Premise

ROSEDALE GARDENS ESTATE PTY LTD

Amendment to the Orange Local Environmental Plan 2011

PLANNING PROPOSAL

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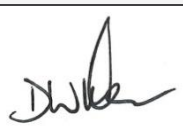
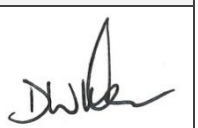
Gannon Cuneo		David Walker		David Walker	

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APPENDICES

1. BACKGROUND

1.1 Introduction

Premise Australia Pty Ltd has been commissioned by Rosedale Gardens Estate Pty Ltd to prepare a planning proposal to amend the *Orange Local Environmental Plan 2011* (OLEP) in respect of land at 463 Leeds Parade and 440 Clergate Road, Orange.

The proposal entails the rezoning of the site to allow for a greater area of R5 Large Lot Residential zoned land and a reduction of the minimum lot size from a combination of 4,000 square metres (m^2) and 8,000 m^2 to 2,000 m^2, together with the introduction of specific additional permitted use and environmental protection mapping and clauses to introduce a density limit. It is intended that the future subdivision of the land does not exceed 700 lots.

The proposal has been developed in response to changes in the residential development market that have emerged since the original rezoning of the site was agreed, including increased demand for housing lots in the City of Orange (particularly in light of the emerging COVID pandemic and the associated spike in regional housing demand), market testing which reflects demand for smaller housing lots in large lot residential areas, and the repeal of the Native Vegetation Act and introduction of the *Biodiversity Conservation Act 2016*.

The Planning Proposal was endorsed by Orange City Council at their meeting of 16 November 2021 and forwarded to the Department Planning and Environment (DPE) for Gateway consideration. Gateway approval was issued on the 23 December 2021. The Gateway approval is provided as **Appendix E** of this Planning Proposal. Condition 1 of the Gateway approval required changes to the Planning Proposal prior to the commencement of consultation. Condition 1 reads:

> *1. The planning proposal is to be updated prior to agency consultation to:*
>
> *(a) Address steep terrain through appropriate local development controls.*
>
> *(b) Provide additional justification for the proposed removal of the SP2 Infrastructure, RE1 Public Recreation and C4 Environmental Living zones, and to demonstrate consistency with:*
>
> *i. Section 9.1 Directions 2.1 Environmental Protection Zones and 6.2 Reserving Land for Public Purposes.*
>
> *ii. Directions 13, 14 and 15 of the Central West Orana Regional Plan 2036.*
>
> *(c) Include discussion of section 9.1 Direction 2.6 Remediation of Contaminated Land to demonstrate the Planning Proposal Authority is satisfied the land can be adequately remediated and be made suitable for all future land uses; and*
>
> *(d) Update discussion on the proposed lot averaging clause to include Council's overall objectives for the site and to support their consideration at the development assessment stage.*

This Planning Proposal has been updated to address the requirements of condition 1 of the Gateway approval.

Condition 2 of the Gateway approval required consultation with regulatory agencies and the update of the planning proposal to address the responses received during this consultation phase, prior to acceptance by DPE and the carrying out of community consultation.

Consultation with regulatory agencies is discussed in detail in **Section 4.5** and changes have been made in a number of sections to address the comments from these agencies.

Specific changes are noted as follows:

- **Table 5** has been added to provide a tabular response to matters raised by regulators;
- **Figure 4** has been added to demonstrate land mapped with high environmental value (mapped sensitive terrestrial biodiversity);
- **Figure 5** has been added showing the outcome of a site visit and ground truthing by Premise ecologists;
- **Figure 10** and **Figure 12**, and additional commentary in **Section 3.1.4**, have been added to make clear the two options proposed to address management of the existing high voltage overhead electricity transmission lines;
- **Figure 16** has been added to show all slope areas over 20% and additional commentary has been added at **Section 3.1.2** to confirm the approach to managing sloping land;
- **Section 4.5** has been updated to provide details of the outcomes of meetings held with DPE Biodiversity, Conservation and Science and Heritage NSW. Additional principles to be adopted in the preparation of the site specific DCP have been included in **Section 3.1.5** and **Table 5**;
- **Appendix F** has been added with details of additional contamination investigations and additional commentary with respect to this matter is provided on **Page 34**;
- **Appendix G** has been added to include responses from regulatory agencies received through the initial consultation phase; and
- **Appendix H** has been added as an update to the Aboriginal Heritage due diligence report.

1.2 Scope of the report

This planning proposal has been prepared in accordance with the NSW Department of Planning's advisory documents '*A Guide to Preparing Local Environmental Plans'* and '*A Guide to Preparing Planning Proposals*'. The latter document requires the planning proposal to be provided in five (5) parts, those being:

- Part 1 – A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 – An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 – The justification for those objectives, outcomes, and provisions and the process for their implementation;
- Part 4 – Mapping; and
- Part 5 – Details of the consultation that is (or has) to be undertaken on the Planning Proposal.

It is noted that updated mapping would be supplied under separate cover.

1.3 Structure of the report

This planning proposal is provided in the following structure;

- **Section 2** provides an overview of the subject site; the development intent; and development constraints;
- **Section 3** provides a statement of the objective and explanation of provisions of the planning proposal;

- **Section 4** provides justification regarding the need for the planning proposal; outlines its relationship to strategic planning strategies; and overviews the environmental, economic, and social impacts of the proposal;
- **Section 5** details how consultation is (or has) to be undertaken with respect to the planning proposal.

2. OVERVIEW

2.1 The Site

The site is 440 Clergate Road and 463 Leeds Parade, Orange, NSW (**Figure 1**). The relevant Lot and Deposited Plan numbers are:

- Lot 2 DP255983
- Lot 3 DP255983
- Lot 14 DP6694
- Lot 25 DP6694
- Lot 15 DP6694

The subject site has an area of approximately 290 hectares and is depicted in **Figure 1**.

The subject site lies approximately 6 km north of the Orange Central Business District in the Orange Local Government Area. The site is an irregular shape with frontage to Pearces Lane on the northern boundary and the main western railway line to the western boundary. To the south is B7 zoned land, southeast is Charles Sturt University Campus and to the east is existing rural land.

The subject site is largely vacant, rural land with scattered vegetation and dams previously used for agricultural purposes and irrigation of wastewater associated with the former Wooltop processing plant, located on the western side of the Main Western Railway line. The southern part of the site contains an existing abattoir, unused since approximately 2001, which has an approved development application for demolition of these buildings.

The project area is undulating to hilly terrain and is currently used for livestock grazing, which is likely to have been the dominant land use over most of the area since it was settled in the 1800s. The western part of the project area is relatively flat and was formerly developed as an orchard. The highest point in the project area is 936 m AHD on the northern boundary, falling to 830 m AHD on the eastern boundary where Mendhams Creek drains the property and flows in an easterly direction towards Summer Hill Creek.

The project area is mostly cleared, modified pasture with some remnant native isolated paddock trees and woodland areas.

2.2 Background and Site History

The subject site was the subject of an amendment to the *Orange Local Environmental Plan 2011* (LEP), gazetted in 2020, which rezoned the land from a mix of RU1 – Primary Production and IN1 – General Industrial to a mix of zoning including R5 – Large Lot Residential, E/C4 – Environmental Living, RE1 – Public Recreation and SP2 – Infrastructure (**Figure 2**). A concept plan for development of the land for large lot residential purposes conceptually identified a lot yield of approximately 450 x 4,000 and 8,000 square metre lots. This anticipated yield was reflected in the gazetted minimum lot size applying to the land (**Figure 3**).

The rationale for adopting the E/C4 zone in the southern and eastern extents of the site, by preference to the R5 zone, was to provide some additional protections for scattered areas of native vegetation. The C/E4 zoning, whilst enabling generally the same range of development types to occur as within the R5 zone, more strongly emphasises the protections for vegetation. Significantly, since that rezoning was gazetted, the

Biodiversity Conservation Act 2016 has been gazetted, which significantly changed the regulatory framework with respect to the management of native vegetation.

Additionally, Council has reviewed and updated sensitive land mapping to ensure that native vegetation is addressed through mapping and specific clause consideration (LEP clauses 7.4 [terrestrial biodiversity] and 7.5[riparian land and watercourses]). Premise has also completed a standalone assessment of the site in accordance with the BC Act biodiversity assessment method (BAM).

As such, it is considered, rather than the need to adopt a range of zones across the site, that a consistent level of protection can be achieved via the existing LEP clauses. This simplifies the approach to planning without reducing the level of protection applying to the land.

Figure 1 – The Site

LEGEND

- Subject Site
- Cadastre
- Road
- 132kV Transmission Line

ROSEDALE GARDENS ESTATE PTY LTD

Proposed Rural Residential Subdivision

Source: © State Government of NSW, Department of Customer Service, Spatial Services 2021

