

Application for Planning Proposal

in accordance with the

Environmental Planning & Assessment Act 1979

Planning Proposal Report

for

Proposed Zoning Change

Lot 182 in DP1013217 Sydney Road

Kelso

Tigwych Pty Limited

July 2015

Job No: 931 – 2014

03 – 931/2014 (FINAL)



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Urban Design & Development Services

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Application for Planning Proposal
Proposed Zoning Change

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LIST OF ABBREVIATIONS AND GLOSSARY	
Abbreviation	Meaning
AS	Australian Standard
BCC	Bathurst City Council
BDCP	Bathurst Development Control Plan
B(Interim)LEP	Bathurst Interim Local Environmental Plan
BRLEP	Bathurst Regional Local Environmental Plan (LEP) 2014
BRUS	Bathurst Regional Urban Strategy
CC	Construction Certificate
CCTV	Closed Circuit Television
CPTED	Crime Prevention Through Environmental Design
Council	Bathurst Regional Council
dB	Decibel, which is 10 times the logarithm (base 10) of the ratio of a given sound pressure to a reference pressure; used as a unit of sound
dB(A)	Frequency weighting filter used to measure 'A-weighted' sound pressure levels, which conforms approximately to the human ear response, as our hearing is less sensitive at very low and very high frequencies
DCP	Development Control Plan
DECCW	Department of Environment, Climate Change and Water NSW
EP&A Act	Environmental Planning & Assessment Act
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
DoPI	Department of Planning and Infrastructure
Emission	The release of material into the surroundings (for example, gas, noise and water)
EP&A Act	Environmental Planning and Assessment Act 1979
GFA	Gross Floor Area
INP	Industrial Noise Policy
LEP	Local Environmental Plan
LGA	Local Government Area
m ²	Square metre
m ³	Cubic metre
PP	Planning Proposal
REF	Review of Environmental Factors
REP	Regional Environment Plan
ROI	Return on Investment
ROW	Right-of-way
RPA	Relevant Planning Authority
RMS	Roads and Maritime Service
SEPP	State Environmental Planning Policy
SIA	Social Impact Assessment
SoEE	Statement of Environmental Effects

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

Date of Report: 22nd July 2015

Applicant: Tigwyich Pty Limited
C/- Wales & Associates Pty Limited
P.O. Box 150
Ettalong Beach 2257

Client: Tigwyich Pty Limited
P.O. Box 6183
Kincumber 2251

Location: Lot 182 in DP1013217
Sydney Road
KELSO

Area: 31.44 hectares

Subject of Report: Application for Planning Proposal to Change Zoning from
RU1 – *Primary Production* to R1 – *General Residential*

Current Zoning: RU1 – *Primary Production* under Bathurst Regional Local
Environmental Plan 2014
(see **Figure 1** on following page)

Proposed Zoning: 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 LEP Practice Note PN 11-001; and
- (v) Bathurst Regional Local Environmental Plan 2014

1.0 INTRODUCTION

This report relates to the proposed change in zoning from the current RU1 – *Primary Production* to R1 – *General Residential* on Lot 182 in DP1013217 with the consent of Council.

The land is currently zoned RU1 – *Primary Production* 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 its 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* under the provisions of the Bathurst Regional Local Environmental Plan 2014 (see **Figure 1**).

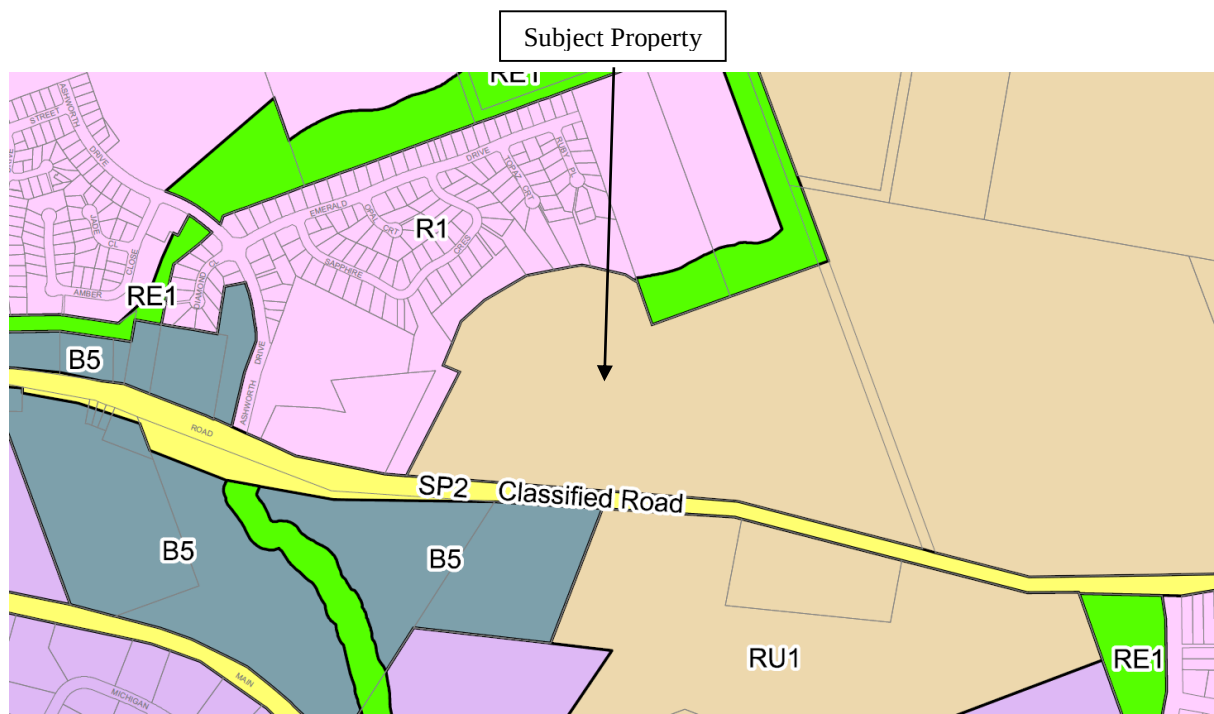


Figure 1

Extract from the Bathurst Regional Council Zoning Plans – Bathurst Regional Local Environmental Plan 2014 Sheet LZN_011F
(courtesy of Bathurst Regional Council)

1.2 Proposed Zone Change

It is proposed to change the zone from RU1 – *Primary Production* to R1 – *General Residential* so as to permit residential development and subdivision on that part of the subject lands fronting Sydney Road 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* (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 31.44 hectares.

1.5 Land Description and Relationship to Surrounding Land Uses

The lands are located on Sydney Road (Great Western Highway) comprising a total land area of 31.44 hectares (see **Figure 2**). Presently, the site lies adjacent to residential land to the north and west with the eastern boundary fronting rural lands. Bathurst Airport lies further to the north east with Raglan to the south east. The site is gently undulating and is traversed by a dry creek bed depression which falls generally to the west. Residential zoned land abuts the property to the north west (Sapphire Crescent and Emerald Drive).



Figure 2
Aerial view of subject site and immediate precinct

The land has been cleared for agricultural purposes with livestock resident on the site. The land is largely pasture grass with no significant trees or vegetation as shown in **Figure 3**. The site is fully fenced for the containment of stock.



Figure 2
Looking west towards Bathurst town centre

2.0 BACKGROUND/LANDUSE HISTORY

The subject site has been cleared and used for the grazing of livestock for over 100 years. It has continued to operate in this capacity up to the present time.

The subject land is zoned RU1 – *Primary Production* (see **Figure 1**) under the Bathurst Regional Local Environmental Plan 2014 which was gazetted on the 19th November 2014.

The property has been the subject of numerous studies and submissions to Bathurst Regional Council since 2003 by the current owners. These submissions included an application to the Council on the 27th February 2004 for the “rezoning” of the land from the then 1(a) – *General Rural* to 2(a) – *Residential*. Council considered the proposal at its Meeting held on the 17th March 2004 and resolved to:-

- (i) advise the applicant and the landowner that it is not prepared to support a rezoning application for Lot 182 in DP1013217 Sydney Road until the review of the City’s Structure Plan is completed, due in 2004/2005;
- (ii) form a working party to further discuss and investigate the proposal

At the time, Council advised that the land was not identified as “strategic residential” under the 1994 Structure Plan and was not included in the plan for Macquarie Plains in the Residential Subdivision DCP.

The Bathurst Structure Plan (1996) set the parameters for the Bathurst Local Environmental Plan 1997, the Bathurst Regional (Interim) Local Environmental Plan 2005 and the Bathurst Regional Local Environmental Plan 2014, Councils most recent planning instrument. The Bathurst Structure Plan 1996 identified key principles and recommendations relevant to the former Bathurst City Council LGA.

