would be affected and no new zonings or reservations are proposed
6.3 Site Specific Provisions	Yes	Yes	The proposal affects specific sites, but does not change the zone or introduce additional uses

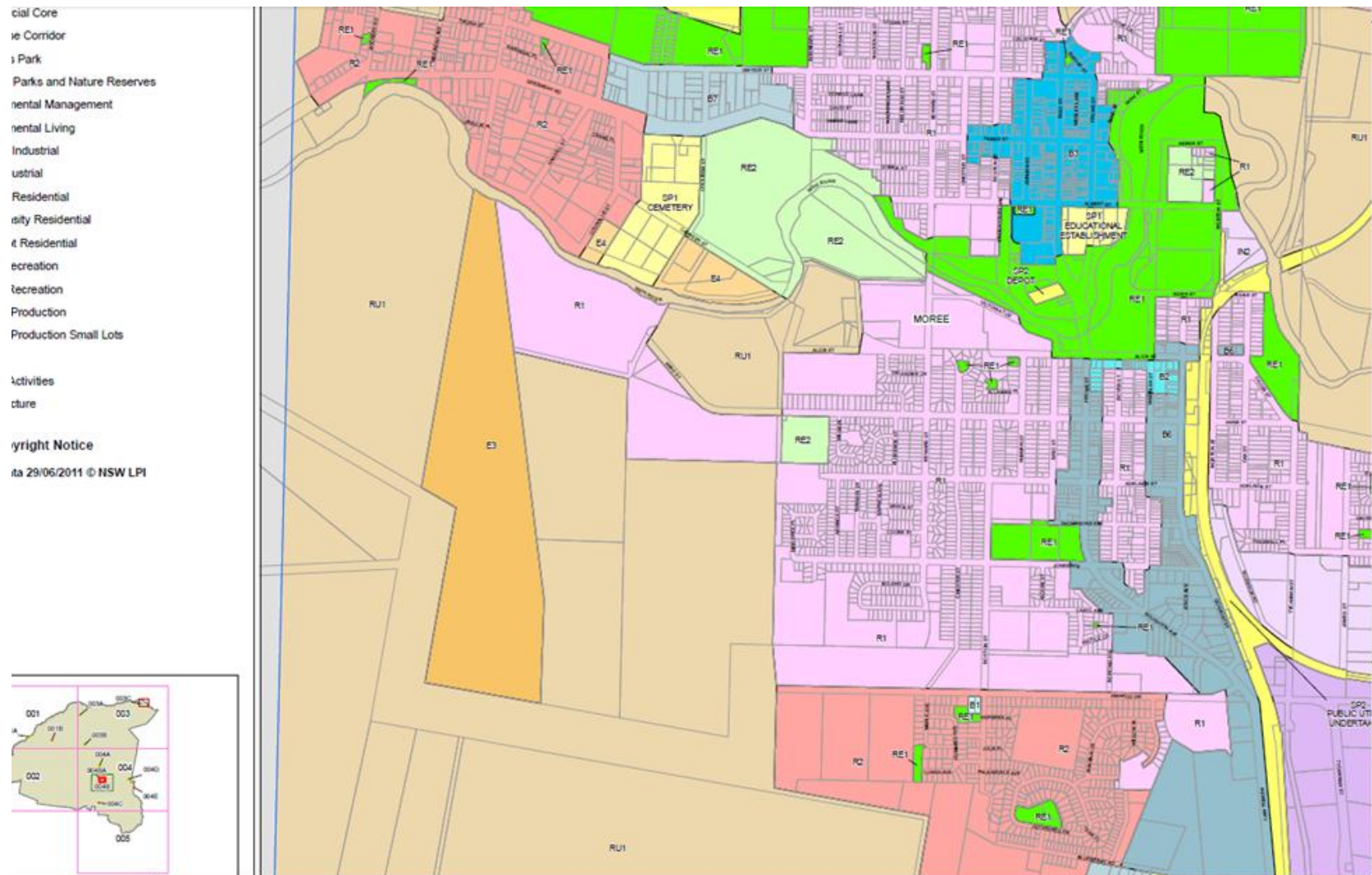
7. Metropolitan Planning

Direction	Relevant	Consistent	Reason
7.1 Implementation of the Metropolitan Strategy	No	n/a	Land is not within the Metropolitan area