Figure 2 – Current Land Zoning Map

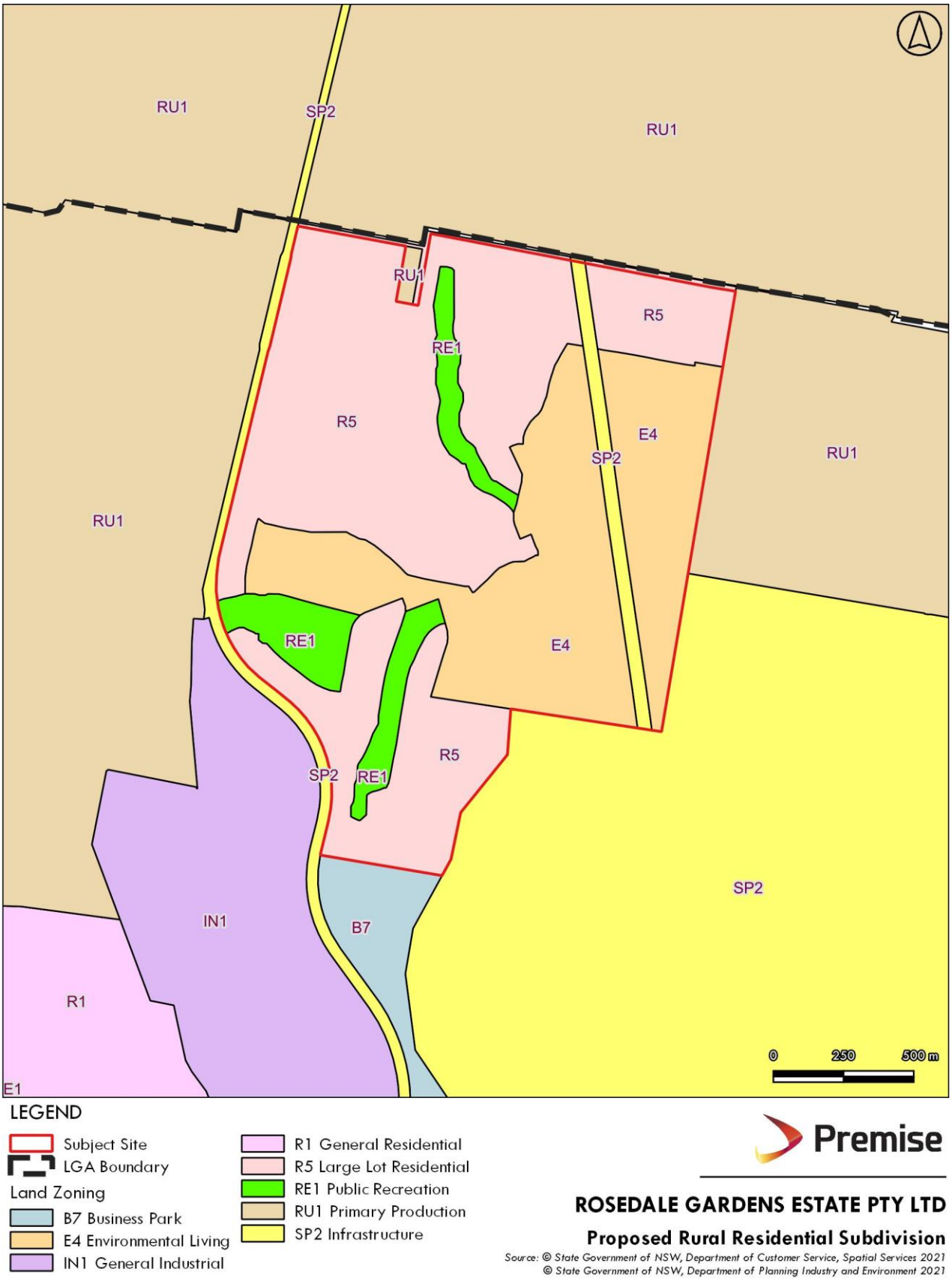


Figure 3 – Current Lot Size Map

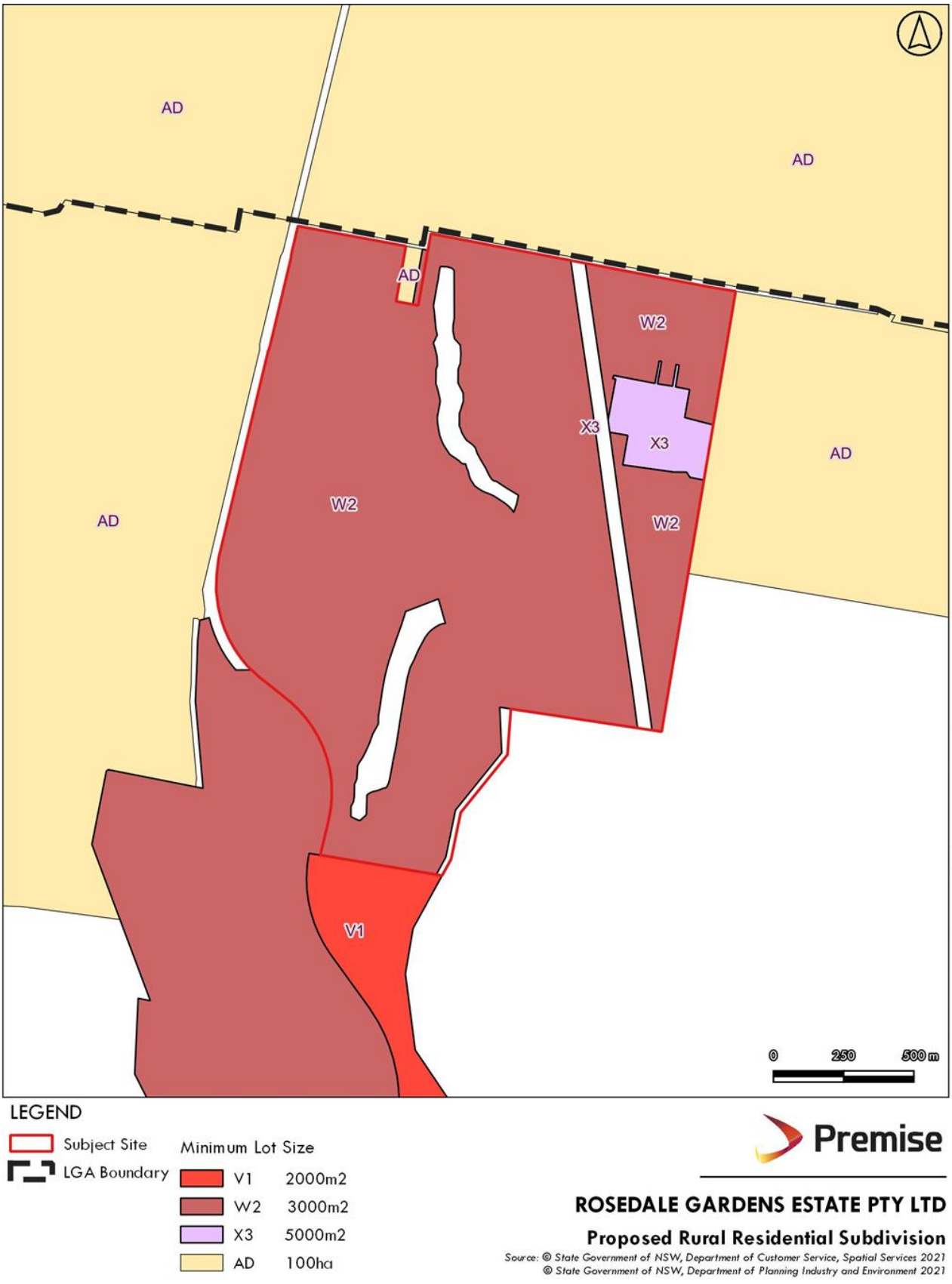


Figure 4 – Current high environmental value/sensitive biodiversity map

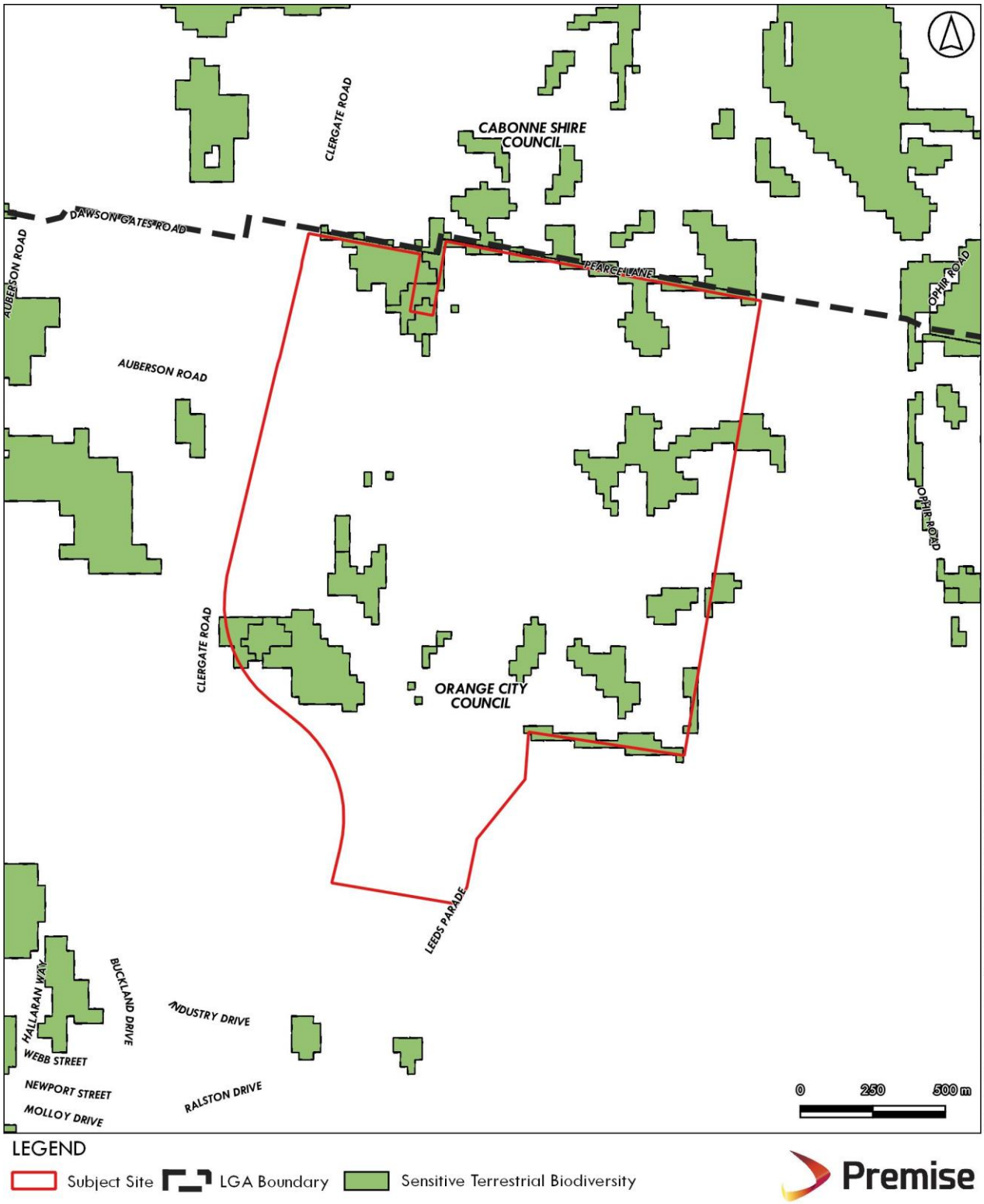
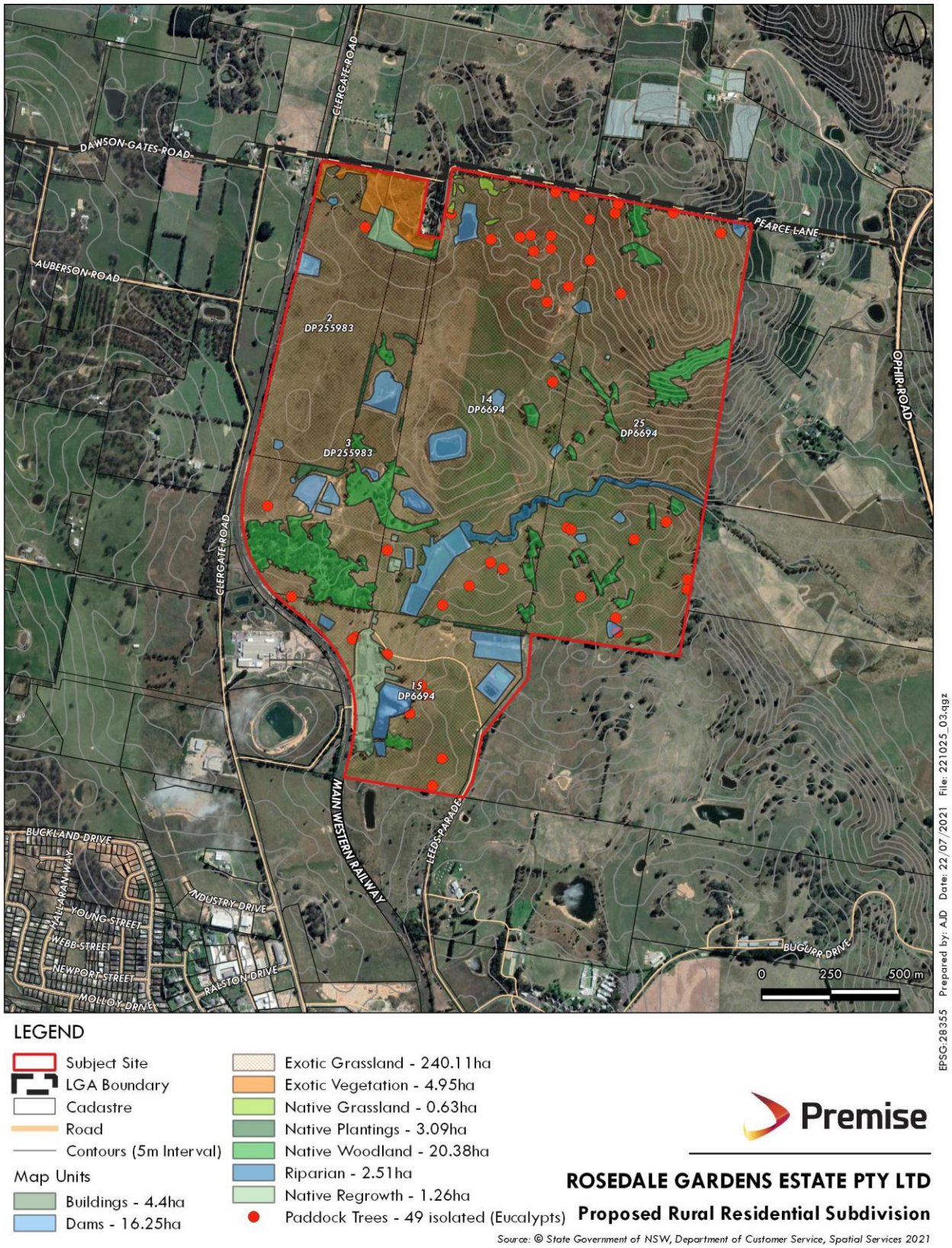


Figure 5 – Ground-truthed biodiversity mapping



2.3 Vision/Conceptual layout

A conceptual site masterplan for the estate is provided at **Figure 6** and **Appendix B**.

This masterplan is conceptual to demonstrate one way in which the estate could be developed, noting that refinement will be needed with respect to biodiversity impact avoidance, through the application of the BAM at DCP and DA preparation stages.

The vision for the development is to transform this significant 290 hectare rural holding from orchard, irrigation and farming/grazing acreage with rich volcanic soils into a high value, highly sort after rural lifestyle suburb with newly created housing lots having access to substantial water features and catchment areas (both direct and indirect) and panoramic district views up to 940 meters in elevation.

The intent of this application is to amend the present zoning and minimum lot size applying to the site, which currently has the potential to deliver approximately 450 lots of approximately 4,000 m^2, to enable the development of a maximum of 700 lots, ranging in size between 2,000 m^2 to 4,000 m^2 (an average of approximately 2,900m^2 is expected based on the land area available). Proposed lots would have a consistent minimum lot size across the site of 2,000 m^2 and the ability of lot sizes to address differences in slope across the land. A very small number of lots are likely to be below 2,000 m^2 and above 4,000 m^2 to respond to site specific limits with respect to road and water placement and existing topography, however these would be limited in number. Lots below 2,000 m^2 would be addressed at DA stage via a clause 4.6 variation and would be expected to represent less than 2 percent of lots.

