

PO Box 16
116 Russell Street
(Corner of Bentinck Street)
Bathurst NSW 2795

DX 3105 Bathurst

P: 02 6331 6803

F: 02 6332 3377

E: office@vrsurveyors.com.au

W: vrsurveyors.com.au

ABN 57 441 411 449

Application for Planning Proposal

in accordance with the
Environmental Planning and Assessment Act 1979

Prepared for:

Hynash Pty Ltd

Development:

**Planning Proposal Report for
Proposed Part Zoning Boundary Alteration**

Location:

**Lot 11 in DP 872964
Freemantle Road, Eglinton**

Directors:

- **Andrew Burge**
Registered Surveyor
- **David Ortiger**
Registered Surveyor

Consultant:

- **Margus Ratsep**
Registered Surveyor

Associates:

- **William Dunstall**
Registered Surveyor

Affiliation:

- Member of the Association of
Consulting Surveyors NSW Inc.
www.acsnsw.com.au

Hynash Pty Ltd has engaged Voerman & Ratsep to prepare a Planning Proposal Report in support of a Planning Proposal to be lodged with Bathurst Regional Council for a part zoning boundary alteration of Lot 11 in DP 872964, Freemantle Road, Eglinton.

The applicant is: Voerman & Ratsep
PO Box 16
Bathurst NSW 2795



Andrew Burge
Registered Land Surveyor/Director

Date: 16th October 2015
Reference: 14061

The owner of the subject land is Hynash Pty Ltd and have provided consent to the lodgement of this planning proposal.

Disclaimer

This report has been prepared based on the information supplied by the client and investigation undertaken by Voerman & Ratsep's professional judgement only and whilst every effort has been taken to provide accurate advice, Council and any other regulatory authorities may not concur with the recommendations expressed in this report. This document and the information it contains are solely for the use of the authorised recipient and this document may not be used, copied or reproduced in whole or in part for any purpose other than for which it was supplied by Voerman & Ratsep. Voerman & Ratsep make no representation, undertakes no duty and accepts no responsibility to any third party who may use or rely upon this document or the information it contains.

Confidentiality Agreement

All information, concepts, ideas, strategies, commercial data and all other information whatsoever contained within this document as well as any and all ideas and concepts described are provided in a commercial in confidence basis and remain the intellectual property and copyright of Voerman & Ratsep.

Copyright

The information, including the intellectual property contained in this document, is confidential and propriety to Voerman & Ratsep. It may only be used by the person, company or organisation to whom it is provided for the stated purpose for which it is provided. It must not be given to any other person, company or organisation without the prior written approval of a Director of Voerman & Ratsep. Voerman & Ratsep reserves all legal rights and remedies in relation to any infringement of its rights in respect of the confidential information.

Copyright © Voerman & Ratsep, 2015

TABLE OF CONTENTS

Clause	Description	Page
-	COVER PAGE	1
-	DISCLAIMER	2
-	TABLE OF CONTENTS	3
-	FIGURE INDEX	3
-	APPENDIX INDEX	3
-	PROJECT DETAILS	4
1.0	INTRODUCTION	5
1.1	Current Zone	5
1.2	Proposed Zone Change	6
1.3	Planning Instruments	6
1.3.1	Bathurst Regional Local Environmental Plan 2014	6
1.4	Land Area	6
1.5	Land Description and Relationship to Surrounding Land Uses	6
2.0	BACKGROUND/LANDUSE HISTORY	7
3.0	THE PROPOSAL	7
4.0	ASSESSMENT	8
4.1	Objectives or Intended Outcomes	8
4.2	Explanation of Provisions	8
4.3	Justification	8
4.3.1	Need for the Planning Proposal	8
4.3.2	Relationship to Strategic Planning Framework	10
4.3.3	Environmental, Social and Economic Impact	13
4.3.4	State and Commonwealth Interests	13
5.0	COMMUNITY CONSULTATION	13
6.0	PLANNING PROPOSAL AND GATEWAY DETERMINATION	14
7.0	CONCLUSION	14
8.0	RECOMMENDATION	14
9.0	LIMITATIONS	14
10.0	REFERENCES	15

FIGURE INDEX

Figure	Description	Page
Figure 1	Extract from the Bathurst Regional Council Zoning Plans – Bathurst Regional Local Environmental Plan 2014 Sheet LZN_011A	5
Figure 2	Photograph – Subject Property from Freemantle Road	6
Figure 3	Aerial view of subject site and immediate precinct	7
Figure 4	Bathurst Regional Development Control Plan 2014 Map No.3 – Eglinton	10

APPENDICES

- Appendix 1 – Proposed Zone Boundary Alteration
- Appendix 2 – Planning Gateway Process

Application for Planning Proposal pursuant to Section 55 of the Environmental Planning & Assessment Act, 1979