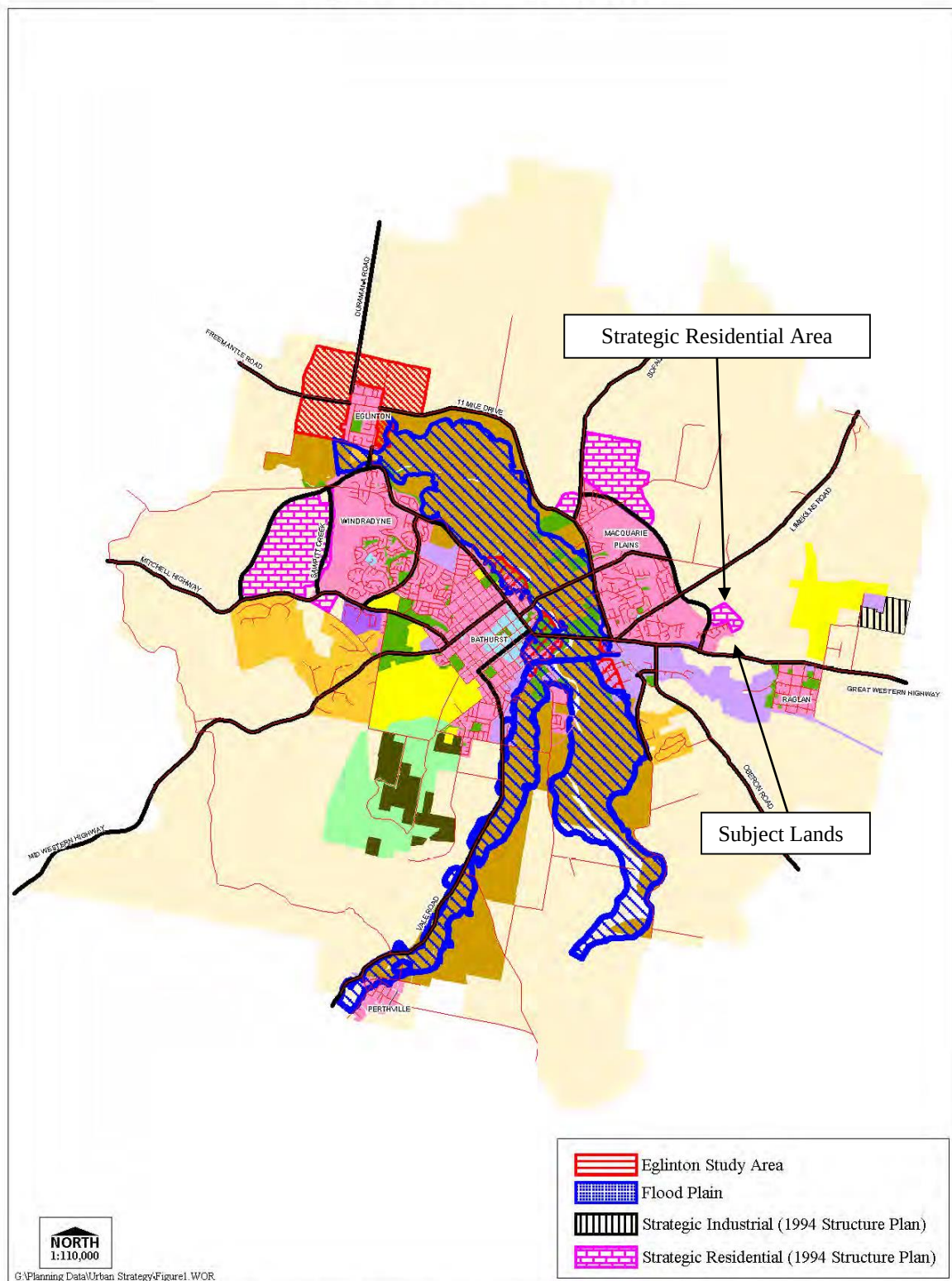
In relation “Living Areas”, the Key Principles stated that:-

- (i) Population Targets – the structure plan provides for an ultimate population of 60,000 persons. Two thirds of the increase will occur in the west Bathurst/Mount Stewart area and about one third in the Kelso/Macquarie Plains area;
- (ii) Urban Boundaries – the urban boundaries have been expanded to the west to include the Mount Stewart area. In the east, advantage has been taken of the ability to service land up to about the 708m contour, and the abandonment of the Traffic Relief Route, to extend the boundaries slightly while protecting the ridges and upper hill slopes that provide important vistas from the City itself; and
- (iii) Strategic Residential Development – two areas have been identified outside the general urban boundary in the Macquarie Plains area for strategic residential development. These are areas which, although they can be serviced with water, are of greater visual sensitivity and thus demand more stringent development controls. It would be expected that these would be developed with large lot or cluster subdivisions with controls over building envelope, building height, colours and materials to ensure that the landscape remains the dominant element. These areas could be included in a scenic protection area under the LEP.

Under Item (i) – Population Targets, the Structure Plan identified the Kelso/Macquarie Plains area for future growth. The subject lands lie adjacent to this precinct.

Under Item (ii) – Urban Boundaries, the Structure Plan sought to expand residential lands in the east taking advantage of the ability to service land up to about the 708m contour. The RL708m contour limit relates to the ability to provide sufficient water pressure from Council’s existing reservoirs including Raglan No.10 Reservoir. This issue is addressed under Section 5.3.4 – State and Commonwealth Interests in this report. The subject lands fall partly within the RL708 contour limit (see **Figure 8**).

Under Item (iii) – Strategic Residential Development, the Structure Plan identified two areas outside the general urban boundary in the Macquarie Plains area for strategic residential development as shown in **Figure 3**. One of the identified areas lies immediately north of the subject lands and have since been zoned R1 – *General Residential* under the Bathurst Regional Local Environmental Plan 2014 even though parts of the lands cannot be serviced (see Bathurst Regional Development Control Plan Map No.4)



Bathurst Regional Council expressly disclaims all liability for errors or omissions of any kind whatsoever, or any loss, damage or other consequence which may arise from any person relying on information in this Plan.
Date 24/07/2006
Note: The colours on this Plan do not indicate zones under the Bathurst Regional (Interim) Local Environmental Plan 2005. Department of Lands

Figure 3
Urban Study Area
(Extract from the Bathurst Region Urban Strategy)

It has long being argued by the Council that the subject lands should not be zoned for residential use as they were not identified in the Bathurst Structure Plan 1996 despite the plan being nearly 20 years old. This, despite adjoining lands with similar constraints being identified for residential use and subsequently rezoned even when parts are non-serviceable.

Council at that time had programed the review of the Bathurst Structure Plan (1996) during 2004/2005 as a precursor to the review of the then Local Environmental Plan. The Structure Plan review was to examine:-

- (i) the long term supply and demand for residential land and the most appropriate areas for this to occur;
- (ii) options in relation to co-ordination and staging between other planned subdivisions;
- (iii) servicing in relation to water and sewer;
- (iv) gateway and highway beautification issues;
- (v) highway access issues; and
- (vi) long term drainage issues

The Council were of the view that the above issues were particularly relevant to the subject property and therefore, it was Council's position that the completion of the review of the Structure Plan was important to the overall direction of the City before consideration of the 2004 rezoning proposal could be undertaken.

As part of Council's commitment to the review its planning controls, it placed a Draft Interim Local Environmental Plan on exhibition between November 2004 and January 2005 before adopting the draft instrument on the 20th April 2005. The interim planning instrument was a combination of the Bathurst Local Environmental Plan and the Evans Interim Development Order producing one planning instrument for the Bathurst Regional Council to operate under.

The Interim LEP provided interim/transitional planning controls for the new local government area until a comprehensive local strategic plan could be prepared and a new Local Environmental Plan (LEP) drafted based on the outcomes of the strategic plan. The local strategic plan and subsequent LEP was expected to take a number of years. Consequently, the Council saw the need for interim/transitional controls as being imperative for the short term administration of the planning system in the new local government area.

When the Bathurst Regional Council was formed on the 26th May 2004 by a proclamation which dissolved the former Bathurst City Council (BCC) and Evans Shire Council (ESC), the new Bathurst Regional Council (BRC) was created that encompassed all of the former Bathurst City Council and approximately eighty three percent of the former Evans Shire Council.

As a result of the Structural Reform process, the Bathurst Regional Council was then subject to a number of strategic and statutory planning controls. Council resolved to develop the Bathurst Region Urban Strategy and Bathurst Region Rural Strategy as a precursor to the preparation of a comprehensive Local Environmental Plan (LEP) for the new local government area (LGA). The Bathurst Region Urban Strategy was to be read in conjunction with the Bathurst Region Rural Strategy which aimed to guide the future land management and development of the rural areas of the Bathurst Regional Local Government Area.

The Bathurst Region Urban Strategy was subsequently adopted by Bathurst Regional Council in March 2007 and endorsed by NSW Department of Planning in May 2008. The Bathurst Regional Local Environmental Plan 2014 was subsequently gazetted on the 19th November 2014.