This application seeks to provide for a housing estate of high quality with access to more water features, more choice and variety of lot sizes and more affordability as required in the present market. The vision is for the estate to be set amongst extensive man-made water features sensitive to sound semi-urban design principles, with generous street thoroughfares lined with deciduous trees providing for vehicular, pedestrian and bicycle access through the estate.

The following characteristics are sought to be achieved:

- Extensive water features to encourage abundant bird life to call this estate their home including local species of landed birds, waterfowl, ducks and swans and local fauna, as well as providing a natural habitat for a variety of aquatic life. It is envisaged that children will be able to fish in the waterways and that black swans will be drawn to the water catchments each winter, looking for suitable nesting places and being encouraged to return and stay with islands to be provided in the larger waterways for safe nesting – being reminiscent of the black swans that used to reside in Orange's Cook Park in the 1960-1970's;
- It is envisaged that approx. 250-300 housing lots will enjoy direct frontage to water features or overlook adjacent water features. The majority of these lots are expected to have direct access to water features with their rear boundaries extending down to the top water levels (TWL), enabling homes and outdoor living areas to overlook landscaped rear gardens which extend down to the TWL. Other lots will have street frontages with water features on the other side of the street, affording visual connection to these water catchments from the front yards and street fronting windows of these lots;
- Lot layouts to support predominantly north facing homes to be built on low energy designed lots with solar access in winter months with the extensive plantings of deciduous trees throughout the estate;
- Street corridors to be lined with avenues of large deciduous trees to emulate the ambiance, character and feel of the best suburban streets of Orange;

- Water features planted out with a complimentary mix of deciduous and endemic native flowering species to attract birdlife and support native fauna species and compliment the range of street plantings to be provided;
- The primary water features that run alongside major streets are to:
  - include walking/bike paths that are publicly accessible and provide good permeability for pedestrians through the estate;
  - provide for public access to larger water features;
  - are planted out with deciduous and native species and are dedicated to and maintained by Council;
  - have water feature widths appropriate for such uses.
- The secondary water features are to be narrower in width and are to be limited to the TWL of the water feature. It is envisaged that the TWL of these water features will form the rear boundaries of a large number of housing lots, with these adjoining housing lot areas to be landscaped and maintained by the homeowners;
- Whilst not directly comparable, the development of this estate will seek to emulate the high quality coastal channel developments with water access being a primary feature for a significant number of lots. The point of difference being that this estate is set in a high quality rural environment with extensive plantings of deciduous tree lined streets, vegetated riparian areas with homes and landscaped gardens overlooking and having direct access to water features;
- Adoption of water sensitive design principles appropriate for this rural lifestyle subdivision;
- There will need to be controls provided within the site specific Development Control Plan and property restrictions to guide the delivery of key elements such as the use of appropriate rural style fencing materials and designs. The proposed minimum lot size of 2,000 m^2 will enable Council to prevent any future subdivision of the home lots in this estate;
- In further keeping with and maintaining the rural integrity of this estate, street kerb and guttering will only be provided where necessary for storm water control with table drains preferred;
- With rear home lot boundaries extending to the TWL of all secondary water features and pedestrian and cycle paths provided alongside the primary water features, the concept masterplan for the site aims to balance the provision of residential privacy and security whilst providing for public amenity and access, as well as suitable authority accessibility through the estate;
- In areas of natural flow, water will be controlled via well engineered and landscaped waterways designed to control all flows and provide a high quality environment for residents and the public (refer cross sections at **Figure 7** with cross section locations depicted on **Figure 6**);
- Whilst the vision is about high quality, great amenity and pushing conventional boundaries to new benchmarks, it must be commercially achievable, appealing to a broad target market and capable of being supported and approved by relevant authorities;
- The concept masterplan at **Figure 6** (and **Appendix B**) provides an indicative arrangement of the proposed future subdivision, including a proposed road and open space hierarchy. The concept masterplan will be refined and developed through detailed engineering design, stormwater analysis and biodiversity assessment;
- The concept masterplan provides for three site access points, being the current connection to Leeds Parade in the south, via a proposed upgraded level crossing linking to Clergate Road in the west and via a new direct access to Pearce's Lane in the north. A traffic study has been prepared for this application (Refer **Appendix C**) and is supportive of the proposed access points and the indicative road network shown on the masterplan;

- The concept masterplan assumes that the high voltage overhead electricity transmission line is to be relocated to within the proposed road network and placed underground, subject to agreement with Transgrid and at the full cost of the developer. Should agreement be reached with Transgrid to achieve this result then the current SP2 zoning will be amended or removed at an appropriate future date to coincide with when the cables are physically relocated (refer **Figure 9** and **Figure 11**). Should agreement not be reached to place the cables underground then the future DCP for the site will adopt a revised masterplan which adjusts the proposed layout of the subdivision lots to accommodate the existing SP2 zoning and existing easement (refer **Figure 10** and **Figure 12**);
- The concept masterplan provides for the retention of a large portion of the mapped vegetation community in the southwest of the site which will be enhanced through augmentation of the waterway and the development of a riparian management and vegetation plan. This retained area will preserve a significant portion of the site's natural habitat whilst adding to the natural amenity of the broader subdivision.

"Rosedale Gardens" is proposed as the future name for this 290 hectare estate. "Rosedale" being the historic name of the thousands of acres this property was once part of. "Gardens" signifies the rich red basalt soils, former orchards and high carrying capacity farming and grazing lands equally capable of growing beautiful avenues of deciduous trees, prolific plantings of deciduous and smaller flowering native species trees and home gardens throughout the estate.

For the city of Orange, known as the Colour City, the visual impact, especially in autumn time of this 290 hectare (3 km^2) high quality estate, planted out to generous numbers of deciduous and flowering trees set alongside extensive water features, will be truly amazing as the years progress and will further promote Orange's appeal and standing as a key NSW regional centre.

Figure 6 – Concept site layout

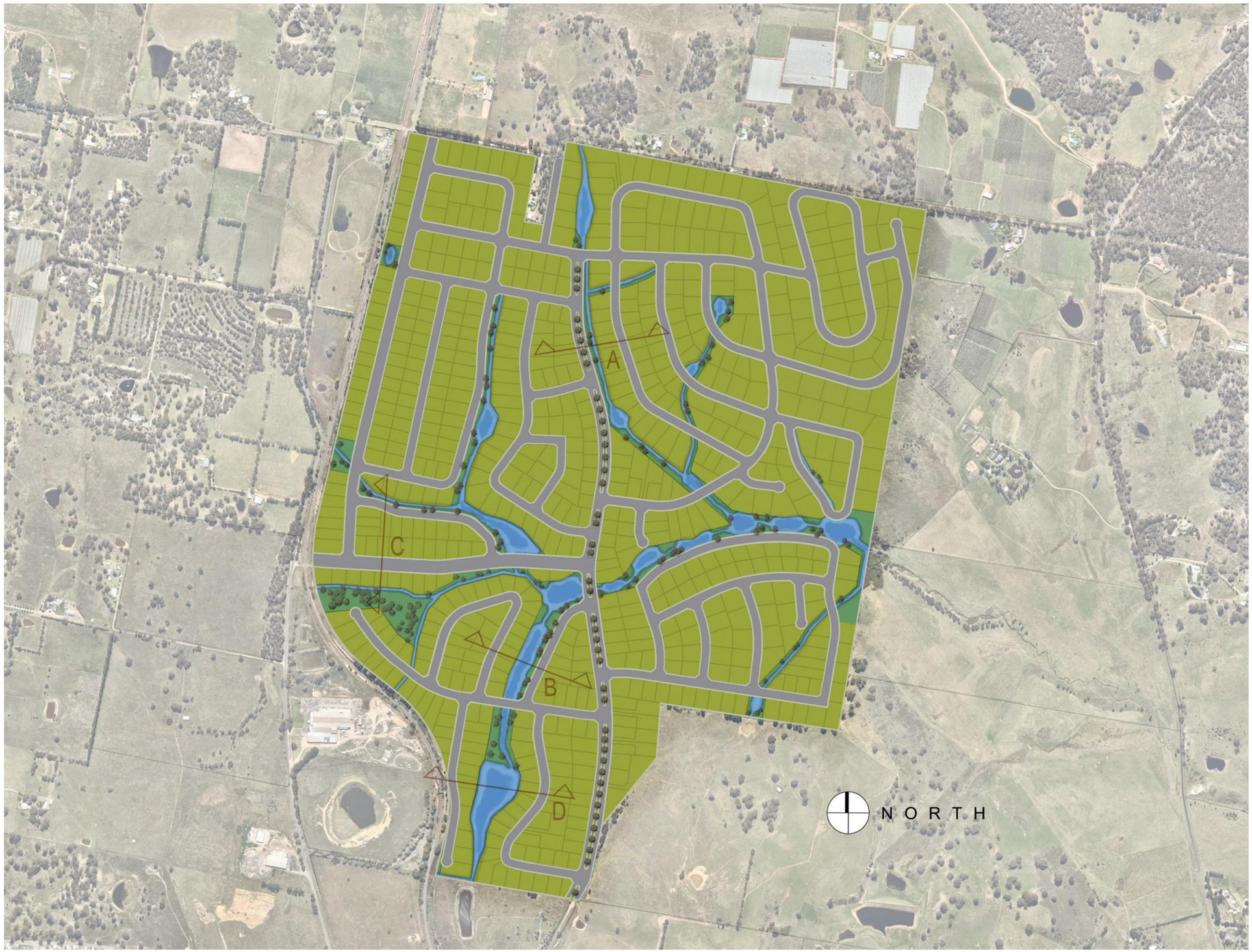


Figure 7 – Example site cross sections

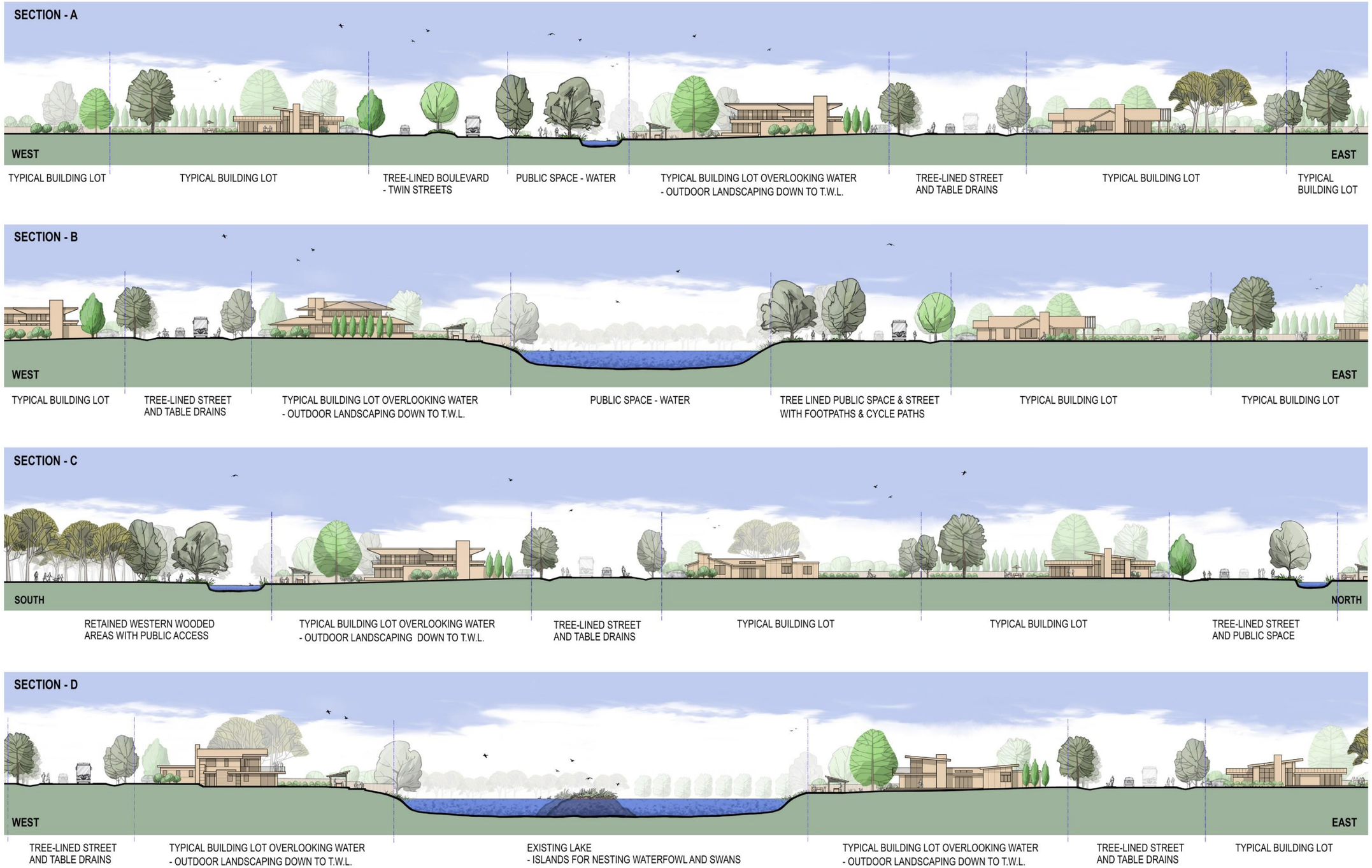


Figure 8 – Example water feature images

Water Sensitive Urban Design

3. INTENT AND PROVISIONS

3.1 Objective

Following further market analysis, it is now proposed to rezone the land in its entirety to R5 – Large Lot Residential with a conceptual yield of approximately 700 large lot residential allotments, with areas ranging from 2,000 m^2 to 4,000 m^2.