Date of Report: 16th October 2015

Applicant: Hynash Pty Ltd
C/- Voerman & Ratsep
P.O. Box 16
Bathurst NSW 2795

Client: Hynash Pty Ltd
P.O. Box 772
Bathurst NSW 2795

Location: Lot 11 in DP 872964, Freemantle Road, Eglinton

Area: 44.46 hectares

Subject of Report: Application for Planning Proposal to change zone boundaries from:
RU1 – Primary Production to RE1 - Public Recreation, and
RE1 - Public Recreation to R1 – General Residential

Current Zoning: RU1 – Primary Production, RE1 - Public Recreation and R1 - General Residential under Bathurst Regional Local Environmental Plan 2014
(see **Figure 1** on following page)

Proposed Zoning: RU1 – Primary Production, RE1 - Public Recreation and R1 - General Residential

Planning Guidelines and Instruments:

- (i) New South Wales Government (1979) Environmental Planning & Assessment Act (as amended);
- (ii) New South Wales Government (1979) Environmental Planning & Assessment Regulations (as amended);
- (iii) New South Wales Government Section 117(2) Directions;
- (iv) Department of Planning & Infrastructure – A guide to Preparing Planning Proposals; and
- (v) Bathurst Regional Local Environmental Plan 2014
- (vi) Bathurst Regional Development Control Plan 2014

1.0 INTRODUCTION

This report relates to the proposed change in zoning boundaries between the current RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential on Lot 11 in DP 872964 with the consent of Council.

The land is currently zoned RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential under the Bathurst Regional Local Environmental Plan 2014.

Following is an assessment which discusses the merits of the application for the Minister's consideration and a decision as to whether or not to prepare a Planning Proposal (PP) (which, if supported would result in an LEP), pursuant to Section 55 of Environmental Planning & Assessment Act, 1979 (State).

1.1 Current Zone

The land is currently zoned RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential under the Bathurst Regional Local Environmental Plan 2014. (see **Figure 1**).

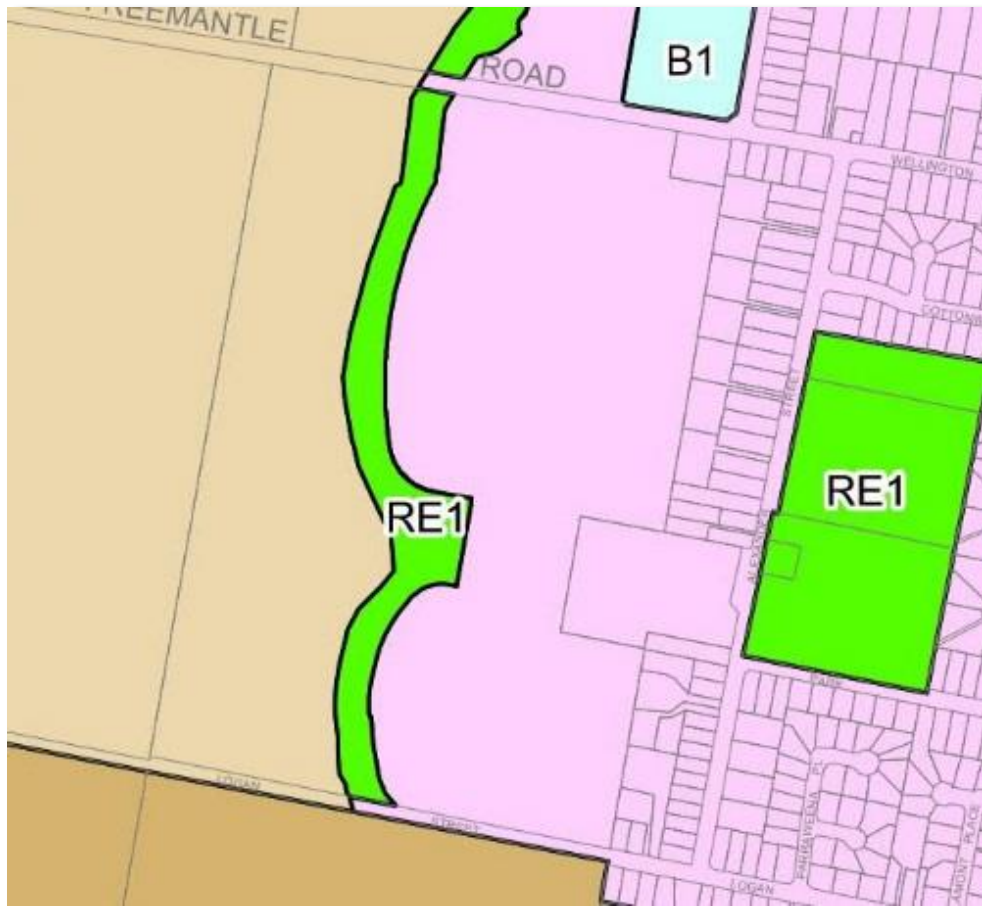


Figure 1: Extract from the Bathurst Regional Council Zoning Plans – Bathurst Regional Local Environmental Plan 2014 Sheet LZN_011A

1.2 Proposed Zone Change

It is proposed to change the zoning boundaries between RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential to permit an improved and safer residential development and provision for open space on that part of the subject land as shown in **Appendix 1**.