Over the ensuing period between the Interim LEP and the new Bathurst Local Environmental Plan 2014, a number of submissions (including from this office dated 20th December 2006) were made to Council in relation to the zoning status of the subject lands. During Council's strategic assessment process, these representations proved unsuccessful and Council rezoned adjoining parcels but not the subject lands which are now "enveloped" by lands zoned R1 – *General Residential*.

3.0 THE PROPOSAL

It is proposed to rezone the land from RU1 – *Primary Production* to R1 – *General Residential* so as to permit residential development and subdivision as shown in **Appendix 1**.

The zone change would permit approval (with the consent of Council) for the residential development and subdivision of the land which is fully cleared and currently used for livestock grazing. The "rezoning" has the capacity to provide residentially zoned land that:-

- (i) has direct access to Sydney Road (Great Western Highway);
- (ii) is accessible to a range of community and public facilities including shopping centres, schools and medical facilities;
- (iii) is fully cleared with no significant environmental constraints;
- (iv) is gently sloping and easily accessible;
- (v) is consistent with adjoining residential zoned lands to the north and west; and
- (vi) can be readily serviced through the augmentation and extension of existing water and sewer services

There is an increasing demand for good quality, accessible and fully serviced residential land in the Bathurst Regional LGA particularly in established Kelso residential area that has existing services and infrastructure. The subject site has the following advantages:-

- (i) is consistent with the pattern of similar residential uses in the immediate Kelso/Laffing Waters precinct to the north and west;
- (ii) is substantially cleared of native vegetation and has been regularly maintained (see **Figure 2**);
- (iii) is gently sloping and easily accessed;
- (iv) has good access off Sydney Road; and
- (v) can be easily serviced by a range of public utilities by extending and augmenting existing utilities

4.0 ZONING ISSUES

The land is currently zoned RU1 – *Primary Production* under the Bathurst Regional Local Environmental Plan 2014. It is currently "enveloped" by lands zoned R1 – *General Residential* to the north and to the west as shown in **Figure 1**. Those lands immediately to the north were identified under the The Bathurst Structure Plan (1996) as being "Strategic Residential" even though parts of the land are non-serviceable as denoted in the Bathurst Regional Development Control Plan Map No.4 (see **Figure 4**).

BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014
MAP No. 4 - KELSO

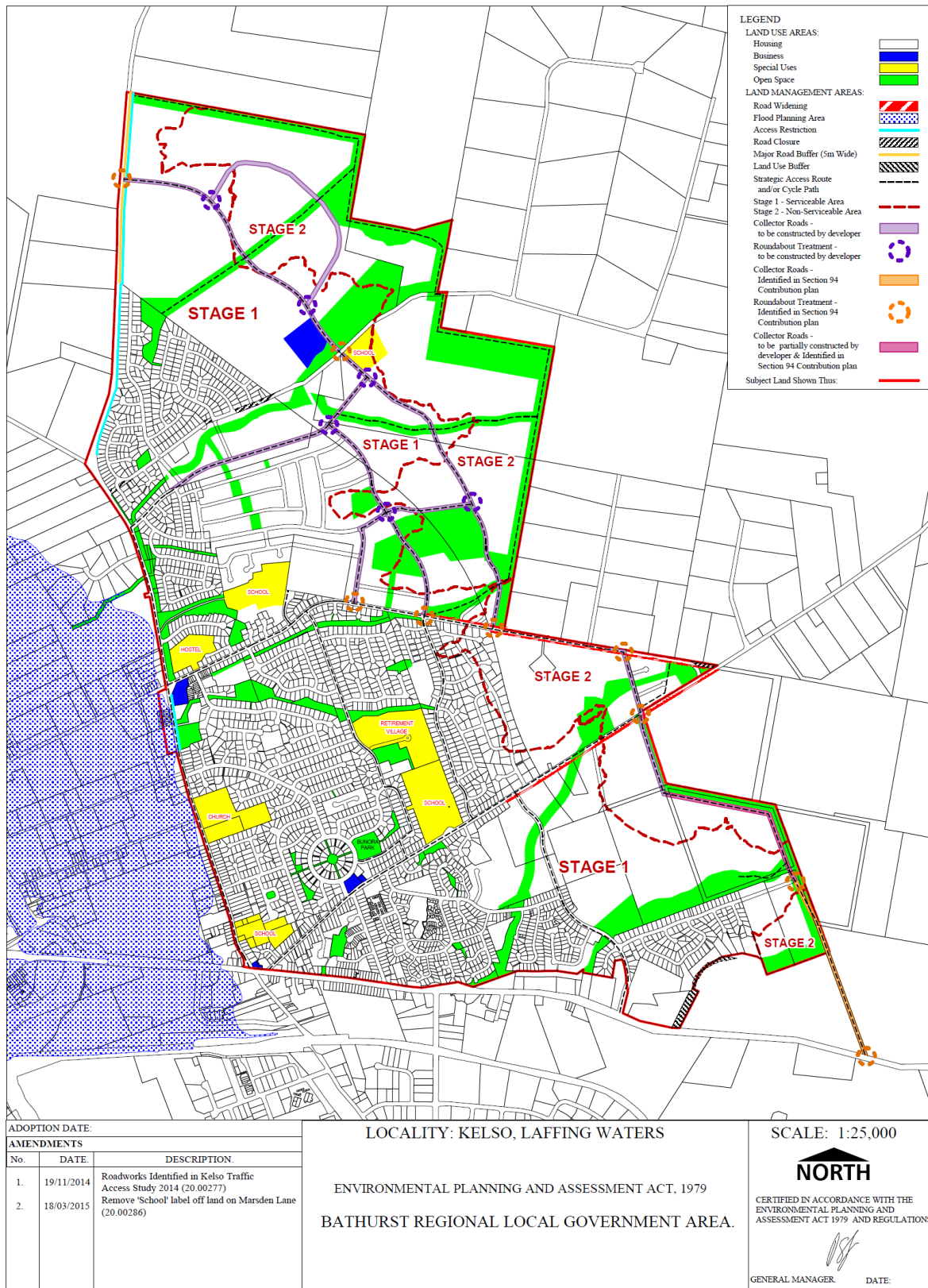


Figure 4
Bathurst Regional Development Control Plan 2014 Map No.4 - Kelso

5.0 ASSESSMENT:

5.1 Objectives or Intended Outcomes

The objective of the Planning Proposal is to allow Lot 182 in DP1013217 Sydney Road (Great Western Highway) at Kelso to be used for residential purposes as shown in **Appendix 1**. The proposal will provide for a high quality, accessible and fully serviced residential development on the fully cleared land adjoining existing fully serviced residential lands to the north and west.

5.2 Explanation of Provisions

The objective of the Planning Proposal shall be achieved through the change in zone from the current RU1 – *Primary Production* 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 Map No. 4 – Kelso so as to make provision for residentially zoned land adjacent to the Sydney Road frontage with the view to making provision for additional suitably zoned land for residential development in the Kelso precinct that will service the local community, thus catering for the future potential needs of a growing population.

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 182 in DP1013217 Sydney Road (Great Western Highway) at Kelso as shown coloured **XXXXXX with heavy XXXX edging** on the map marked Bathurst Regional Local Environmental Plan 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.

2 Amendment to the Bathurst Regional Local Environmental Plan 2014

Bathurst Regional Council – Bathurst Regional Local Environmental Plan 2014 is amended by changing the zone boundary.

Explanation: This provision allows for residential development to be a permissible use on the subject land fronting Sydney Road.

5.3 Justification

5.3.1 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 but relies on previous studies undertaken by Council including The Bathurst Structure Plan (1996). It seeks to address numerous matters that have arisen since the gazettal of the Bathurst Regional Local Environmental Plan 2014 and to make the necessary zone boundary amendments that Council has declined to include in the preparation of the current plan. The zone change represents a rounding off of the existing residential zone boundary.

The Planning Proposal is also as a result of the pressure of demand for a high quality, accessible and fully serviced residential lands based on market research conducted by the owner.

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

It is considered that the Planning Proposal is the only means of achieving the objective of establishing additional high quality, accessible and fully serviced residential land such that the proposed activity is in keeping with the existing character of the area and consistent with the established adjoining residential uses to the north and west.

Is there a net community benefit?

It is considered that the change in zoning on the subject site will benefit the community by:-

- (i) providing suitably zoned residential land (via the zoning change) for residential development and subdivision which is consistent with other similar residential uses in the immediate precinct to the north and west; and
- (ii) providing good quality, accessible and fully serviced residential land that meets the requirements of the local community

The Planning Proposal is in a strategic location adjacent to other residentially zoned land to the north and west and seeks to minimise potential impacts on adjoining residential lands.

New residential development lies immediately to the north and west of the site along Sydney Road and along Ashworth Drive and Emerald Drive on lands that are also zoned R1 – *General Residential*. Large rural residential lots lie immediately to the east between the subject site and Bathurst Airport.