Based on investigations completed to date, and additional future investigations to be completed at DCP preparation stage, protecting areas of potential sensitivity at the site (including but not limited to infrastructure alignments, slope, heritage and biodiversity) would be a key component in driving site design.

3.1.1 LOT DENSITY LIMIT

A clause is proposed to be inserted to provide a maximum density limit for the estate of 700 dwellings lots. This would be achieved via insertion of a specific LEP clause, similar to clause 7.10 of the *Cessnock Local Environmental Plan 2011*.

The proposed clause would be structured similar to the below:

> *(1) The clause applies to 440 Clergate Road and 463 Leeds Parade, Orange, being Lots 2 & 3 DP255983 and Lots 14, 15 and 25 DP6694 , as shown edged shaded pink on the Additional Permitted Uses Map.*
>
> *(2) Development consent must not be granted to any development on the land to which this clause applies if the granting of that consent would result in the total number of residential allotments on that land exceeding 700.*
>
> *(3) This clause does not prescribe a development standard that may be varied under this Plan.*

3.1.2 SLOPE

With respect to the need to provide a specific LEP clause to protect sloping areas, a clause would be inserted to require development on sloping land (being land with a contiguous slope of greater than 20%) to undergo a range of considerations at development assessment stage. The proposed clause would be structured similarly to clause 6.4 of the *Blue Mountains Local Environmental Plan 2015.* The clause will apply to land with a contiguous slope of greater than 20% and that is shown on the "Protected area—Slope constraint area" on the Natural Resources—Land Map. It is noted, via **Figure 16**, that there are some non-contiguous areas of slope exceeding 20%, however it is not proposed to cover these via this clause due to their generally small size and disconnected nature, and noting that bulk earthworks proposed at subdivision stage is likely to remove some of these areas (such as those mapped areas associated with on-site dams). It is proposed to apply the clause to those areas identified in **Figure 14**.

It is expected that draft wording would be agreed with Council, DPE and parliamentary counsel prior to gazettal. The objectives of the clause are expected to be generally consistent with the following:

> *(a) to control the development of land that has contiguous areas of slope greater than 20%,*
>
> *(b) to ensure that development on land that has contiguous areas of slope greater than 20% is designed and sited to minimise vegetation clearing and soil disturbance,*

(c) to encourage the retention, restoration and maintenance of disturbed native vegetation on steep land.

In relation to this matter a range of options have been considered for consideration via the proposed clause. The clause should be sufficiently flexible to:

- encourage innovative design that responds to the slope of the land,
- makes best use of available views and vista's,
- minimises the impact of development on adjacent land (with respect to viewsheds, overlooking, overshadowing, privacy),
- deliver the protection of extant vegetation;
- ensure that proposed bulk earthworks are proportionate to the location and do not lead to adverse offsite impacts;
- result in the adoption of water sensitive design principles, to ensure that development would not have an adverse impact on the rate, volume or quality of water running off the land
- deliver a level of amenity to residents offered by constructing on land to which this clause applies, such as district views, natural light, ventilation and drainage and terraced gardens
- are appropriate to the geotechnical investigations completed in relation to each site.

The introduction of an appropriate clause of this nature ensures that complying development cannot be carried out on land with slope exceeding 20% by way of clause 1.19(1)(e)(v) of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP), which prevents complying development on land identified by an environmental planning instrument as being "within a protected area". Any proposed development within land to which the clause applies will therefore require consent by way of a development application submitted to Orange City Council and would incorporate consideration of the applicable DCP provisions applying to slope.

A site specific DCP would incorporate specific provisions relating to slope management to ensure that the principles enshrined in the LEP clause are expanded upon and provide mechanisms for site appropriate design.

Given the DA may not proceed until the DCP has been agreed and adopted, the regulators and Council can have confidence that these issues will be fully developed and resolved prior to approval being granted for subdivision.

3.1.3 ABORIGINAL HERITAGE

During the regulatory consultation phase, Heritage NSW provided advice that additional investigations should occur to inform the planning proposal. Through engagement with Heritage NSW draft measures were discussed to satisfy Heritage NSW that impacts to Aboriginal heritage could be appropriately managed at the DCP and DA design stage.

It was noted through this engagement that the site has been previously rezoned from a mixture of RU1 and IN1 to the current R5/C4/RE1 arrangement on the basis of the current level of assessment. An update to the original due diligence assessment has been completed, and this concludes that there has been no material change in the site characteristics or regulatory framework that would justify further assessment at this time. It was further noted that, due to the large size of the site and the proposed density limit LEP clause, sufficient capacity exists within the site to achieve both the density limit proposed and ensure that, if required, sufficient land is available for protection/conservation of any detected sensitive sites. The basis for this approach is that:

- As proposed by the applicant via the planning proposal, the limit of 700 lots is to be enshrined in a specific LEP clause that will ensure that the maximum lot yield of the scheme does not exceed this number. In the context of the proposed minimum lot size of 2,000m2, and the areas conceptually be set aside for open space and roads, we note the following:
  - The site has an area of approximately 290 hectares
  - 700 lots at an MLS of 2,000m2 would require a minimum area of 140 ha
  - Areas set aside for roads and open space (via the concept plan) are, respectively, 62.3 ha and 28.2 ha.
  - Being reasonable and assuming that lots within areas of steeper slope or containing native vegetation may be larger, we have assumed that 30% of lots are in fact a minimum of 3,900m2 (strategically ensuring these are less than 4,000m2 so that further subdivision is not possible). This would result in approximately 490 x 2000m2 lots and 210 x 3900m2 lots. This increases the conceptual minimum development area from 140 ha to 180 ha.
  - 290 ha less areas for roads and open space (62.3+28.2) leaves 199.5 ha for development.

Therefore, considering the difference between the area needed to deliver a mix of 2000 and 3900 m2 lots, around 20 hectares of land could, if needed, be set aside for protection purposes. This is a significant area and more than sufficient to ensure that any conflict between the targeted lot yield and ensuring adequate protection of sensitive landforms or sites is possible.

This process would be managed in conjunction with the DCP preparation phase via the carrying out of an Aboriginal Cultural Heritage Assessment (ACHA), including engagement with interested Aboriginal representatives and sub-surface testing.

Heritage NSW have agreed with this approach – as reflected by their correspondence provided at **Appendix G**.

3.1.4 ELECTRICITY TRANSMISSION LINE

As noted, the site is traversed by high voltage electricity transmission lines (ETLs). The preference of the proponent is to realign the ETL to correspond to the proposed road network, and place the ETL underground. The proponent will work with Transgrid to ensure the full cost of this is borne by the project.

In the event agreement cannot be reached with Transgrid on this point, two final options are put forward in this planning proposal.

By locating the ETL's underground within the road reserve, the preferred option removes the current SP2 zoning and applies a consistent zoning and minimum lot size across the site.

The second (fallback) option retains the SP2 zone in the event agreement is not reached. In the latter option, and noting the position of the ETL in the context of the masterplan, sufficient time exists to resolve the matter as the DCP and DA are being prepared, and initial stages of the development are being released, to address any future changes to the ETL alignment via a further LEP amendment. It is noted that Transgrid did not respond to Council's request for comment during the regulatory consultation phase. The proponent will continue to work with Transgrid to progress this matter. Should the preferred option not be delivered in agreement with Transgrid, the second option would be adopted in the final document.

3.1.5 BIODIVERSITY

As a result of discussions with OCC and BCS, a number of updates to this planning proposal have been completed, including providing current high environmental land/sensitive terrestrial biodiversity mapping (at

Figure 4), site biodiversity ground truth mapping by Premise ecologists (at **Figure 5**) and through the provisions of tiered considerations for inclusion in the site specific DCP. These considerations are discussed in cell 12 of **Table 5** and discussed below.

Tiered considerations for inclusion in the DCP include but are not limited to the following:

1. Areas containing mapped sensitive biodiversity would incorporate lots of a larger size to accommodate protected vegetation
2. Lots within mapped sensitive biodiversity areas would incorporate building envelopes to ensure development protects and retains significant native vegetation
3. Riparian areas would be landscaped with a variety of species to provide compensation for tree removal where it cannot be avoided due to the siting of infrastructure.

As discussed in **Section 3.1.3,** there is adequate room available within the large site to accommodate the proposed 700 residential lots, sufficient open space/recreation areas, areas of roads, together with (if required) areas that could be set aside for protection if investigations identify a need (approximately 20 hectares).

3.2 Explanation of provisions

The planning proposal affects the following mapping of the *Orange Local Environmental Plan 2011* (OLEP):

- Land Zoning Map Sheets LZN_006 and LZN_007C;
- Lot Size Map Sheets LSZ_006 and LSZ_007C;
- Introduces new Additional Permitted Use maps APU_006 and APU_007C; and
- Introduces new Protected Area – Slope Constraint Area Maps.

The planning proposal seeks to rezone the subject land to R5 Large Lot Residential and amend the applicable minimum lot size to 2000m^2.

The current arrangement of LEP Map Sheets LZN_006 and LZN_007C is as per **Figure 2** and would be indicatively amended as per **Figure 9**.

The current arrangement of LEP Map Sheets LSZ_006 and LSZ_007C is as per **Figure 3** and would be indicatively amended as per **Figure 11**.

The proposed new Additional Permitted Use Maps would be as per **Figure 13**.

The new Protected Area – Slope Constraint Area Map would be as per **Figure 14**.

A proposed protected area slope clause would be provided, applying to lots affected by the Protected Area – Slope Constraint Area Map.

Figure 9 – LEP Map Sheet LZN_006 and LZN_007C as proposed (option 1)

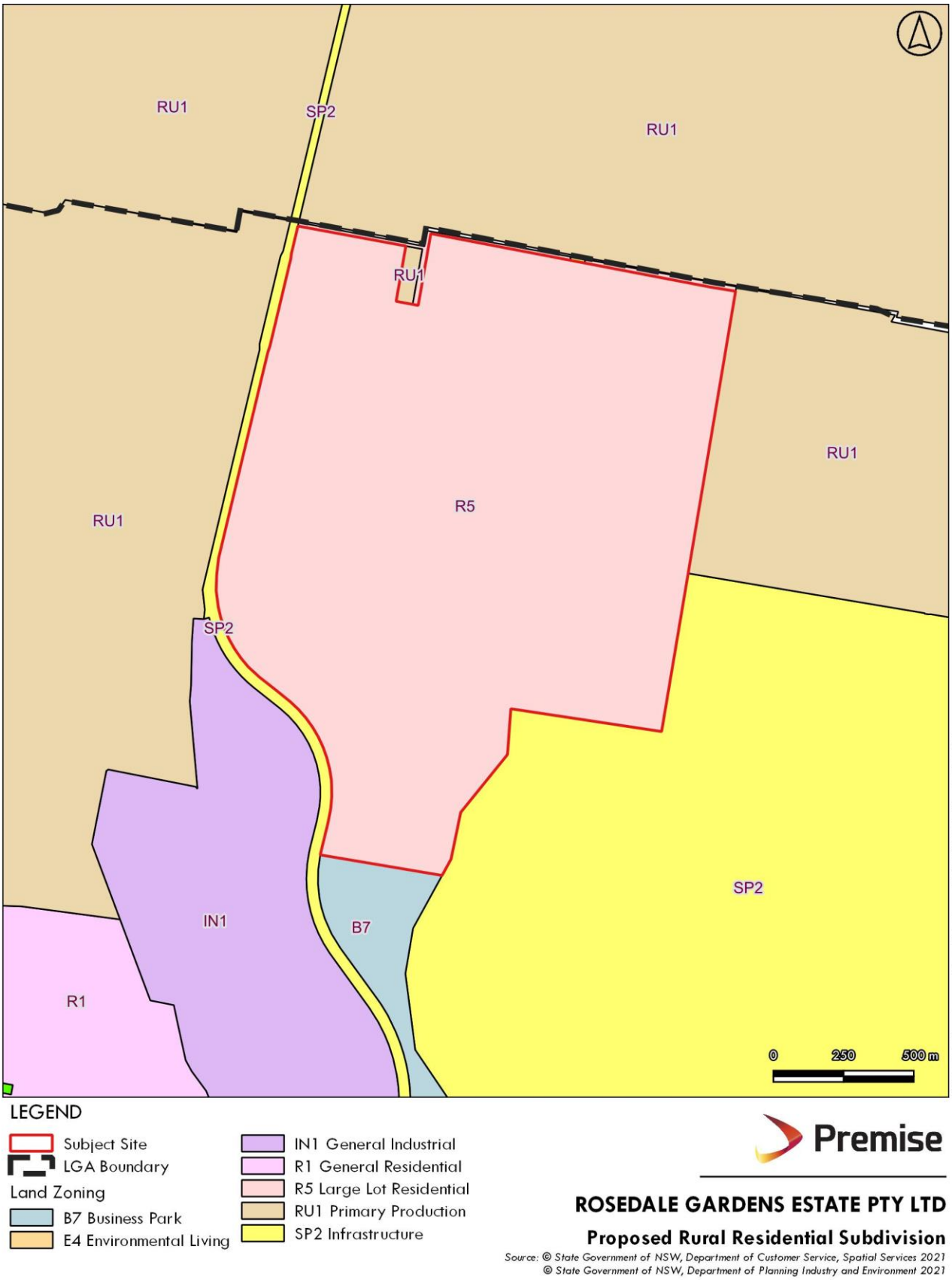


Figure 10 – LEP Map Sheet LZN_006 and LZN_007C as proposed (option 2)