1.3 Planning Instruments

1.3.1 Bathurst Regional Local Environmental Plan 2014

Under the Bathurst Regional Local Environmental Plan 2014, the land is zoned RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential (see **Figure 1**). The Bathurst Regional LEP 2014 was gazetted on the 19th November 2014.

1.4 Land Area

The subject allotment has a total area of 44.46 hectares.

1.5 Land Description and Relationship to Surrounding Land Uses

The land is located immediately to the west of Eglinton village between Freemantle Road and Logan Street comprising a total land area of 44.46 hectares (see **Figure 3**). Presently, the site lies adjacent to residential land, Eglinton Public School to the east and Eglinton RFS Station to the north east. The site is gently undulating and is dissected by a watercourse that flows generally to the south.

The land has been cleared for livestock grazing and fodder crop production as shown in **Figure 2**. Three significant dams are present along the watercourse as shown in **Figure 3**.

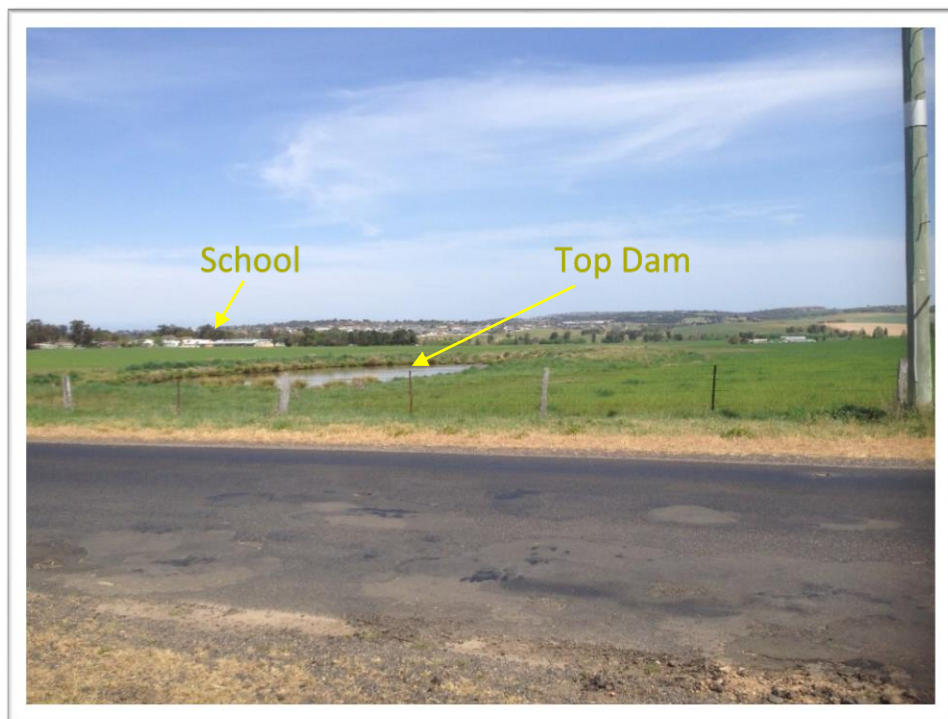


Figure 2: Subject Property from Freemantle Road

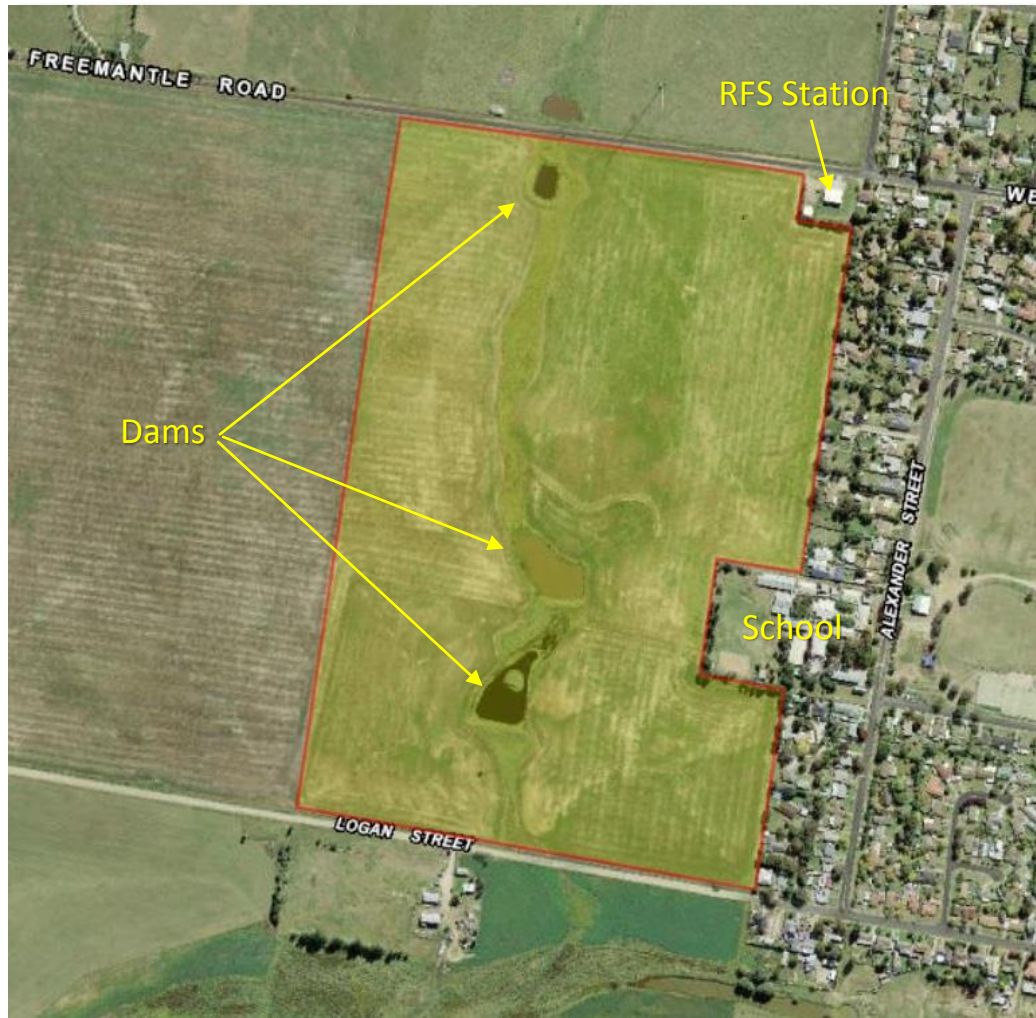


Figure 3: Aerial view of subject site and surrounds

2.0 BACKGROUND/LANDUSE HISTORY

The subject site was rezoned by Bathurst Regional (Interim) Local Environmental Plan 2005 (Amendment No. 7) following the Eglinton Expansion Planning Proposal gazettal in February 2013.

Bathurst Regional (Interim) Development Control Plan (Amendment No. 4) provided the development controls applicable to the future subdivision of the land.

The recently adopted Bathurst Regional Local Environmental Plan 2014 and Development Control Plan 2014 carried over the land use zoning boundaries from the previous planning instruments.

The subject site has been cleared and used for the livestock grazing and fodder production for over 100 years.

3.0 THE PROPOSAL