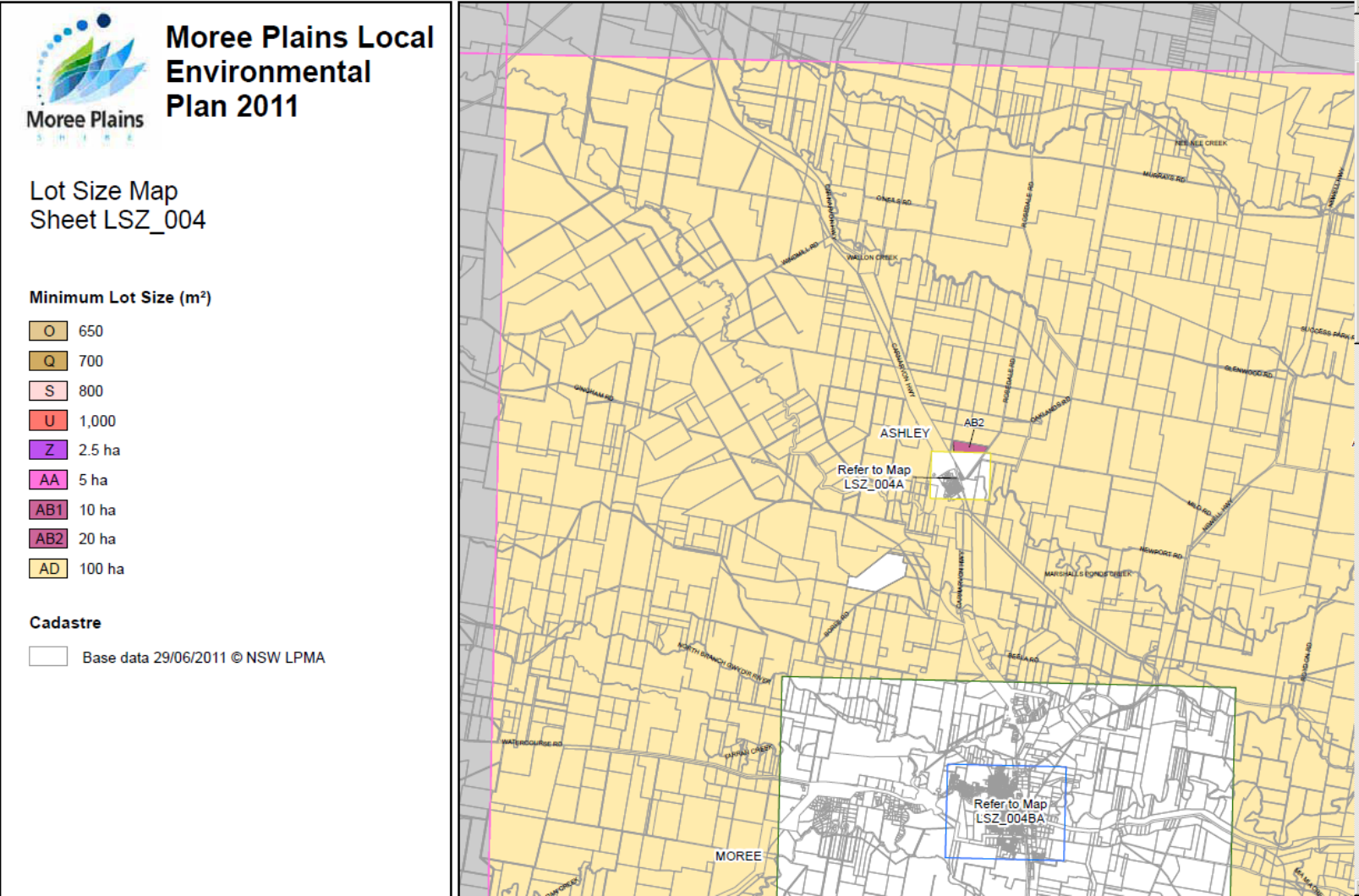
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