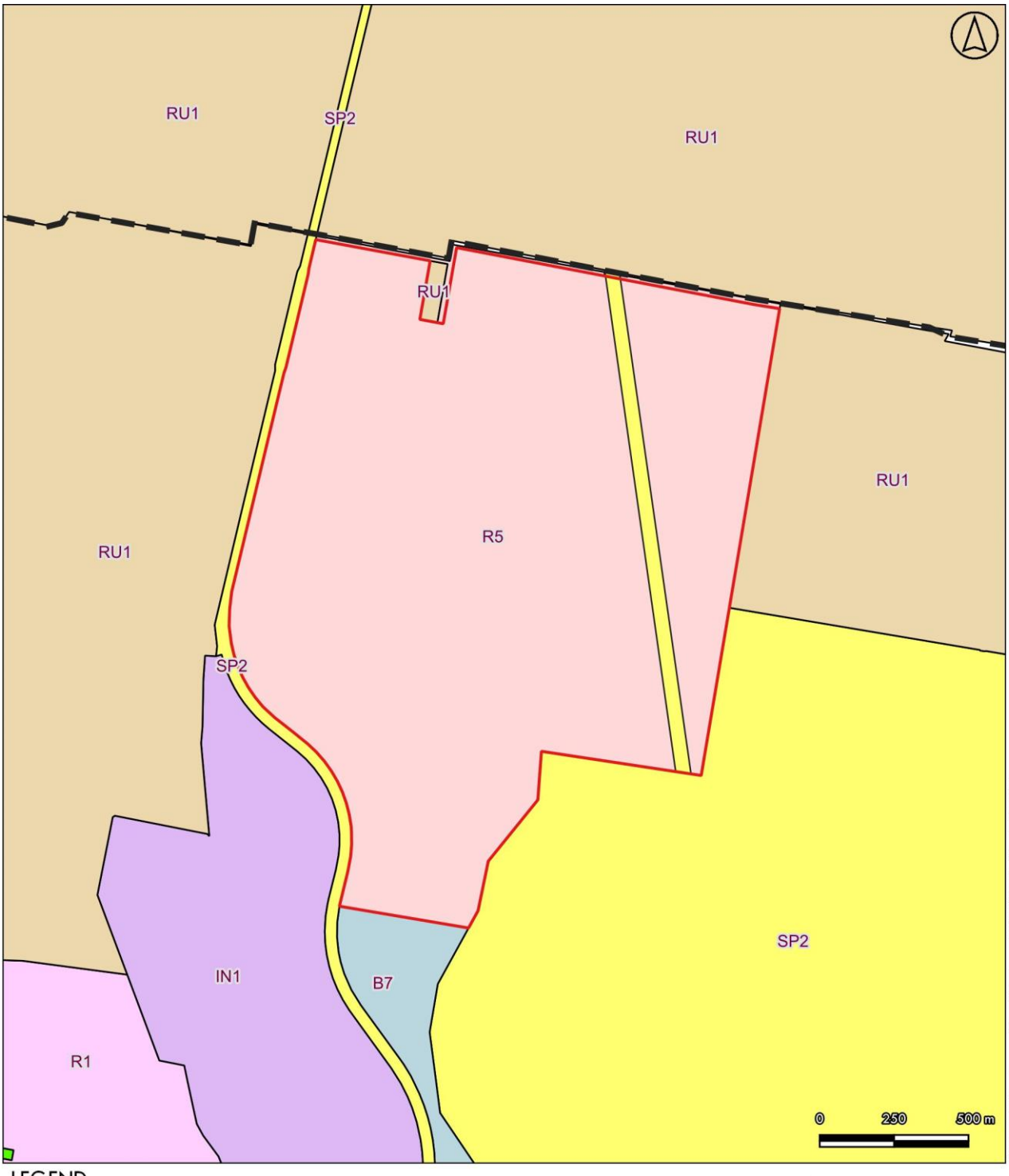


Figure 11 – LEP Map Sheet LSZ_006 and LSZ_007C as proposed (option 1)

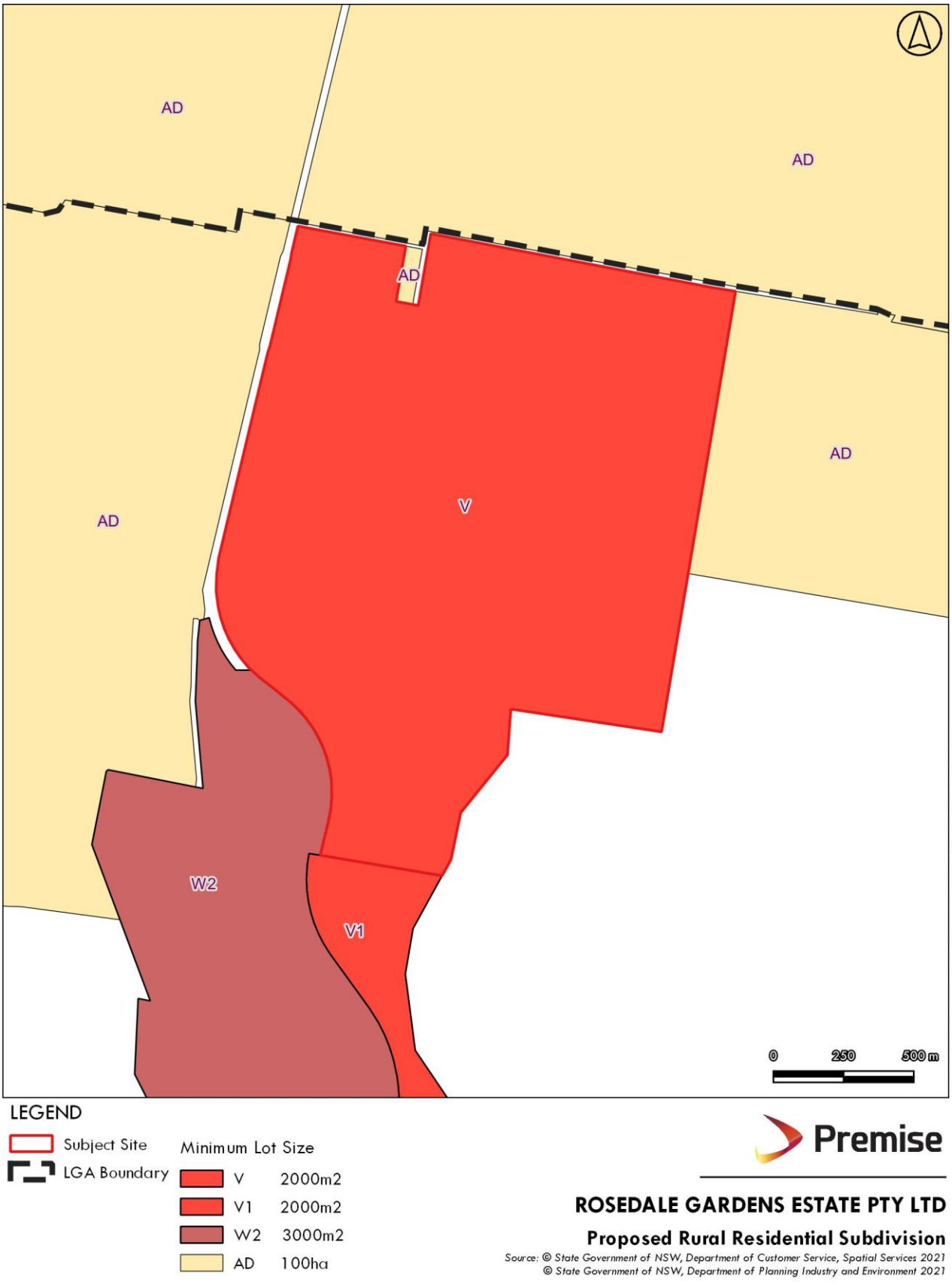


Figure 12 – LEP Map Sheet LSZ_006 and LSZ_007C as proposed (option 2)