It is proposed to alter the zoning boundaries between RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential to permit an improved and safer residential development and provision for open space on that part of the subject land as shown in **Appendix 1**.

4.0 ASSESSMENT:

4.1 Objectives or Intended Outcomes

The objective of the Planning Proposal is to alter the zoning boundaries between RU1 – Primary Production, RE1 – Public Recreation and R1- General Residential to permit an improved and safer residential development and provision for open space on that part of the subject land as shown in **Appendix 1**.

4.2 Explanation of Provisions

The objective of the Planning Proposal shall be achieved through the change in zone boundaries between the current RU1 – Primary Production to RE1- Public Recreation and RE1 – Public Recreation to R1 – General Residential under the Bathurst Regional Local Environmental Plan 2014 which will permit the proposed use (with the consent of Council).

The likely wording of the site specific rezoning local environmental plan is set out below.

1. Aims of Plan

This plan aims to change the zoning under the Bathurst Regional Local Environmental Plan 2014 and Bathurst Regional Development Control Plan Map No. 3 – Eglinton to improve public safety and public amenity of the residential subdivision on the site.

Explanation: This provision states the objective of the planning instrument (zoning change) as it applies to the use of the subject land.

2. Subject Land

This plan applies to Lot 11 in DP 872964, Freemantle Road at Eglinton as shown coloured XXXXX with heavy XXXX edging on the map marked Bathurst Regional Local Environmental Plan 2014 No XXX.

Explanation: The provision states the legal description of the land and ensures that the site to which the proposed zone (zoning change) applies can be identified.

3. Amendment to the Bathurst Regional Local Environmental Plan 2014

Bathurst Regional Council – Bathurst Regional Local Environmental Plan 2014 is amended by altering the zone boundaries.