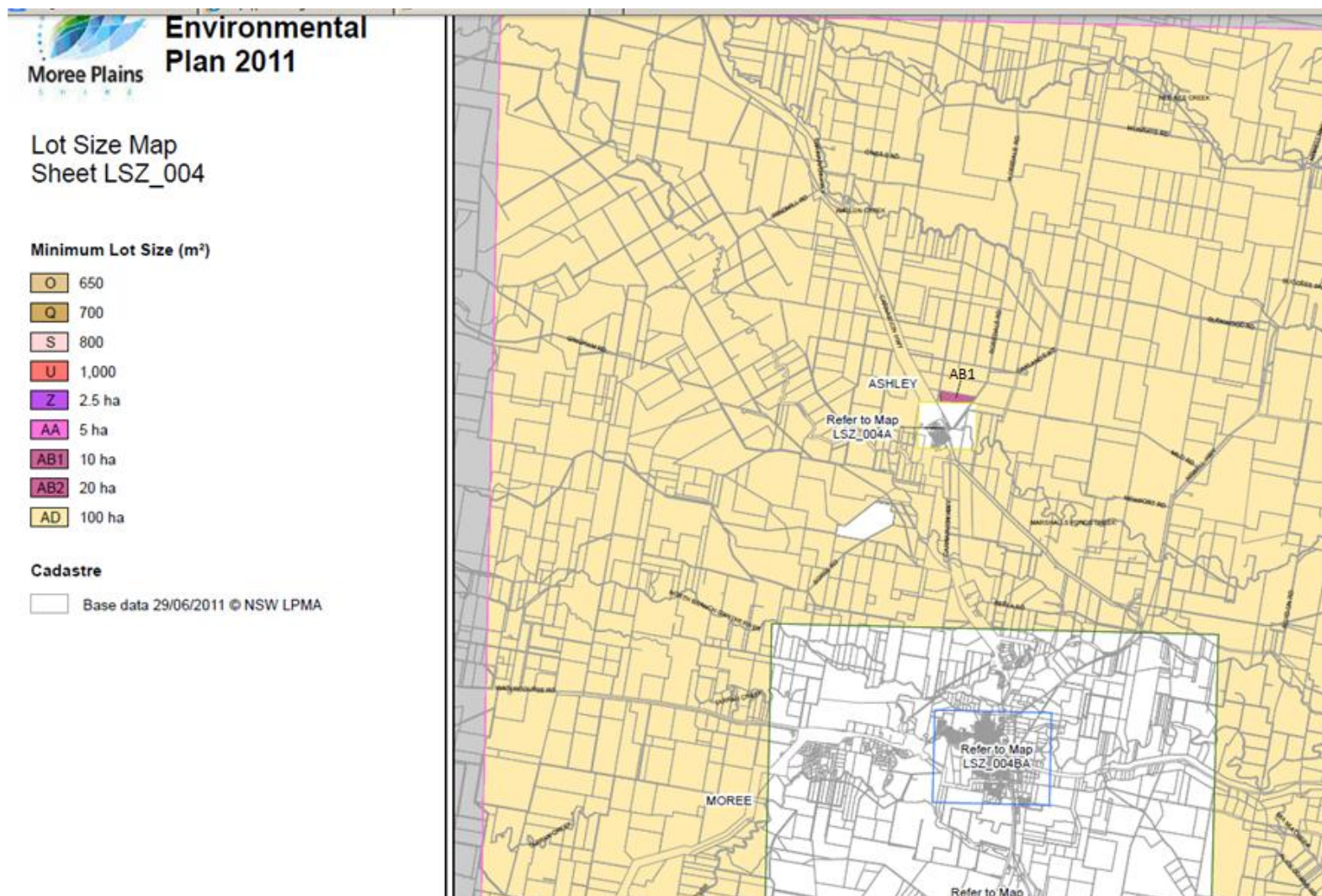
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LSZ_004 proposed map