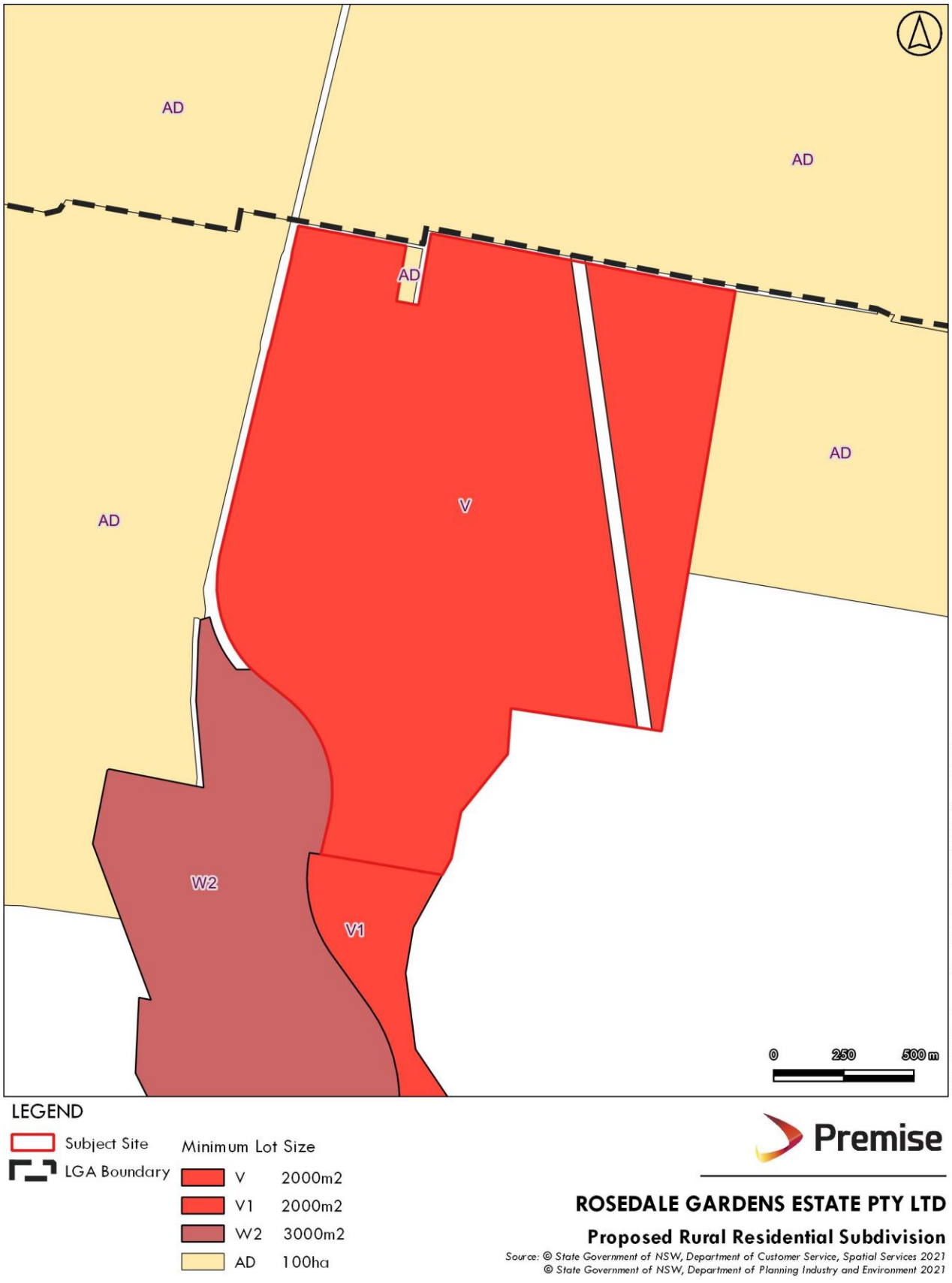


Figure 13 – Proposed Additional Permitted Use Mapping

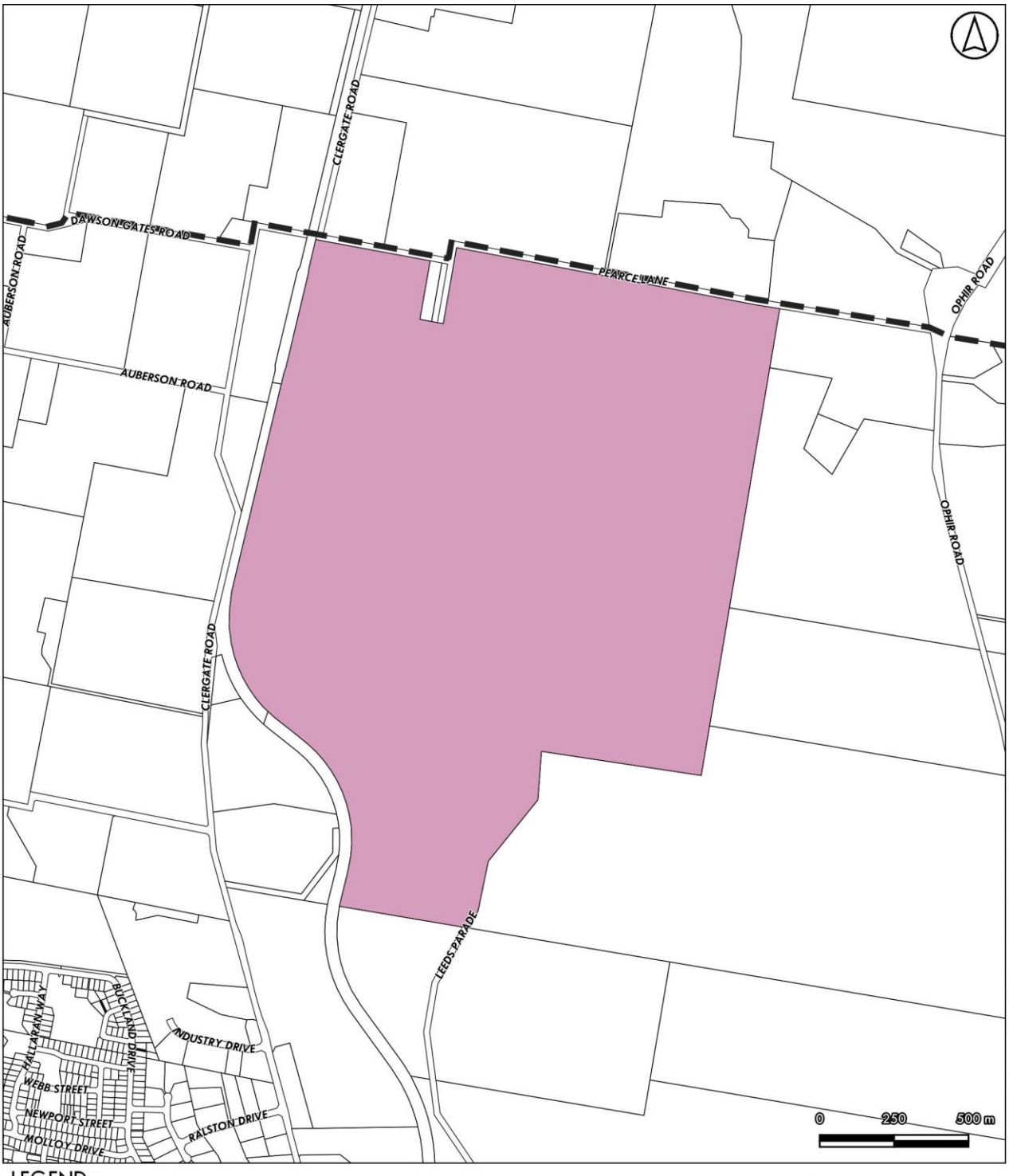
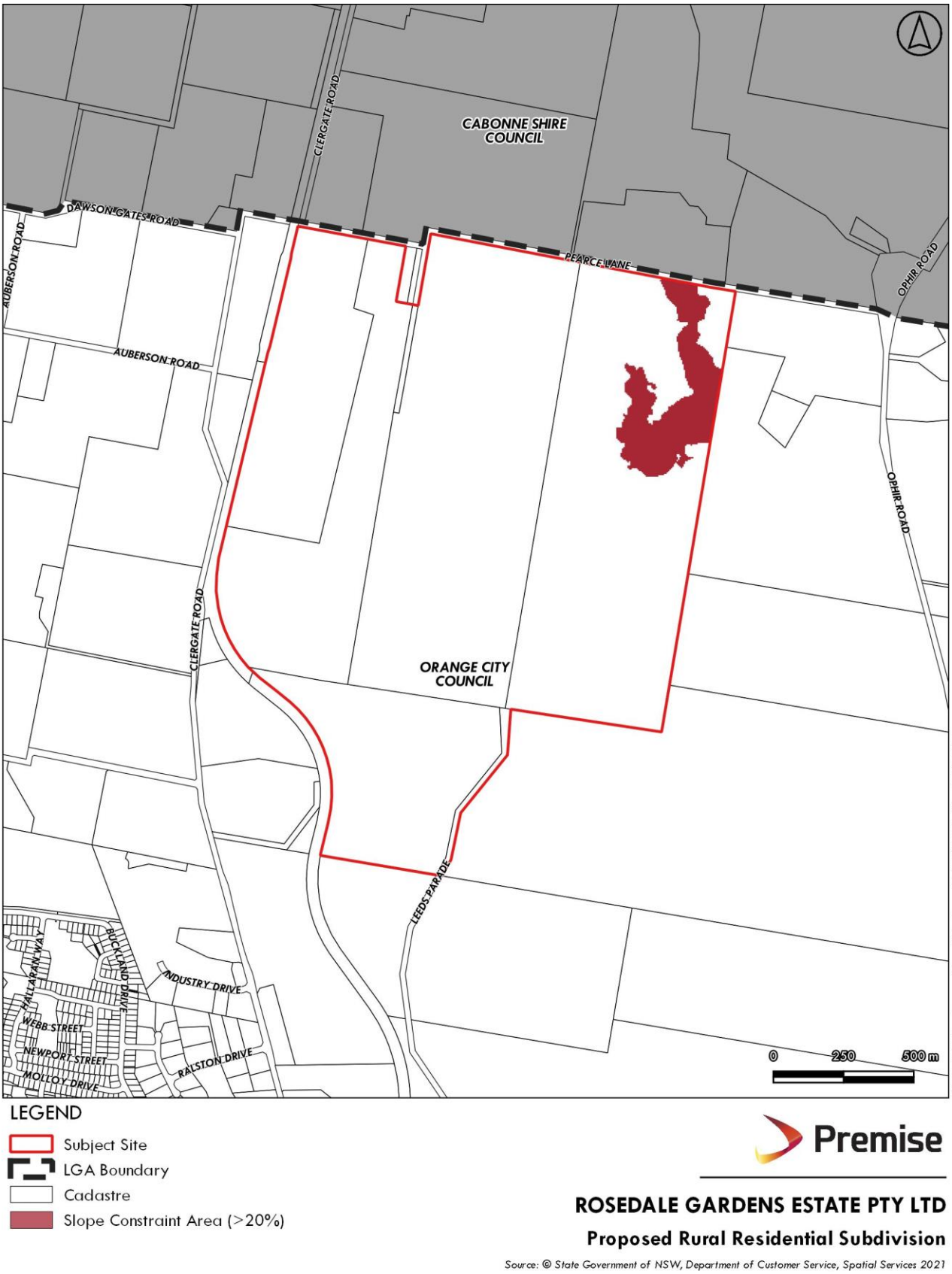


Figure 14 – Proposed Protected Area – Slope Constraint Area Mapping



4. JUSTIFICATION

4.1 Introduction

The overarching principles that guide the preparation of planning proposals are:

- The level of justification should be proportionate to the impact the planning proposal would have;
- It is not necessary to address a question if it is not considered relevant to the planning proposal; and
- The level of justification should be sufficient to allow a Gateway determination to be made with confidence that the LEP can be finalised within the timeframe proposed.

The following justification addresses each relevant question applicable to the planning proposal to ensure confidence can be given to the Gateway determination.

4.2 Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

A planning proposal is required as an amendment to the OLEP is proposed. The objective is to wholly rezone the site to R5 Large Lot Residential and remove the E/C4 and RE1 zones.

The existing powerline through the site is proposed to be realigned and put underground, and would follow the proposed internal road alignment. Preliminary review by a Level 3 power designer confirms this can be achieved. Ongoing consultation would occur with the asset owner, Transgrid, to provide this outcome.

The Orange *Local Strategic Planning Statement* (LSPS) outlines 19 Planning Priorities to provide a focus on achieving the aims and objectives of the Central West and Orana Regional Plan and the strategic direction expressed in Orange City Council Community Strategic Plan 2018-2028.

The proposal seeks to achieve Direction 25 of the LSPS to *'increase housing diversity and choice'*. The proposal seeks to provide a practical and suitable lot size, which is consistent with other sites areas on the periphery of Orange, such as the Connemara and Dean Drive area in the west of the city.

The proposal is not inconsistent with the LSPS. This is discussed in further detail with respect to the specific priorities of the LSPS in **Table 1**.

The OCS Local Housing Strategy (LHS) (adopted June 2022) identifies the need for delivery of 5,000 new homes in the Orange LGA within the next 20 years. This proposal increases the yield of the development scheme and assists to achieve the goal of the draft LHS.

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

The proposed approach is considered the best means of achieving the project objective.

The Site was previously rezoned from RU1 – Primary Production and IN1 – General Industrial to a mix of zoning including R5 – Large Lot Residential, E/C4 – Environmental Living, RE1 – Public Recreation and SP2 – Infrastructure. It is considered the proposed further amendment to rezone the site and amending the minimum lot size will result in the best use of the Site.

As rezoning the land to R5, and amending the minimum lot size, would achieve the project objective without any unintended consequences, it is considered the most appropriate approach.

The 2,000 m^2 minimum lot size is proposed to provide a consistent baseline for lot sizes on the site that is consistent with other large lot residential subdivision developments in the city of Orange and responds more

appropriately to current levels of market demand. The majority of the site is unconstrained and capable of accommodating lots of 2,000 m^2 and greater. It is not intended to exceed 4,000 m^2 lots in the scheme to avoid the potential for further subdivision of land within the scheme. The vision of the development, as outlined in **Section 2.3**, reflects the intent of the applicant to provide a high quality development that is limited in scale to no more than 700 lots and that provides appropriate flexibility in design to ensure that areas of sensitivity (biodiversity, heritage, infrastructure, slope and other) are protected. This limit will be achieved both by the amendment of the LEP to provide a specific density limiting clause that would apply to the land, but also through the application of restrictions to user that would prohibit the further subdivision of the land and via the provisions of the site specific DCP. It is not proposed to remove the current Urban Release Area provisions, meaning that the subdivision of the land cannot proceed until a DCP has been prepared, exhibited and adopted.

As per the analysis provided at **Figure 15**, the vast majority of the site has slopes of less than 15%, which are well suited to provide developable dwelling lots that make excellent use of the views and vistas to the south and south-west towards Mount Canobolas.

It is acknowledged that steeper areas of the site will be more difficult to develop with lots at or near the minimum lot size, and it is envisaged that lots in this area (particularly in the NE of the site) will be typically larger in size (up to approximately 4,000 m^2) to ensure that dwellings can be safely developed without the need for significant amounts of cut and fill. Certain lots in the very steep portions of the site may exceed 4,000 m^2 however these lots would be protected from further subdivision by site specific restrictions so as to user to ensure further subdivision cannot occur. This is further protected by the overarching LEP clause providing a maximum lot yield limit.

These site specific provisions would be managed through a combination of the introduction of an LEP clause to address requirements for protected area – slope constraint area (in this instance, land with a contiguous slope greater than 20%) and site specific Development Control Plan (DCP) provisions. The DCP is to be developed before the subdivision of the site would occur in line with the current urban release area designation and would be informed by specific studies including stormwater, biodiversity, Aboriginal heritage and servicing.