Explanation: This provision allows for residential development to be a permissible use on part of the subject land between Freemantle Road and Logan Street, Eglinton.

4.3 Justification

4.3.1 Need for the Planning Proposal

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

The Planning Proposal is not the result of a specific strategic study or report. It seeks an alteration to current zone boundaries to provide improved and safer residential and open space land (*refer to Figure 4*):-

- That eliminates the need to have a road intersection(s) in front of the proposed extension to the public school land. This can reduce the interface between motor vehicles making turning manoeuvres and school children, particularly during times just before and just after school.
- There is an opportunity to provide a local access road along the perimeter of the open space/public reserve. This can provide better access to residents along a greater length.
- Dwellings will look out over the open space from across the road. This can provide safer access for walkers and cyclists by having the reserve “out in the open”.
- The three dams along the watercourse will require removal and regrading to prevent a public health and safety problem adjacent to residential land.
- The realigned open space will provide improved hydraulic flows of the watercourse subsequent to the removal and regrading of the dams. The risk of localised flooding from trapped water will be reduced during a high intensity rainfall event.

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

The Planning Proposal identifies particular constraints to a satisfactory residential development on the site and offers an improved and safer alternative. An amendment to the Bathurst Regional LEP 2014 is the only way to change the controls on development on this site. See **Figure 4**.

Is there a net community benefit?

The alteration to the zone boundaries on the subject site will benefit the community by:-

- (i) providing a safer road pattern around the proposed extensions to the adjoining public school; and
- (ii) providing improved access and safety in the use of the open space/public recreation land.

The site specific rezoning (alteration to the zone boundaries) will not significantly change the planning outcomes and objectives desired in Bathurst Regional LEP 2014. See **Figure 4**.