Lands zoned for Business Development lie adjacent to Sydney Road on the southern side and further to the west on the northern side. The existing residential and business activities will not be significantly impacted by the proposal. Rather, the proposed development will complement the existing land uses by providing additional residential land that is capable of being serviced that will meet local demand.

The existing road network is able to service the projected traffic generated by the proposal and future development. The site is accessed from Sydney Road which provides direct access to the Bathurst town centre. Sydney Road is a Classified Main Road and is currently undergoing major upgrading works. It is capable of accommodating additional vehicle and truck movements. The subject site will also be serviced in the future via the upgrading of the unnamed road which forms the western boundary of the site. The projected traffic will not need to use other streets such as Ashworth Drive and Emerald Drive.

The site is located within an area currently used predominantly for residential uses and abuts existing fully developed residential estates to the north and west. Therefore, the use of the land for low density residential purposes will not create any additional significant impacts on the scenic quality of the locality and is consistent with the established uses in the immediate precinct.

The site specific rezoning (change of zone) will not significantly change the existing underlying residential character, nor create neither a precedent nor change expectations of nearby landowners as the proposed use is consistent with long established residential uses in the immediate vicinity.

5.3.2 Relationship to Strategic Planning Framework

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

The Bathurst Region Urban Strategy, which was adopted by Bathurst Regional Council in March 2007 and endorsed by NSW Department of Planning in May 2008, is the most applicable sub-regional document influencing development of the land. The Planning Proposal consists of a “rounding off” of the enveloping R1 – *General Residential* lands to the north and west which is not explicitly consistent with the outcomes or actions of the sub-regional strategy. It is the applicant’s view that the zone boundary adjustment and isolation of the subject lands was omitted from the Bathurst Region Urban Strategy and subsequently the Bathurst Regional Local Environmental Plan 2014 due to its inability to be serviced by water supply.

Under Clause 2.1.1 – Commercial Growth (Page 10), the BRUS states that “*the Bathurst Retail Strategy shows a vibrant regional centre with strong growth*” It makes the following projections for retail floor growth rates as shown in **Table 1**.

Year	Total Retail Goods and Services Floor Space (square metres)
1998	85,000
2011	114,000
2021	129,000

Table 1
Total Retail Goods and Service Floor Space

Clause 2.1.2 – Employment (Page 10) states that the “*Total employment in Bathurst City has grown by 23% between 1986 and 2001. Job creation has exceeded population growth of 15% for the same period*”.

The major industry employers are:-

- (i) retail trade;
- (ii) manufacturing;
- (iii) education; and
- (iv) health and community services

Apart from external factors such as national economic growth rates, employment growth in the Bathurst Region is driven by (in part) by competitively priced residential and employment (ie: industrial and commercial/retail) lands and the position of the Region between Sydney and Western New South Wales for industrial and logistics businesses and good interregional transport infrastructure, (i.e. the Great Western Highway A32 and rail).

Based on the demands for fully serviced residential land, it is important to encourage accessible low density residential development that minimises the pressure on existing services and enhances lifestyle. Residential development is largely driven by competitively priced land, job opportunities, a strong local labour force and a growing local domestic demand for goods and services. The growing population and strategic location of the region have resulted in growing demand for residential land that is close to existing centres and services. Hence, the current application is a response to the market demand especially in and around the established Sydney Road corridor.

Under Clause 7.2 – Residential Growth Areas, the BRUS states that:-

“the 1974 and the 1996 Structure Plans sought to provide housing for an ultimate population of 60,000 persons in the longer term. Population projections remain reasonably consistent with population targets of this strategy. The key areas identified for residential growth in the longer term were to the east of the City (Macquarie Plains and Kelso), the west of the City (West Bathurst and Mount Stewart) and in the longer term, north of the City (Eleven Mile Drive). The expansion of the urban villages was considered an additional solution to cater for low density residential growth. The community has identified the need to reduce urban sprawl and minimise the City’s environmental footprint”.

For these reasons the strategy adopted a number of priorities to determine the best locations for residential growth areas to cater for expected population growth. It recognised that the Windradyne and Kelso/Macquarie Plains remain the main residential areas available for additional low-density detached housing within the City.

In summarising the development potential, the BRUS noted that land supply estimates may overestimate the amount of land actually available for development because existing residential zoned land can only be developed at such time that the landowners wish to do so. There are landowners who have shown no interest in developing some of the available land.

At the time of the drafting of the Bathurst Regional Urban Strategy, the primary future residential areas designated as strategic residential on the 1996 Structure Plan that had not proceeded to rezoning included lands to the east and the west of the City including lands immediately to the north of the subject lands. This was subsequently addressed in the Bathurst Regional Local Environmental Plan 2014 when those lands north of Emerald Drive and at the end of Emerald Drive were zoned R1 – *General Residential*. However, the subject lands were omitted from the new R1 zones as they were not considered in the Bathurst Structure Plan (1996) and therefore not considered in the BRUS.

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

Bathurst Regional Council Area Community Profile

A review of Bathurst Regional Council's planning documents list would indicate that in addition to the *Bathurst Social and Community Plan 2011-2016*, Council provides detailed community information on its web site under its Bathurst Regional Council Area Community Profile. The Planning Proposal is not explicitly inconsistent with the Community Profile. An individual planning provision is unable to be specifically accounted for in a document such as this; nor in any of Council's other strategic documents.

It is noted in the Forecasts.id – *Population Forecasts* that the 2015 population forecast for Kelso (South) is 2,643 and is forecast to grow to 3,160 by 2036 which represents a change (2015-2036) of 19.53%.

Bathurst Social and Community Plan 2011-2016

The NSW Department of Local Government guidelines define a social and community plan as one which “*describes the local community, summarises the key issues facing it, and recommends strategies that Council and/or other agencies could implement to address identified needs.*” It is a legislative requirement that each local government area across NSW must prepare and review their Social and Community Plan to meet these obligations.

The Social and Community Plans of Bathurst City Council and Evans Shire Council were introduced in 1999. Following the amalgamation of these two local government areas in 2004, Bathurst Regional Council developed its 2006–2010 Social and Community Plan in November 2006.

A review of the Social and Community Plan 2006–2010 was undertaken as part of the process of developing the new Social and Community Plan 2011–2016. This process required reflecting on the approach and methodology used in the development of the Plan as well as its key achievements and unsuccessful elements. This process set in motion the development of the methodology and framework for the 2011–2016 Social and Community Plan which is now in effect.

Chapter 4 of the *Bathurst Social and Community Plan 2011-2016* outlines the Preferred Future and Action Plan. The Action Plan was developed in partnership with relevant Government Agencies, Community Organisations and Groups to address the opportunities and challenges identified by the community in reaching their preferred future.

It details a list of programs and activities and includes a broad reaching overview of what is currently occurring and what is planned to occur in the near to medium future. The Action Plan also identified and highlighted the need for advocacy to relevant Federal and State Government Departments enabling continued growth of assets and services in the community. Actions have been grouped under eight (8) themes identified throughout the consultation process that are reflected as the preferred future of our community.

These themes include:-

- (i) a Connected Community;
- (ii) a Healthy Community;
- (iii) an Inclusive Community;
- (iv) a Sheltering Community;
- (v) a Learning Community;
- (vi) a Working Community;
- (vii) a Sustainable and Vibrant Community; and
- (viii) a Community that Nurtures and Values its Future Generations

Of particular relevance to this application is Preferred Future Seven – a Sustainable and Vibrant Community which under Clause 7.3 – What’s Happening Now advocates the encouragement of new residents and investment into the Bathurst Community together with the enhancement of the community and creating employment opportunities.

The Planning Proposal, in a small way, seeks to provide additional, easily accessible, fully serviced residential land in a well-established residential precinct that meets the growing long term demand and thus provides encouragement of new residents and investment into the Bathurst Community. It will also enhance the community by creating employment opportunities during the construction process and create business opportunities and employment in the longer term.

Bathurst Housing Strategy 2001

The Bathurst Housing Strategy 2001 was conducted as a review to the Housing Strategy of 1994 and looked at the future provisions of various housing types within Bathurst. It sought to determine whether current lands stocks can match the expected demand.

The Strategy looked at a range of urban land area categories including the “outer fringe area” under which the subject lands lie adjacent as shown under **Figure 5** (Figure 3.2.1b Vacant Land under the Bathurst Housing Strategy 2001).