To ensure the applicability of these local controls for sloping lots, land where slopes contiguously exceed 20% have been mapped as Protected Areas (refer **Figure 14**). This will have the effect of turning off the provisions of the Codes SEPP and ensure that any development of these lots occurs via the development application pathway, including consideration of the proposed LEP Protected Area – Slope Constraint Area clause, and the site specific DCP clauses. The principles to be reflected in the recommended LEP clause are provided in **Section 3.1** and an example of the objectives for sloping land to be included in the DCP are provided as follows:

- *To ensure that buildings are sited to fit harmoniously with the existing topography and to minimise visual impacts upon natural settings.*
- *To ensure that the siting of buildings considers significant site constraints such as slope, and minimises site disturbance.*
- *To ensure that the siting of buildings minimises overshadowing of adjoining buildings and that adverse impacts to the solar access to living areas and private open space of adjoining buildings are minimised.*

Example of the types of controls that could be included in the DCP are summarised as follows:

- *Development siting and design to respond to slope constraints with respect to:*
  - *Prominence of ridgelines*
  - *Topography*

  - *Views, vistas and outlooks*
  - *Waterways*
  - *Vegetation*
- *Buildings to be designed and sited to minimise adverse physical and visual impacts to the site and adjacent land;*
- *Floor construction will be appropriate for the slope and engineering requirements of the development.*
- *Excavation or fill is reasonable having regard to the site constraints and retaining walls that are external to proposed buildings are minimised. Split-level designs may be regarded as preferable to excessive excavation or excessive fill and should be regarded as a normal design response on steep slopes.*
- *Any approval to fill land must be considered in the context of the separation distance to property boundaries to ensure that habitable room windows or primary private open space on adjacent land is not subject to an unreasonable reduction in privacy . Clauses modelled on those contained within the existing Orange DCP with respect to separation distances between elevated windows/areas and adjacent sensitive features may be appropriate.*
- *Where possible buildings are to be sited and designed to keep site disturbance to a minimum. This includes consideration of changes in natural ground level, removal of natural topographical features and vegetation and disruption of natural water run-off.*
- *Roads and paths to follow the landform where possible.*

The applicant proposes the shaping of the land in a legible and coherent fashion at subdivision DA stage to ensure that buildable blocks are provided, to avoid the need for future purchasers to conduct extensive cut and fill. This process is expected to remove some of the smaller areas of land with slopes greater than 20%, hence these have not been included in the LEP sloping land mapping.

Within the NE sector of the site, via the concept plan, roads have been generally orientated parallel to contours to enable the long axis of lots to be across the contours. This will allow for dwelling development that adopts the landform, in accordance with the above principles, and makes best use of the spectacular views.

Initial discussions with Council strategic planning staff highlighted some concern with the number of cul-de-sac roads in the original concept design, with the view that this could lead to a lack of integration. Further refinement of the road hierarchy master plan has occurred to maximise connectivity of roads, with cul-de-sacs minimised.

Consultation has commenced with Transgrid to deliver the realignment of the 132 kVA overhead powerline that currently bisects the site in a north-south direction. It is intended that this would be put underground and re-orientated along proposed internal roads. Liaison with Transgrid continues in this regard, and the full cost of these works would be met by the applicant, with no costs to the community. In the event agreement cannot be reached with Transgrid on the alignment and/or type of ETL (ie, underground or aboveground) the option remains in the planning proposal to retain the current SP2 zoning, thus enabling the amendment to proceed with certainty for all parties.

The mapped vegetation community in the south-west of the site would be predominantly retained and enhanced through augmentation of the waterway and the development of a riparian management and vegetation plan. The specific areas for protection would be identified through preparation of a BDAR at DCP and DA preparation stage.

All waterways within the site would be enhanced through considerate plantings and judicial land shaping to return the landscape to its pre-European form and provide extensive areas of standing water. Open space

areas would be developed with publicly accessible walking and cycle paths, with the potential to be linked to existing paths within the broader community.

Harvesting of water for potable purposes would be developed in conjunction with Orange City Council to augment the Council water supply and offset the additional demand generated by the development of the land.

Understanding of cultural values would be advanced through preparation of a site specific Aboriginal Cultural Heritage Assessment (ACHA) in consultation with Registered Aboriginal Parties (RAPs) at DCP and DA preparation stage. Any areas of sensitivity within the site would be protected as required in consultation with Heritage NSW and RAPs. Given the large size of the site (290ha), the proposed minimum lot size (2,000m^2), the maximum lot yield limit (700) and the significant areas of proposed open space (around 25 hectares), there is sufficient capacity within the site to achieve the project objectives, including ensuring the protection and conservation of areas any Aboriginal heritage value areas, should they be identified.

Figure 15 – Slope analysis

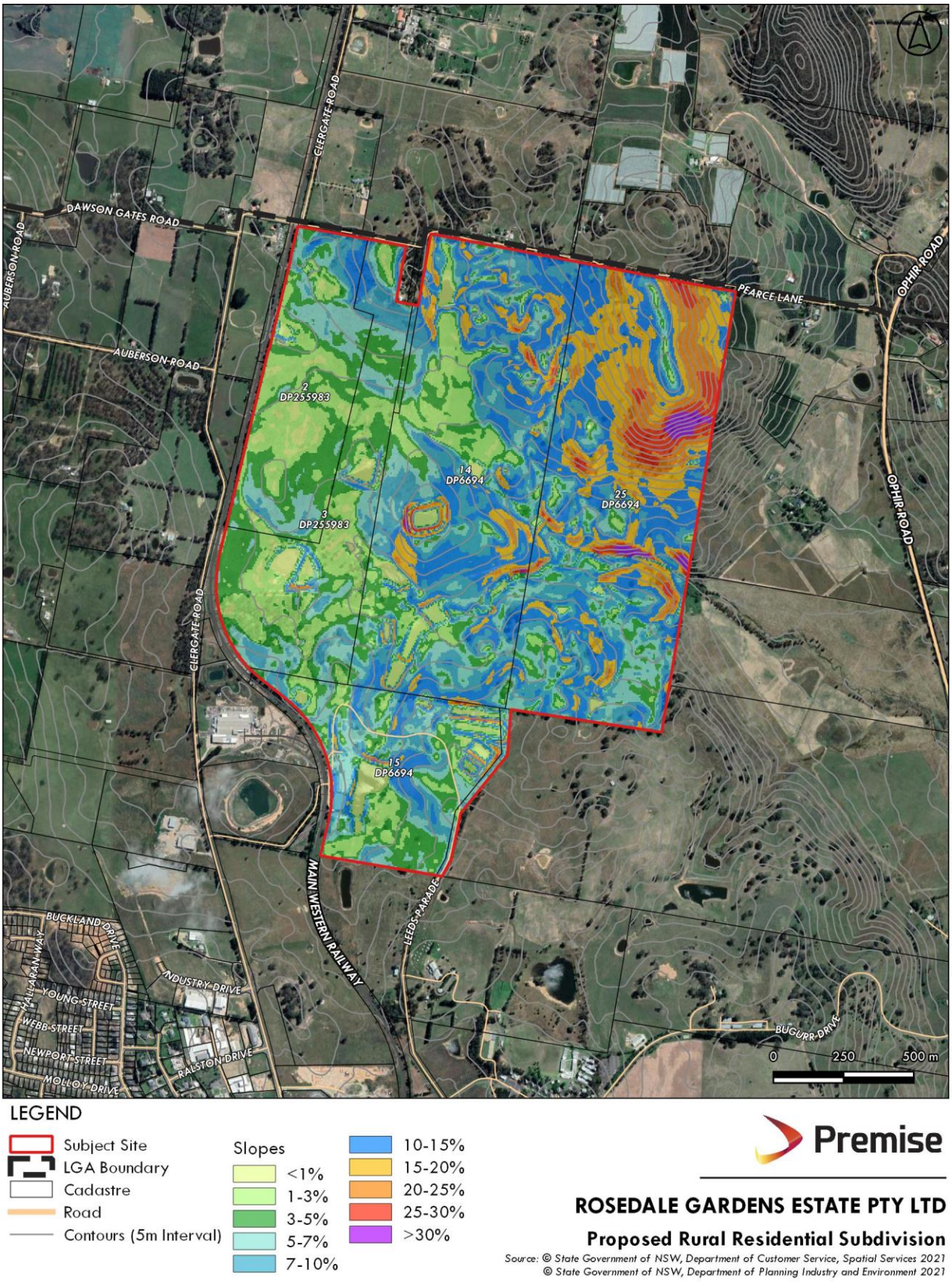
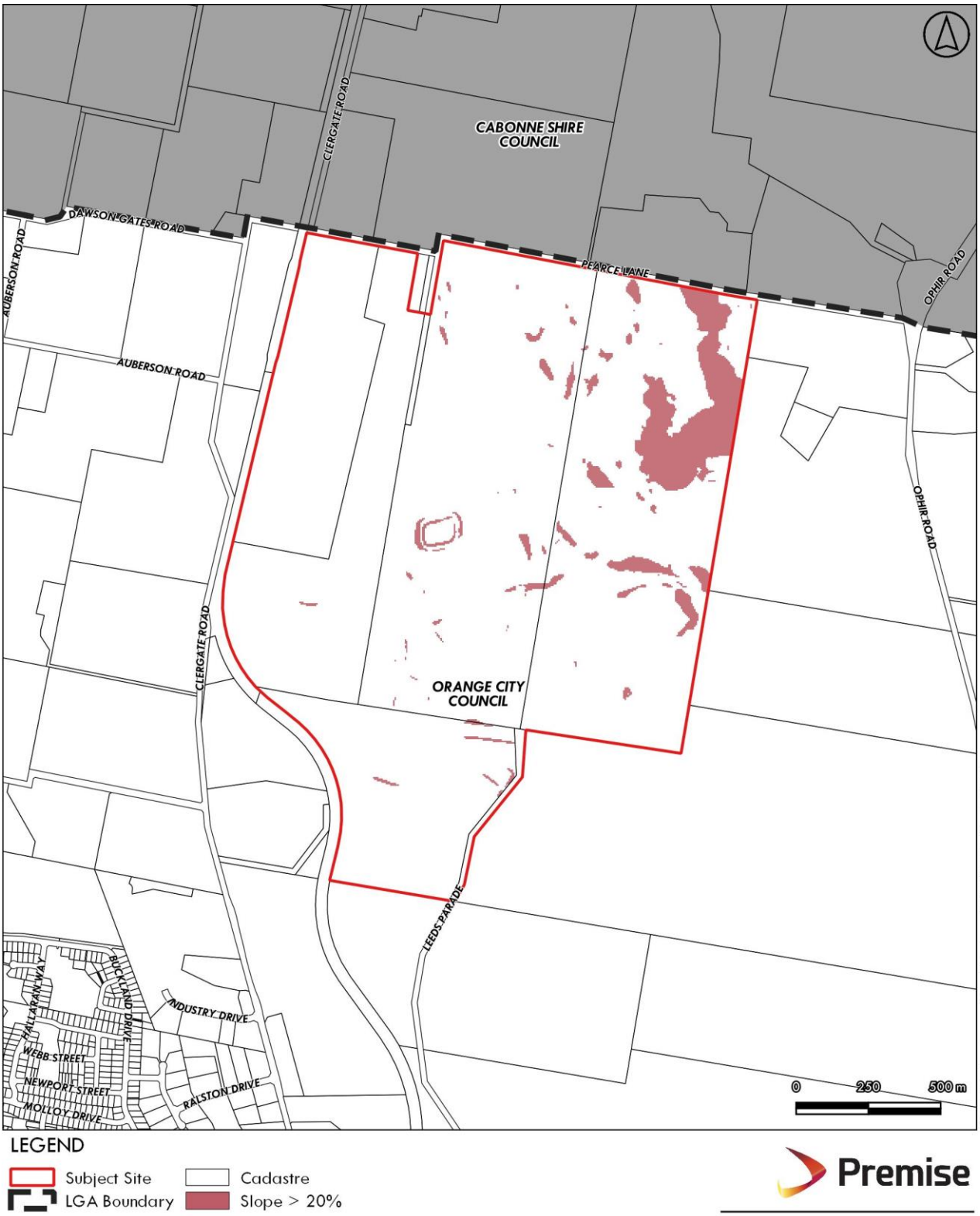


Figure 16 – Slope across the site above 20%



4.3 Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The *Central West and Orana Regional Plan 2036* is the NSW Government's strategy for guiding land use planning decisions for the Central West and Orana Region for the next 20 years. At its heart is a core vision for the region supported by four supporting goals:

- The most diverse regional economy in NSW
- A stronger, healthier environment and diverse heritage
- Quality freight, transport and infrastructure networks
- Dynamic, vibrant and healthy communities.