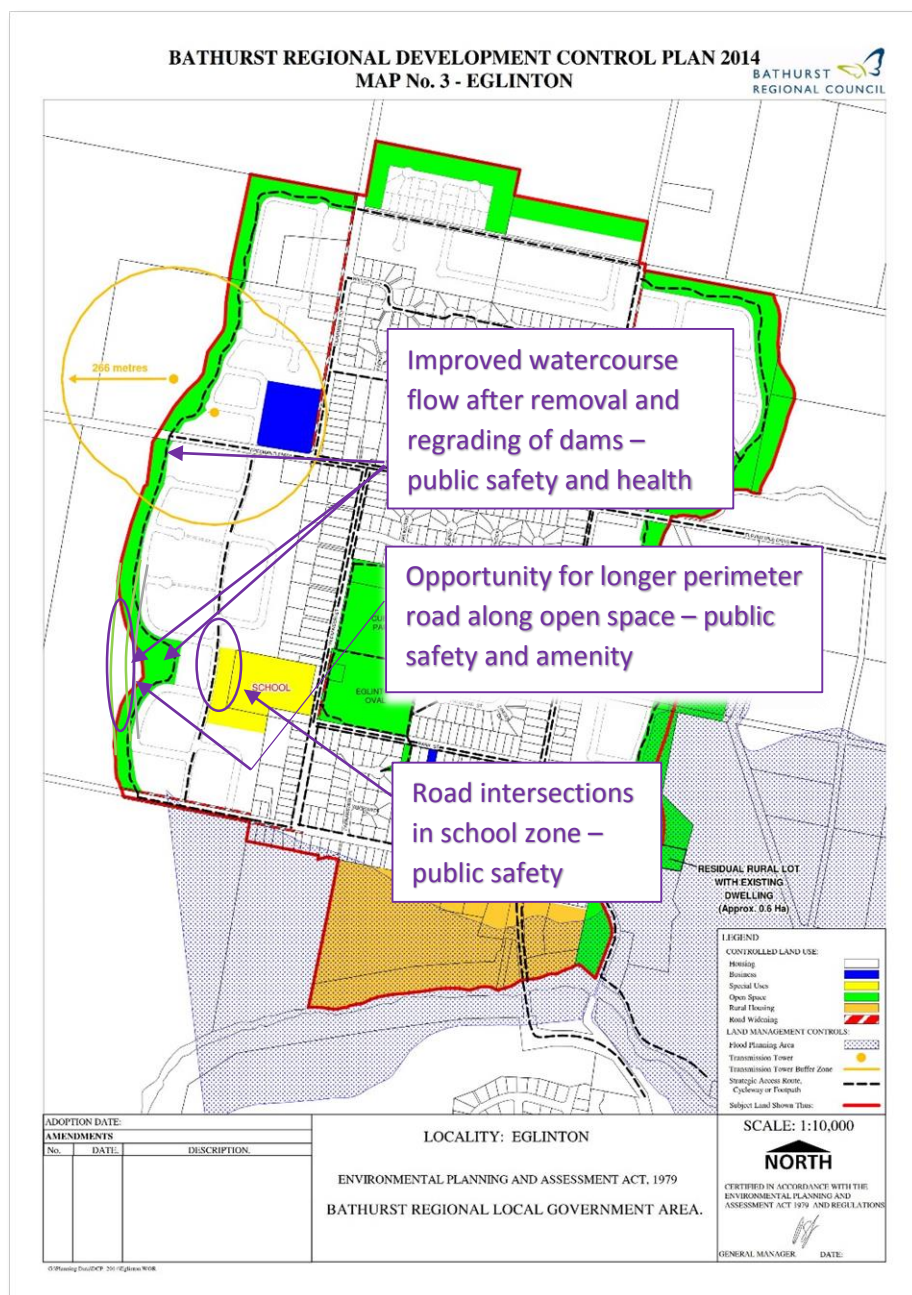


Figure 4 Bathurst Regional Development Control Plan 2014 Map No. 3 - Eglinton

4.3.2 Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy? And, is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

The Eglinton Village Expansion Local Environmental Study 2006 and the Bathurst Region Urban Strategy 2007 commissioned by Bathurst Regional Council are the most applicable sub-regional documents influencing development of the site. The Planning Proposal does not contravene the recommendations and findings of the LES. In fact, the proposed alteration to the zoning boundaries more closely matches the open space corridor mapped in the Eglinton Village LES together with a local access road running along its eastern perimeter.

Is the Planning Proposal consistent with applicable state environmental planning policies?

The Planning Proposal is consistent with all applicable state environmental planning policies (SEPPs). Those directly relevant are discussed below.

SEPP No. 55 – *Remediation of Land*

SEPP55 was gazetted on the 28th August 1998 and introduced state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires Councils to be notified of all remediation proposals. To assist councils and developers, the Department, in conjunction with the Environment Protection Authority, has prepared Managing Land Contamination: *Planning Guidelines*.

The land has been continuously used for agricultural/stock grazing purposes and for activities that are unlikely to cause contamination. Therefore, the requirements of SEPP 55 do not apply.

Is the Planning Proposal consistent with Ministerial Directions (S.117 Directions)?

The Planning Proposal is consistent with the applicable Section 117 Directions. The relevant Directions are discussed below.

Direction 1.2 – Rural Zones

Direction 1.2 was issued on the 1st July 2009 and applies when a relevant planning authority prepares a planning proposal in that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

The objective of the Direction is to protect the agricultural production value of rural land.

Whilst the proposed zone change within the Bathurst Regional Local Environmental Plan 2014 is inconsistent with the Direction, it can be justified on the basis that in accordance with clause (5)(d) it is of minor significance.

Direction 1.5 – Rural Lands

This direction applies when a relevant planning authority prepares a planning proposal that:-

- (i) will affect land within an existing or proposed rural or environmental protection zone (including the alteration of any existing rural or environmental protection zone boundary); or
- (ii) changes the existing minimum lot size on land within a rural or environmental protection zone

The **objectives** of the Direction are to:-

- (i) protect the agricultural production value of rural land; and
- (ii) facilitate the orderly and economic development of rural lands for rural and related purposes.

Whilst the proposed zone change within the Bathurst Regional Local Environmental Plan 2014 is inconsistent with the Direction, it can be justified on the basis that in accordance with clause (6)(b) it is of minor significance.

Direction 2.3 – Heritage Conservation

This direction applies when a relevant planning authority prepares a planning proposal. A planning proposal must contain provisions that facilitate the conservation of:-

- (i) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area;
- (ii) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
- (iii) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Having regard to the disturbed nature of the site from its long term agricultural use, it is unlikely that there are any remaining aboriginal relics. There are no Section 149 Planning Certificate messages on the land identifying Aboriginal relics.

Direction 3.1 – Residential Zones

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: -

- (i) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- (ii) any other zone in which significant residential development is permitted or proposed to be permitted.

The proposed zone change within the Bathurst Regional Local Environmental Plan 2014 is consistent with the Direction as it is not intended to alter the zone objectives outlined and the alterations to the zone boundaries is only of minor significance.

Direction 5.1 – Implementation of Regional Strategies

This direction applies when a relevant planning authority prepares a planning proposal. Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

There are no Regional Strategies in place that currently affect the Bathurst Regional Council area.

Direction 6.1 – Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development and applies when a relevant planning authority prepares a planning proposal.

In accordance with the provisions, the planning proposal:-

- (i) does not contain provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and

(ii) does not identify development as designated development

Direction 6.3 – Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls and applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.

The proposal is consistent with the Direction in that it is only of minor significance and no site specific provisions are included.

4.3.3 Environmental, Social and Economic Impact

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 is currently used for grazing and fodder crop production and the likelihood of critical habitat or threatened species, populations or ecological communities, or their habitats is low to insignificant. The Eglinton Village Expansion LES 2006 did not identify any environmental constraints on the site.