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Moree Plains Local
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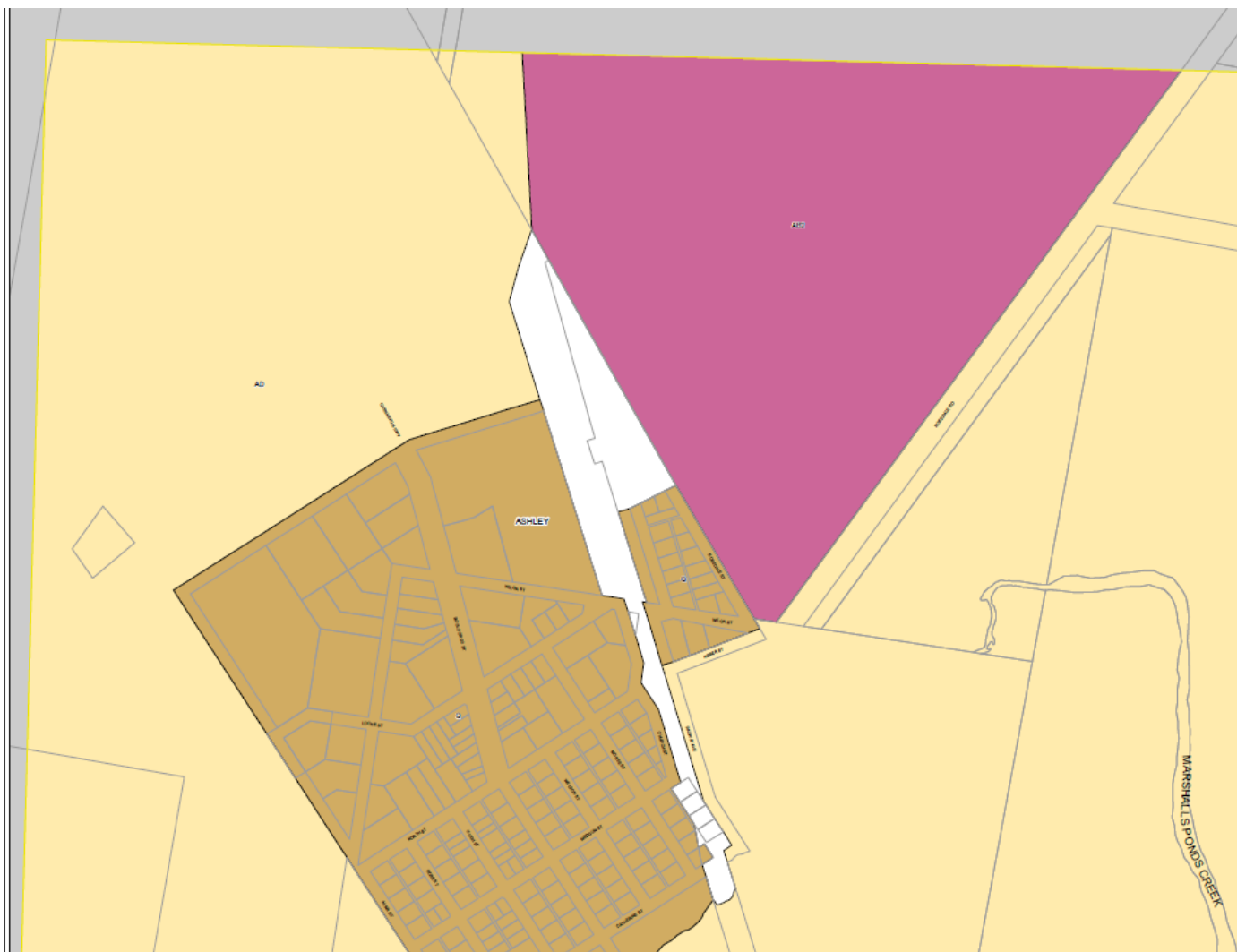
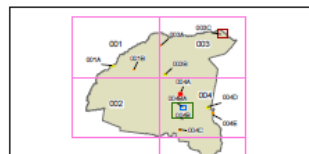
Lot Size Map
Sheet LSZ_004A

Minimum Lot Size (m²)

Q	650
Q	700
S	800
U	1,000
Z	2.5 ha
AA	5 ha
AS1	10 ha
AS2	20 ha
AD	100 ha

Cadastre

Base data 29/06/2011 © NSW LPMA



LZN_004A Proposed Map