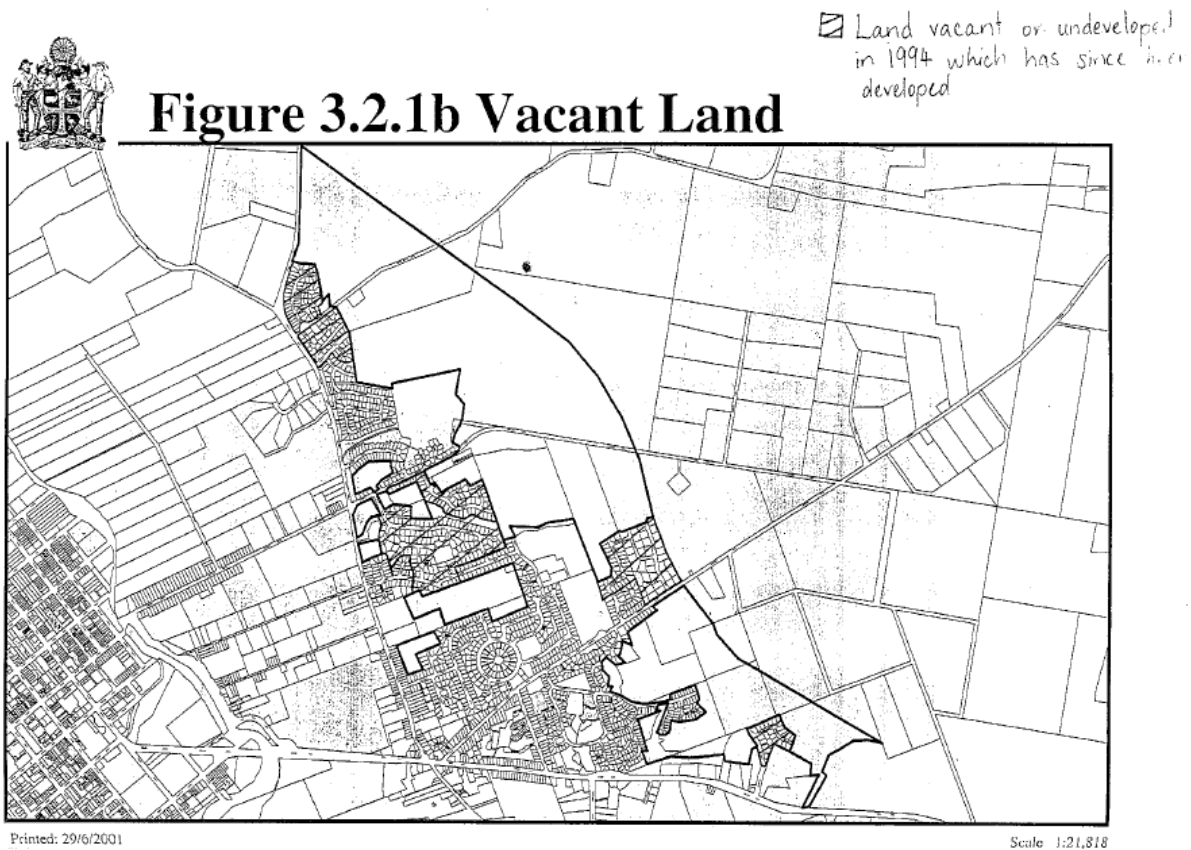


Figure 5
Extract from Bathurst Housing Strategy 2001 – Figure 3.2.1b Vacant Land

The Strategy noted that the “outer fringe area”, as in 1991, did not contain as large a proportion of detached dwellings as the “inner fringe”, mainly due to this area not yet being fully developed. **Figure 5** (Figure 3.2.1b in the Bathurst Housing Strategy 2001) showed the undeveloped outer fringe land with residential development potential in 1994 compared to 1999. The hatched areas showed land which had been developed for residential purposes from 1994 to 2001.

Figure 6 shows those additional lands (coloured red) that have been subdivided and developed with residential housing between 2001 and 2014 (a thirteen year period).

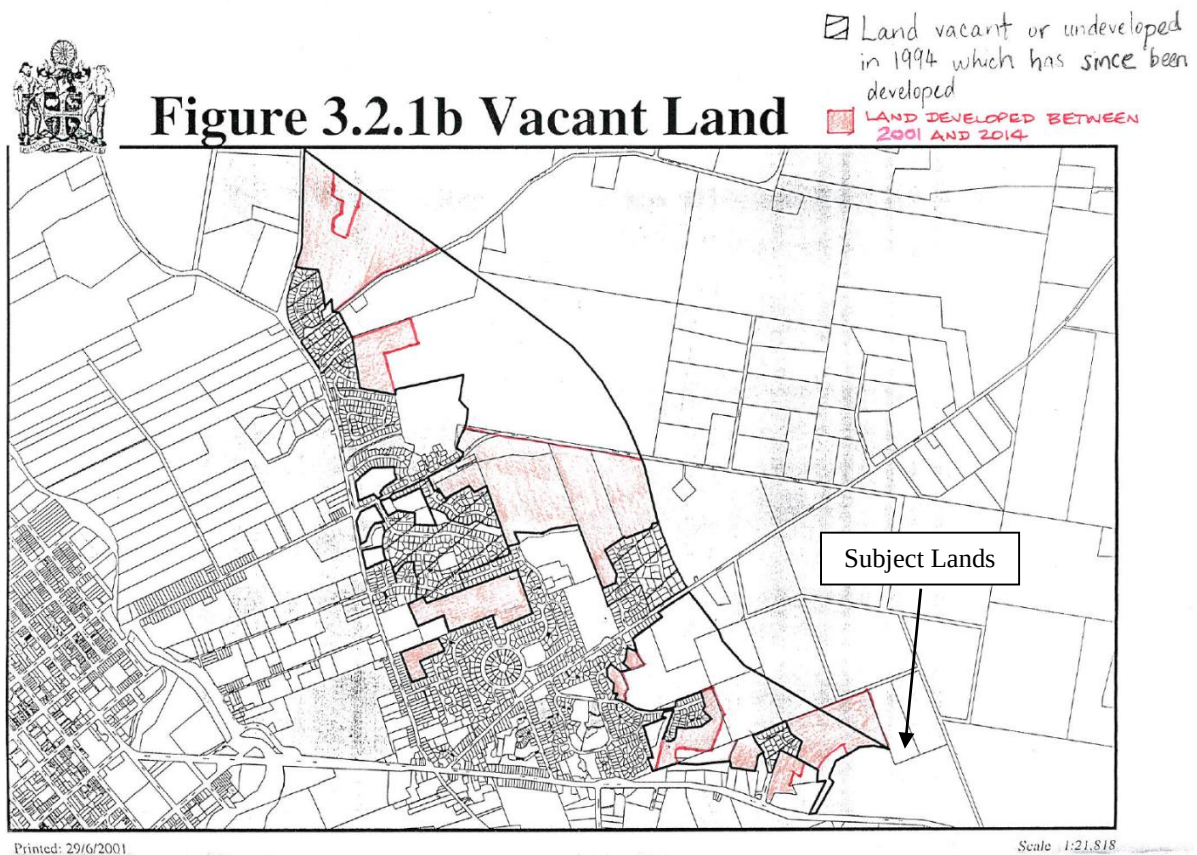


Figure 6
Extract from Bathurst Housing Strategy 2001 – Figure 3.2.1b Vacant Land showing subdivided and developed land between 2001 and 2014

Clearly new residential construction in the Macquarie Plains precinct has continued on a consistent basis since the 2001 Strategy. The Strategy notes that with a stable growth rate for Bathurst over the ensuing years from 2001, an estimation can be made that on average 163 new dwellings will be approved each year. This rate has fluctuated since 1994 demonstrating that new dwelling approvals follow a cyclical pattern of booms and busts.

Other factors which may influence (and have influenced) the residential approval and construction rates include:-

- (i) the CPI index (inflation rate);
- (ii) interests rates;
- (iii) Government initiatives (ie: the introduction of the GST in 2000);
- (iv) Global financial confidence (ie: the Global Financial Crisis in 2007);
- (v) Sydney housing boom;
- (vi) cyclical employment/unemployment rates; and
- (vii) land availability

In relation to recent building approvals within the Bathurst Regional Council area, the following data is available:-

Table 2
Building Approvals

Year	Houses	Other/Units
2013-2014	225	58
2012-2013	211	64

This is an increase on the estimations made since the 2001 Strategy.

With regards land sales and the availability of land, it is apparent that a shortage of good quality residential land exists which is ready for residential construction. Our local research as at the 30th June 2015 would indicate that less than twenty (20) developed lots are currently available for construction. There are three residential subdivisions currently under construction or awaiting registration with many of the allotments pre-sold (off the plan). Off the plan sales by Council and private developers prior to registration would appear to be an unusual situation. It is our understanding that this is not traditionally how the residential market worked in the past within the Bathurst region. In recent years there has been a reasonable amount of land available. However, this situation has now changed.

Traditionally, private developers have been reluctant to develop huge numbers of residential allotments where they are competing for sales against Council subdivisions. By making more residential land available for residential construction in different precincts will assist in ensuring land prices at a more affordable level (ie: supply and demand clearly influences land prices). As an example, in the latest ballot/pre-sales by Bathurst Regional Council at Windradyne 1000 (Stage 1), from the total of fifty seven (57) lots, only eight (8) lots remain for sale and the plan is yet registered. Council proposes to ballot another sixty seven (67) lots at Windradyne 1000 (Stage 2) in October 2015.