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

The Eglinton Village Expansion LES 2006 did not identify any environmental effect on the site likely to restrict an alteration to the zone boundaries in Bathurst Regional LEP 2014.

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

Refer to section 4.3.1 *Need for the Planning Proposal* above.

4.3.4 State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

The availability of existing and the provision for additional public infrastructure as a result the zone boundaries implemented in Bathurst Regional LEP 2014 remain valid.

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

A gateway determination has not yet been issued and such consultation will be required in that determination.

5.0 COMMUNITY CONSULTATION:

Community consultation occurs at a later stage, after a gateway determination. Community consultation will involve an exhibition period of 28 days. The community will be notified of the commencement of the exhibition period via a notice in the local newspaper and on the website of Bathurst Regional Council. A letter will also be sent to the adjoining landowners.

The written notice will:-

- (i) give a brief description of the objectives or intended outcomes of the planning proposal;
- (ii) indicate the land affected by the planning proposal;
- (iii) state where and when the planning proposal can be inspected;
- (iv) give the name and address of Bathurst Regional Council for receipt of submissions; and
- (v) indicate the last date for submissions.

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

- (i) the planning proposal, in the form approved for community consultation by the Director-General of Planning;
- (ii) the gateway determination; and
- (iii) any studies relied upon by the planning proposal.

6.0 PLANNING PROPOSAL AND GATEWAY DETERMINATION:

In this instance, it is requested that the Minister initiate the Planning Proposal under Section 54-55 of the Environmental Planning & Assessment Act 1979. Where the Minister has initiated the process, the Minister will appoint the Director-General, or some other person or body prescribed by the regulations, including a Joint Regional Planning Panel, to be the relevant planning authority (RPA). Should the RPA support the planning proposal, it will be forwarded to the Department of Planning for assessment. The Department will then forward the Planning Proposal and its recommendation to the LEP Panel.

The LEP Panel will consider the planning proposal and the Department's recommendation before making its own recommendation to the Minister for a gateway determination. Should the Minister (or delegate) support the planning proposal proceeding directions would be given to the RPA regarding any changes to the planning proposal, studies to be carried out, state and federal authorities to be consulted, community consultation required and timing. The Planning Proposal process in diagrammatic form can be seen in **Appendix 2**.

7.0 CONCLUSION

This Planning Proposal seeks to improve the residential and public recreation objectives of the Bathurst Regional Local Environmental Plan 2014 in the Eglinton village and can be justified because:-

- (i) it is a minor alteration of existing zone boundaries on the site; and
- (ii) it is intended to improve the residential and open space outcomes of the development to ensure public health and safety and public amenity on the site.

8.0 RECOMMENDATION:

It is recommended that:-

- A. The Minister initiate the Local Environmental Plan "Gateway" process pursuant to Section 55 Environmental Planning and Assessment Act 1979 by endorsing the Planning Proposal for Lot 11 in DP 872964, Freemantle Road at Eglinton and forwarding it to the Department of Planning requesting a "Gateway" determination pursuant to Section 56(1) Environmental Planning and Assessment Act 1979 and that the Department of Planning prepare all necessary documentation and process the matter according to the Department of Planning's directives.

- B. After public exhibition of the Planning Proposal, should the Minister for Planning support it at the gateway and if no submissions are received, the Planning Proposal is to be referred to the Department of Planning in order to make the plan.

9.0 LIMITATIONS:

Voerman & Ratsep has prepared this report for a development at Lot 11 in DP 872964 Freemantle Road at Eglinton in accordance with instructions from the owner, Hynash Pty Limited.

The report is provided for the exclusive use of Hynash Pty Limited for this development only and for the purpose(s) described in the report. It should not be used for other projects or by a third party. In preparing this report Voerman & Ratsep has necessarily relied upon information provided by the client and/or their agents.

Voerman and Ratsep's advice is based upon the information supplied and encountered during this assessment. The accuracy of the advice provided by Voerman & Ratsep in this report may be limited by undisclosed information provided by other sub-consultants. The advice may also be limited by budget constraints imposed by others or by site accessibility.

This report must be read in conjunction with all of the attached notes and reports and should be kept in its entirety without separation of individual pages or sections. Voerman & Ratsep cannot be held responsible for interpretations or conclusions made by others unless they are supported by an express statement, interpretation, outcome or conclusion given in this report. Please contact the undersigned for clarification of the above as necessary.