It should also be noted that residential development in the precinct is dependent on existing land owners making englobo properties available in the market place. Not all land owners choose to sell their land thus fragmenting and stalling residential development in some sub-catchments. The current landowners of Lot 182 are “motivated” developers who are willing to make the land available for residential subdivision and facilitate housing construction.

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

The proposed zoning change does not unreasonably increase the development potential of the land above that which is allowed for Bathurst Regional LEP 2014. Consequently no SEPP has application to these parts of the Planning Proposal.

Notwithstanding, the Planning Proposal is consistent with all applicable state environmental planning policies (SEPPs). Those directly applicable 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 applicable 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:-

- (i) the existing rural property has not been used for significant agricultural production since its original subdivision other than for the grazing of livestock;
- (ii) the land has been cleared of the majority of its original vegetation and has been subsequently developed for rural/stock grazing purposes; and
- (iii) the proposal is of minor significance in comparison to the amount and availability of rural holdings in the wider context

In this instance, the rezoning of the land will result in additional lands zoned R1 – *General Residential* that will be consistent with adjoining residentially zoned land to the north and west.

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:-

- (iv) the existing rural property has not been used for significant agricultural production since its original subdivision other than for the grazing of livestock;
- (v) the land has been cleared of the majority of its original vegetation and has been subsequently developed for rural/stock grazing purposes; and
- (vi) the proposal is of minor significance in comparison to the amount and availability of rural holdings in the wider context

In this instance, the rezoning of the land will result in additional lands zoned R1 – *General Residential* that will be consistent with adjoining residentially zoned land to the north and west.

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 due to its long term usage for agricultural purposes, it is unlikely that there are any remaining aboriginal relics if they were there in the first place. There are no Section 149 Planning Certificate messages on the land identifying Aboriginal relics.

Direction 4.4 – Planning for Bushfire Protection

This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under Section 146 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.

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. In the preparation of a Planning Proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. A Planning Proposal must:-

- (i) have regard to Planning for Bushfire Protection 2006;
- (ii) introduce controls that avoid placing inappropriate developments in hazardous areas; and
- (iii) ensure that bushfire hazard reduction is not prohibited within the APZ

Enquiries with Bathurst Regional Council's Health & Building Department (Amanda) indicate that the subject lands are **NOT** encoded as being *Bushfire Prone*. Nor are the subject lands shown as being affected by the 100m Buffer Zone.

Should the Planning Proposal be supported, a Bushfire Safety Authority would **NOT** be required based on the proposed new use in accordance with the *Planning for Bushfire Safety* guidelines.

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.

5.3.3 *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?

As the land has been completely cleared for past and current agricultural activities, the likelihood that there is critical habitat or threatened species, populations or ecological communities, or their habitats, on the subject site is low/insignificant.

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

Flora and Fauna Effects

See above. As the land has been completely cleared for past and current agricultural activities, the likelihood that there is critical habitat or threatened species, populations or ecological communities, or their habitats, on the subject site is low/insignificant.

Traffic Effects

Should the Planning Proposal be supported and the zoning change made under the Bathurst Regional Local Environmental Plan 2014, it is proposed to subdivide the land for residential use and subsequent housing construction. The subject lands have frontage to Sydney Road (Great Western Highway) on the southern boundary and the unnamed road along the eastern boundary. The primary entry point to the eastern section of the Kelso residential precinct is Ashworth Drive which is a fully lined marked T-Intersection (see **Figure 7**).

Sydney Road (Great Western Highway) is currently being upgraded. The upgrade includes 2.4 kilometres of road works on the Great Western Highway from Lee Street to just east of Ashworth Drive at Kelso. A roundabout is also proposed at the intersection of Sydney Road and Ashworth Drive. Work began in October 2014 and will take about two years to complete (weather permitting).

Reference is made to the Bathurst Regional Development Control Plan 2014 Map No.4 – Kelso (see **Figure 4**) which sets out both the land use areas and the land management areas including proposed roundabout treatments and nominated Collector Roads.



Figure 7
Photograph showing the intersection of Sydney Road and Ashworth Avenue

It is noted that the unnamed road along the eastern boundary of the subject property is to be constructed under the Development Control Plan to service the eastern extension of the residential precinct. It is further noted that the construction has been identified in the Section 94 Contribution plan (denoted orange on Map No. 4 – Kelso). The DCP also identifies a new roundabout treatment at the intersection of the unnamed road and Sydney Road (Great Western Highway) and also at the intersection of Emerald Drive both of which are to be constructed from the Section 94 Contribution Plan (see **Figure 8**).

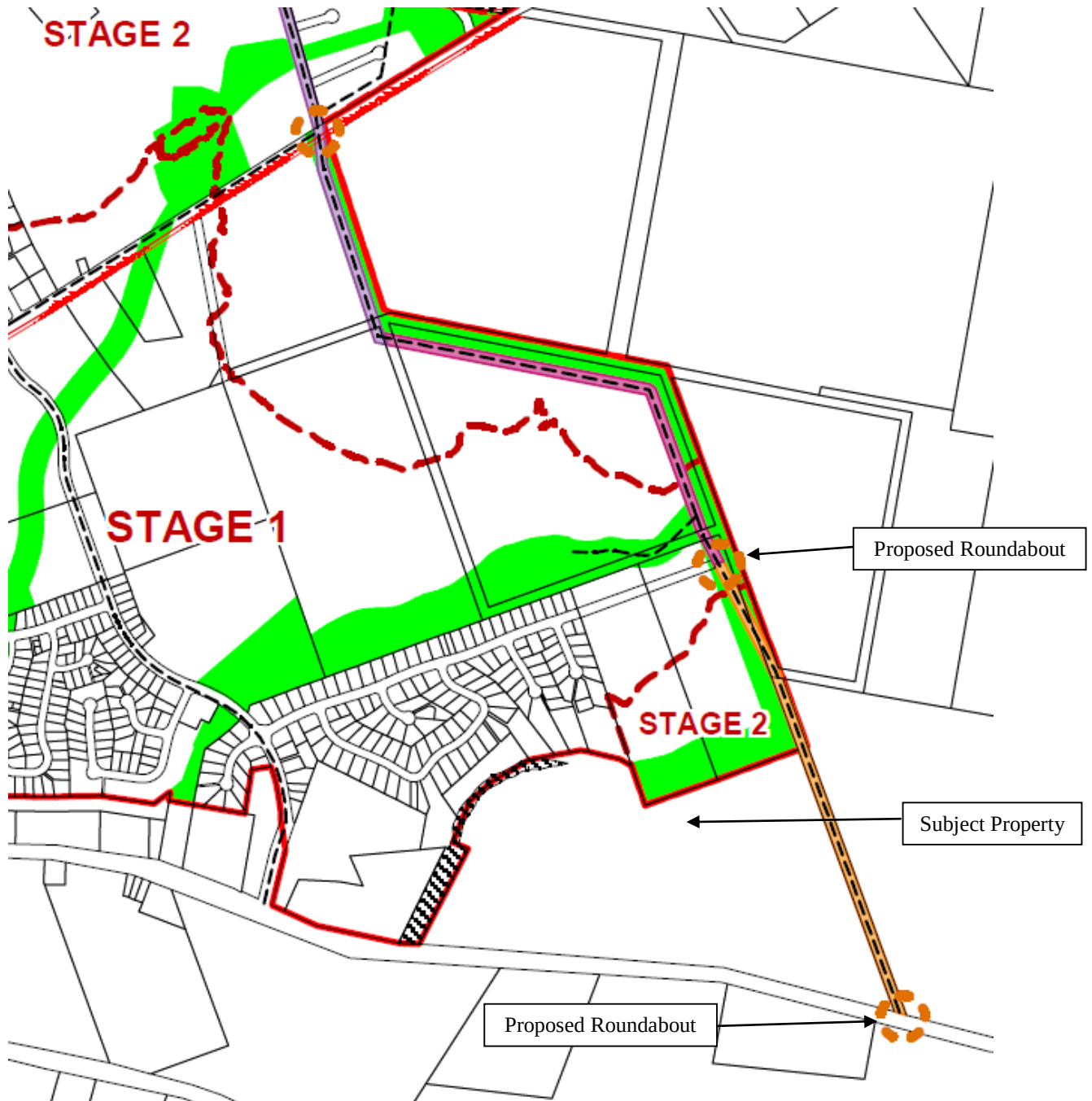


Figure 8
Extract from Bathurst Regional Development Control Plan 2014 Map No.4 - Kelso

Should the Planning Proposal be supported, access can be gained to the site via the construction of the unnamed road and intersection treatments at Emerald Drive and Sydney Road (Great Western Highway). No access would be required directly from Sydney Road (Great Western Highway).

It is anticipated that the proposed development will have only minimal impact on the existing and future road hierarchy.

Visual Amenity Effects

When travelling west along the Great Western Highway, the land falls to the north towards the dry creek bed which traverses the land and then rises to a high point along the northern boundary of the property.

It is anticipated that a landscaped buffer would be provided along the Sydney Road (Great Western Highway) boundary forming a scenic corridor for the length of the future subdivision. The dry creek bed would be revegetated for its full length to reduce erosion, protect the corridor and enhance the scenic quality of the landform. Residential development would be limited along the ridgeline on the northern boundary to further protect the scenic quality of the precinct.

Air Quality Effects

In the short term, the potential effects on the air quality will be limited to those effects caused by the subsequent development of the proposed residential portions of the land as a result of emissions from construction machinery and motor vehicle exhausts. Atmospheric pollutants caused by such emissions are not expected to have a significant medium to long term effect. Upon completion of the construction works, all work faces will be restored so as to limit the amount of dust that may occur. When the construction of the development is completed, air pollution caused by the operation of the development is not expected to be any greater than those anticipated at the time the adjoining residential zoning was created.

Erosion and Sedimentation Effects

Should the Planning Proposal be supported and the zoning change made under the Bathurst Regional Local Environmental Plan 2014, it is proposed to seek approval to develop the site for residential development. As a result, erosion and sedimentation controls would be installed and maintained in accordance with Bathurst Regional Council's "Guidelines for Engineering Works" where required. Full details would be provided with a subsequent development application and would be subject to appropriate conditions of consent required by Bathurst Regional Council.

When fully implemented, the erosion and sedimentation controls are expected to minimise any adverse effects caused by the development.

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

Socio-Economic Effects

Support for the Planning Proposal and subsequent subdivision and construction of the residential development will have many positive socio-economic benefits for the local community. Benefits will include:-

- (i) the provision of a good quality, easily accessible, fully serviced residential land that is compatible with adjacent general residential uses; and
- (ii) the creation of both short term jobs during the construction phase and longer term jobs as residential construction proceeds; and
- (iii) business investment and new residents draw on local services

Social Impact Effects

Support for the Planning Proposal and subsequent construction of the proposed residential development will result in benefits for the health and safety of the community by providing a good quality, easily accessible and fully serviced residential land that will meet local demand and comply with the latest health and building standards.

With regards to social cohesion, the proposed development will enhance the immediate locality through the provision of a good quality fully serviced residential land that will service the growing Bathurst and Kelso residential base and provide housing opportunities for a range of age groups and demographics.

In relation to the interaction between the new residential development and the local community, the proposal will complement existing residential lands to the north and west and forms a natural extension of the current R1 – *Residential* zone which wraps around the subject lands.

With regards to social equity, the proposed development would particularly benefit a range of age groups as it will:-

- (i) provide additional good quality and convenient residential land that is centrally located, easily accessible and will be affordable;
- (ii) provide residential land that is within easy driving distance to adjacent residential catchments and public transport (bus services);
- (iii) create business opportunities through new residential subdivision development and residential housing construction that will create jobs and increase disposable income locally; and
- (iv) enhance and improve the attractiveness of the surrounding precinct by setting new residential design standards and create a “gateway” development to the Bathurst area

Aircraft Noise Effects

It is noted that the subject property is located outside the Australian Noise Exposure Forecast footprints for the north-south and east-west runways. Therefore, future residential allotments would not be affected by aircraft noise. Further, the highest point on the subject land is approximately 50 metres below the Obstacle Limitation Surface (OLS). Therefore, future development will not affect present or future aircraft operations at the Bathurst Airport.

5.3.4 State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

The existing site has a range of public infrastructure available that can service the future residential development of the land or be satisfactorily upgraded within Council’s current short to medium term augmentation plans.

The Raglan No.10 Reservoir has been sized for the ultimate developed size of the Raglan residential catchment. Mr. Lavoipierre has further confirmed that the recently rezoned residential lands in the Kelso area cannot all be supplied with water as it is above the RL708 contour which is the current maximum supply level. Council is investigating the provision of additional water resources but this is dependent on approvals and finance being available.

However, it is envisaged that the additional residential yield generated by the proposed rezoned lands have the potential to provide additional developer contributions towards water and sewer infrastructure upgrading and augmentation.

Existing water reticulation mains are shown in **Figure 10**. The northern side of Sydney Road is serviced by an existing 450mm dia. watermain from the Raglan No.10 Reservoir. The watermain runs parallel to the southern boundary of the subject lands towards Ashworth Drive.

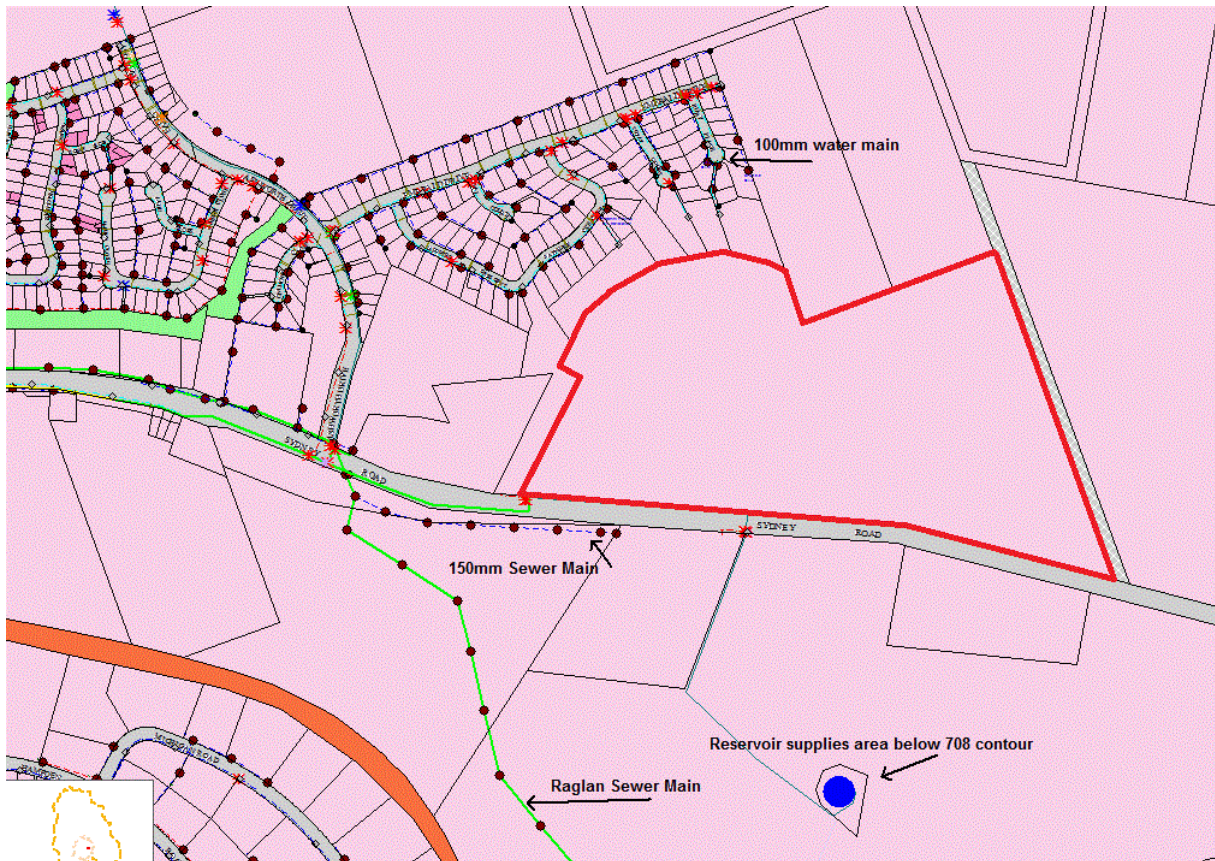


Figure 10
Extract from Bathurst Regional Council's Infrastructure Plans

- (ii) Sewer Reticulation – it is noted that Bathurst Regional Council's trunk sewer carrier main is located adjacent to the site which would enable residential allotments to be connected to Council's existing system. This would be subject to the normal headworks and augmentation contributions. The existing sewer infrastructure is shown in **Figure 10**;

- (iii) **Power Supply** – the site can be serviced from existing Essential Energy overhead power lines on the southern side of Sydney Road. Underground high voltage and low voltage lines are also present within the road carriageway as shown in **Figure 11**. The site is not currently connected to the electrical grid. However, power supply could be provided for future development of the lands. Services are not required as part of this application.