Andrew Burge
Registered Land Surveyor/Director
Voerman & Ratsep

16th October 2015
Date

10.0 REFERENCES:

The following documents were referenced:-

- New South Wales Government Environmental Planning & Assessment Act 1979 (as amended);
- New South Wales Government Environmental Planning & Assessment Regulations 1979 (as amended);
- New South Wales Government Section 117(2) Directions;
- Department of Planning & Infrastructure - A guide to preparing planning proposals (October 2012);
- Bathurst Regional Local Environmental Plan 2014; and
- Bathurst Regional Development Control Plan 2014
- Bathurst Region Urban Strategy 2007
- Eglinton Village Expansion Local Environmental Study 2006

Appendix 1
Proposed Zone Boundary Alteration Map



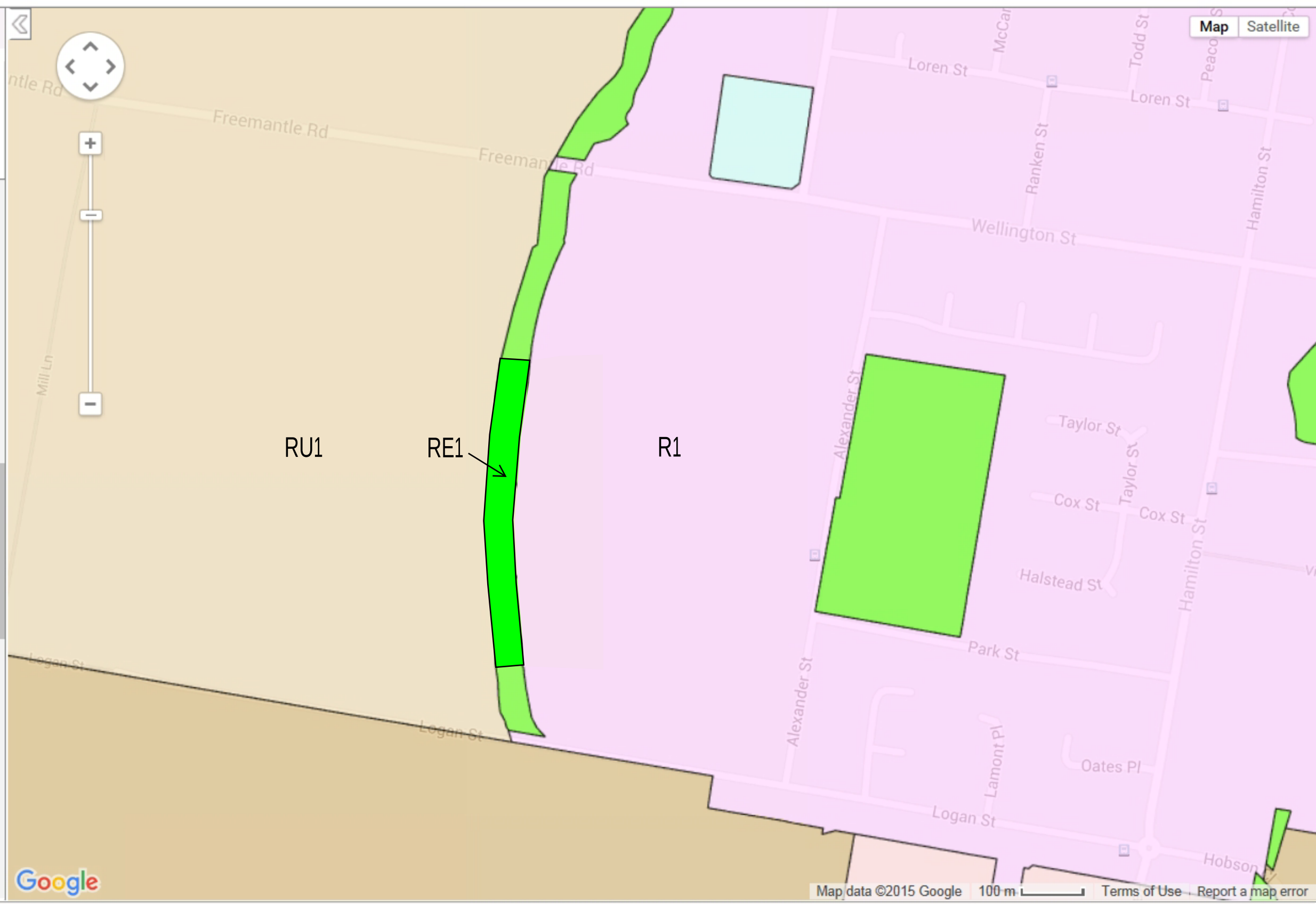
Location Search

Advanced Search

Search Address or Place

Place on map

- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park
- B8 Metropolitan Centre
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- IN4 Working Waterfront
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Primary Production Small Lots
- RU5 Village
- RU6 Transition
- SP1 Special Activities
- SP2 Infrastructure
- SP3 Tourist
- W1 Natural Waterways
- W2 Recreational Waterways



Appendix 2

Planning Gateway Process

Figure 5 – Process to make a local environmental plan