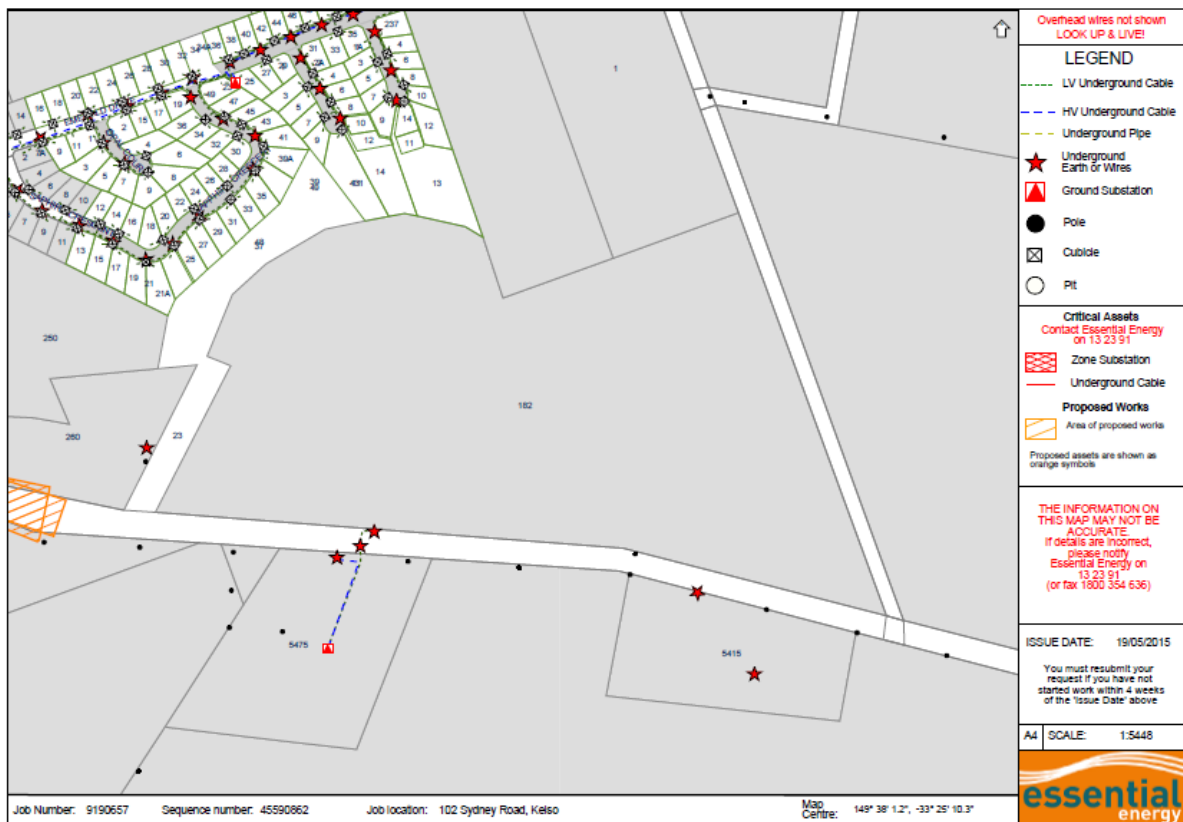
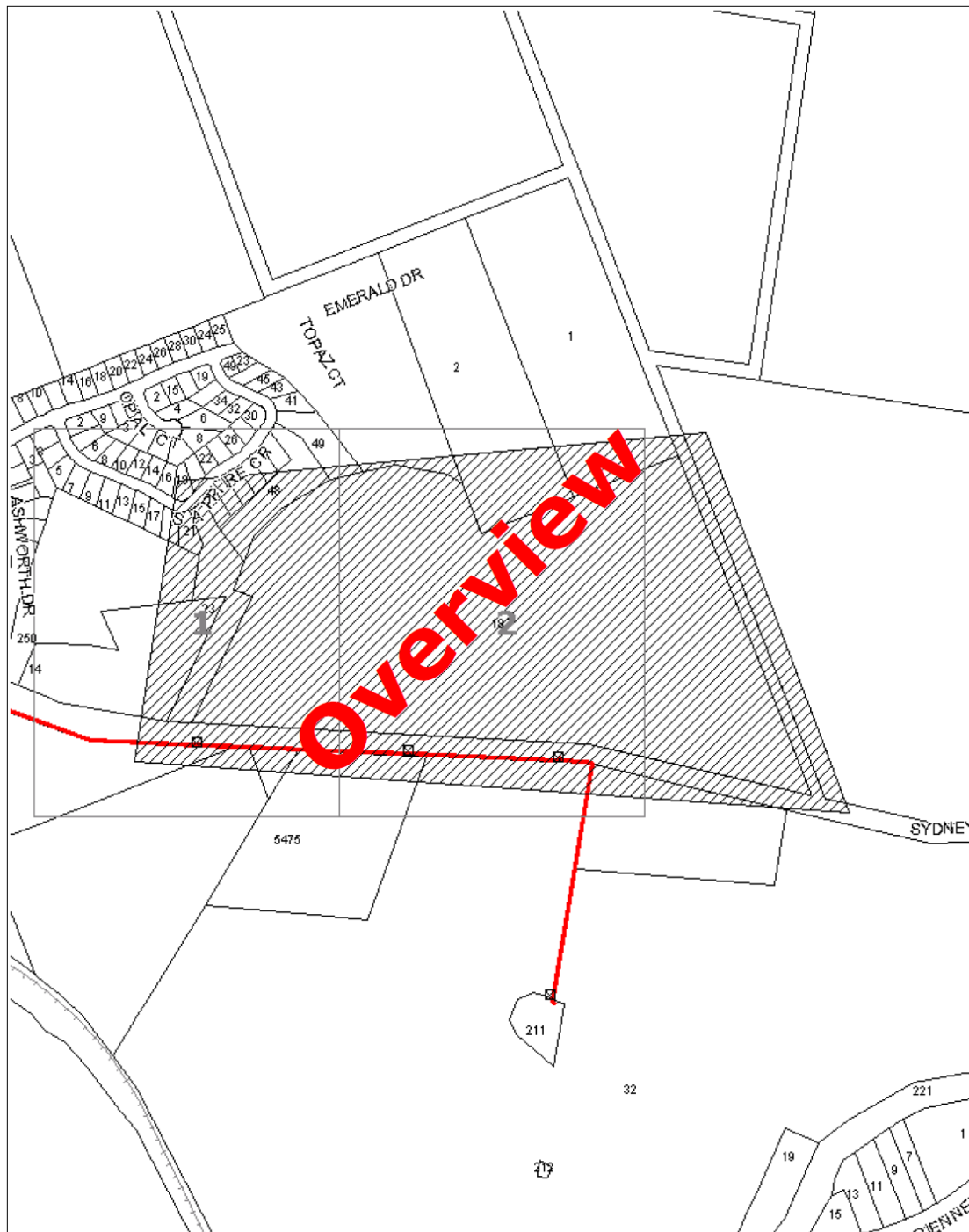


Figure 11
Extract from Essential Energy's Reticulation Plans

- (iv) **Telecommunications (Telstra)** – Telstra has underground telecommunications cables available in Sydney Road. Telstra's main optical fibre cable is also present within the carriageway. The site is not currently connected to the existing network. However, services could be extended for future development of the lands. No network connection is required as part of this application;
- (v) **Telecommunications (Optus)** – Optus has underground telecommunications cables available in Sydney Road as shown in **Figure 12**. The site is not currently connected to the existing network. However, services could be extended for future development of the lands. No network connection is required as part of this application;



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Figure 12
Extract from Optus Reticulation Plans

- (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.

7.0 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. 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**.

8.0 CONCLUSION

As a result of the various local and regional strategies, the Planning Proposal and subsequent use of Lot 182 in DP1013217 Sydney Road at Kelso for residential use is considered appropriate and can be justified because:-

- (i) it is consistent and in character with the adjoining land uses in the precinct;
- (ii) is strategically located on the edge of the Kelso residential catchment with a full range of services and utilities that are either currently provided or can be augmented;
- (iii) can be serviced with adequate water supply from the Raglan No.10 Reservoir following augmentation;
- (iv) it has no major environmental constraints;
- (v) is substantially cleared of native vegetation;
- (vi) is gently sloping and easily accessible; and
- (vii) has good access off Sydney Road (Great Western Highway)

9.0 RECOMMENDATION:

It is recommended that:-

- A. The Minister initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the Planning Proposal for Lot 102 in DP1013217 Sydney Road at Kelso, 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.
- A. 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.

10.0 LIMITATIONS:

Wales & Associates Pty Limited (WA) has prepared this report for a project at Lot 102 in DP1013217 Sydney Road at Kelso in accordance with instructions from the owner, Tigwyth Pty Limited.

The report is provided for the exclusive use of Tigwyth Pty Limited for this project 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 WA has necessarily relied upon information provided by the client and/or their agents.

WA's advice is based upon the information supplied and encountered during this assessment. The accuracy of the advice provided by WA 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. WA 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.



22nd July 2015

.....
Matthew Wales
Director
Wales & Associates Pty Limited

.....
Date

END

REFERENCES

The following documents were referenced:-

- (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 LEP Practice Note PN 11-001; and
- (v) Bathurst Regional Local Environmental Plan 2014