The proposal is considered to be generally consistent with the objectives and actions of the Plan as discussed in **Table 1**.

Table 1 – Consideration of Regional Plan Goals and Directions

Goals/Directions	Assessment response
Goal 1: The most diverse regional economy in NSW	The planning proposal enables development that supports the region by providing residential dwelling blocks, to support the project growth of the city over the next 20 years. As per OCS Draft LHS, an additional 5,000 homes are projected to be required over the next 20 years. The project is consistent with this goal.
Goal 2: A stronger, healthier environment and diverse heritage	The project is not inconsistent with this goal. Any future development application would be prepared to ensure the heritage values of the site are appropriately considered.
Direction 13: Protect and manage environmental assets	The planning proposal enables development that will protect and manage environmental assets through demolition of the existing industrial use, rehabilitation of any contaminated lands, retention and protection of natural watercourses and rehabilitation of riparian corridors (approximately 25 hectares is proposed in the Concept Site Layout), introduction of a minimum lot size which provides ample room within future lots for the retention of significant environmental features and introduction of provisions which prevent development from occurring on sloping land under complying development pathways.
Direction 14: Manage and conserve water resources for the environment	Water resources form a crucial component of the vision for the site, including retention and protection of natural watercourses and rehabilitation of associated riparian corridors. The re-establishment of riparian corridors attracts native fauna, allows for the provision of walking and cycling tracks within natural environments, improves quality of stormwater runoff and enables the resumption of natural processes whereby stormwater flows are slowed through the landscape.
Direction 15: Increase resilience to natural hazards and climate change	The planning proposal enables development which will increase resilience to natural hazards and climate change through retention and protection of natural watercourses and rehabilitation of riparian corridors. Riparian vegetation slow stormwater flows through the landscape, enabling greater

Goals/Directions	Assessment response
	stormwater infiltration and attracting native fauna. Riparian corridors are also proven to reduce local temperatures, thereby mitigating the urban heat island effect across the development area as well as offering a place where residents can escape to find respite in summer months.
Direction 18: Respect and protect Aboriginal cultural heritage assets	The initial planning proposal prepared in relation to the land was supported by an Aboriginal heritage assessment, which provided recommendations around the required level of assessment to support any future development application. This planning proposal does not derogate from the conclusions of that study or change the nature of those conclusions. The necessary investigations would be completed in the preparation of development documentation. The impact to known Aboriginal sites is consistent with the current zoning and can follow appropriate pathways to protect heritage assets. Consultation with Heritage NSW has confirmed that the carrying out of further detailed investigation can be deferred to DCP preparation stage – refer **Appendix G**. The proposal is therefore consistent with direction 16.
Goal 3: Quality freight, transport and infrastructure networks	The proposal is not inconsistent with this direction.
Goal 4: Dynamic, vibrant and healthy communities	The proposal is consistent with this goal as outlined below.
Direction 23: Build the resilience of towns and villages	By providing an enhanced opportunity for the development of high quality residential land, the project supports the attractiveness of the City of Orange as a destination and lifestyle change location for potential residents.
Direction 25: Increase housing diversity and choice	The proposal provides for a range of development lots with flexible sizing to respond to market demand. Recent developments in the City of Orange have reflected the strong demand for large lot residential dwelling allotments in sizes between 2,000 and 4,000 m^2, and this is the intended market for the proposal.
Direction 28: Manage rural residential development	There is the potential for land use conflicts with surrounding land that requires careful management. This is expected to be managed through a range of measures including buffer distances, vegetation plantings and appropriate siting of houses. Details would be addressed via appropriate DCP controls and are discussed in more detail in **Table 5**.
Direction 29: Deliver healthy built environments and better urban design	The proposal provides the capacity for a mix of allotment sizes, the majority with direct access to open space or with open space within a close distance. The aim to provide water and open space frontages is a unique aspect of the project and one which is likely to create a development with a strong linkage between environment and health and well-being.

On the basis of the above, the development is considered to be consistent with the Regional Plan.

Is the planning proposal consistent with Council's local strategy or other local strategic plan?

As noted above, the proposal is consistent with Direction 25 of the LSPS which aims to provide greater housing diversity and choice. The proposal is also consistent with Orange City Council Community Strategic

Plan 2018-2028. The proposal assists with the objective of the adopted Orange LHS via the delivery of up to 700 of the required 5,000 homes needed to meet projected population growth for the City of Orange for the next 20 years.

Applicable LSPS priorities relating to the proposal are priorities 2, 4, 6 and 13. These are discussed in **Table 2**.

Table 2 – Local Strategic Planning Statement

Priority		**Applicable actions**	**Assessment response**
2	Support the delivery of new homes in residential release areas, including North Orange and Shiralee, and increase the range of housing options in existing urban areas.	Prepare a revised housing strategy, informed by affordable and accessibility requirements, to replace the Orange Sustainable Settlement Strategy	N/A - Action for Council (noting a draft strategy is on exhibition in February 2022). It is noted that the DPIE Gateway assessment report in relation to this planning proposal confirms that the project is consistent with the draft Orange Housing Strategy.
		Ensure a stable supply of residential land, supported by infrastructure, to provide housing opportunities for new residents.	This project is directly consistent with this action through the delivery of up to 700 large lot residential lots across a variety of sizes (between 2,000 and 4,000 square metres).
		Review the subdivision code to reflect the Disability Inclusion Action Plan recommendations.	N/A - Action for Council
		Review and update development controls in relation to established areas, particularly heritage conservation areas and other neighbourhoods where the established character should be maintained or enhanced	N/A - Action for Council The project will provide a site specific DCP that will include particular controls to address site specific constraints, as discussed variously throughout this proposal.
		Review and update the Development Contributions Plans	N/A - Action for Council
4	Provide diverse housing choices and opportunities to meet changing demographics and population needs, with housing growth in the right locations.	Review the Orange Sustainable Settlement Strategy and replace with a Local Housing Strategy	N/A - Action for Council (noting a draft strategy is on exhibition in February 2022). It is noted that the DPIE Gateway assessment report in relation to this planning proposal confirms that the project is consistent with the draft Orange Housing Strategy.
		Review and update the Orange Development Control Plan with provisions tailored to the	N/A - Action for Council

Priority		Applicable actions	Assessment response
		various forms of residential development.	
6	Provide recreational opportunities to meet the needs of residents of, and visitors to, Orange.	Review and update the Orange City Council Recreation Needs Study	N/A - Action for Council
		Require residential rezoning of more than 15 lots to include space for public recreational activities commensurate with the scale of the area to be rezoned, or planning agreements to embellish existing nearby public open space.	The proposal is consistent with this action. The proposal provide significant areas of open space (approximately 25 hectares as open space) within the current concept plan, generally along natural/riparian areas. As outlined elsewhere, these areas would be designed to ensure the provision of useful and usable spaces, that integrate with the broader open space network. In addition, there is capacity to provide a number of 'pocket' parks around the development to meet the direct needs of the community. A recreation needs analysis would be completed in conjunction with preparation of the DCP to ensure these appropriately designed and sited.
13	Protect, conserve and enhance Orange's urban tree canopy, landform, waterways and bushland.	Review and update the Orange Street Tree Master Plan by 2023.	N/A - Action for Council
		Review and update the Orange Development Control Plan to: - Require greenfield subdivisions to protect and enhance waterways and riparian corridors. - Require multi dwelling housing to include a minimum area of deep-root landscaping for trees, proportional to the scale of the development.	- The proposal provides significant areas of open space along riparian corridors which will be protected as a component of the project - N/A – multi-dwelling housing not proposed

The proposal relates to existing zoned land that was the subject of an addendum to the Blayney Cabonne Orange Sub Regional Industrial and Rural Land Use Strategy (BCO), providing strategic justification for the large lot residential zoning of the land. The proposal is generally consistent with that adopted strategy.

The Councils of Blayney Cabonne and Orange have collaborated with Department of Planning and Environment to prepare the Draft Blayney Cabonne Orange Subregional Rural and Industrial Lands Strategy

2019 to 2036 to replace the BCO. It has been the subject of exhibition and consultation but not yet adopted. The new Strategy was released prior to the gazettal of the amendment to the OLEP that rezoned the subject site to R5/E(C)4 and it is therefore expected this document will be updated prior to adoption. The new Strategy will focus on industrial and rural zoned land, with large lot residential land the subject of the new LHS.

The proposal is not inconsistent with the new Strategy.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is broadly compliant with all relevant State Environmental Planning Policies (SEPPs). The following specific comments are made in relation to applicable SEPPs.

State Environmental Planning Policy (Hazards and Resilience) 2021

State Environmental Planning Policy (Hazards and Resilience) 2021 (HR SEPP) aims to, among other things:

> *...promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment...*

This policy applies to the whole of the State, including the Orange LGA. The HR SEPP defines 'contaminated land' as per the definition in Part 5 of the *Contaminated Land Management Act 1997 No 140* as:

> *the presence in, on or under the land of a substance a concentration above the concentration at which the substance is normally present in, on, or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment.*

A phase 1 preliminary site investigation was completed in relation to the gazetted 2020 rezoning, which concluded that the site was suitable for residential use. The increase in lot yield associated with this proposal does not affect these conclusions. In response to commentary received during the regulatory consultation phase, additional sampling and reporting has been completed to determine the extent of any potential contamination in the portion of the site adjacent to the rail corridor. This additional reporting is attached as **Appendix F** and confirms that all samples met the investigation criteria for the respective analytes.

A current review of the online resources maintained by the Environment Protection Authority with respect to contamination do not reveal any historic contaminating land uses.

Refer additional discussion in relation to Ministerial Direction 2.6.

State Environmental Planning Policy (Transport and Infrastructure) 2021

One the aims of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (TI SEPP) is to facilitate the effective delivery of infrastructure across the state by:

> *a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services*
>
> *b) greater flexibility in the location of infrastructure and service facilities*
>
> *c) allowing for the efficient development, redevelopment or disposal of surplus government owned land*

d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development)

e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development

f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

Given the proposal seeks to increase the number of lots being created on the site, this planning proposal is supported by a Traffic Impact Assessment (TIA) – refer **Appendix C**. The TIA concludes:

Based on the above assessment, it is concluded that:

- The development is expected to generate approximately 5,180 vehicle movements per day, and 546 and 497 vehicle movements (two-way total) in the morning and evening peak hours respectively;

- Site traffic will have a minor impact on the surrounding road network, with modest increases to queue lengths and delays, and the traffic volumes can be accommodated on the road network in a safe and efficient manner;

- The access locations allow traffic to be distributed on the road network and they are not expected to create any operational or safety issues at the nearby railway level crossings;

- Car parking for the individual lots is to be provided in accordance with the DCP, with onstreet parking provided for visitors; and

- It is recommended that future consideration be given to providing sustainable transport facilities within the site that link with existing bus routes and shared paths.

Therefore, it is concluded that the traffic and parking aspects of the proposed development are satisfactory, and the development will have a minimal impact on the surrounding environment.

On the basis of the above, the proposal is considered to be acceptable in the context of impacts to the local transport network.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (BC SEPP) seeks to, among other things:

(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and

(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The BC SEPP operates to ensure tree protection is provided in areas of the state where the BC Act doesn't operate (ie, such as on smaller residential lots). The BC SEPP applies where a local Council has provisions

within their Development Control Plan to require the approval for the removal of the trees, as is the case in the Orange LGA.

A site specific DCP would also be prepared that would address vegetation protection.

As evidenced in **Figure 5**, the occurrence of native biodiversity across the site is consistent with the existing high environmental value mapping applying to the site (**Figure 4**). This land currently benefits from protections as outlined in LEP clause 7.3 and ensuring the objectives of this clause are met is a critical outcome of any DA. This protection is further reinforced by the proposed protections to be included in the site specific DCP as discussed earlier in this planning proposal – refer **Section 3.1.5**.

In this manner, consistency with the BC SEPP can be achieved.

Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

Direction 2.1 – Environment Protection Zones

Direction 2.1 applies where a relevant planning authority prepares a planning proposal. The objective of the direction is to protect and conserve environmentally sensitive areas.

Where the direction applies, a relevant planning authority must ensure that:

> *(4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.*
>
> *(5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".*

Part of the land is currently zoned for E/C4 – Environmental Living, originally put in place to provide additional protections for vegetation on site. At present, the E/C4 zone reflects a consistent minimum lot size with the adjacent R5 zone and therefore dwelling/subdivision yield in relation to this portion of the site is consistent with that of the R5 land.

It is proposed to adopt a consistent R5 – Large Lot Residential zoning over the site and therefore the E/C4 zoning would be removed.

A consistent minimum lot size would be applied over the site, together with the introduction of additional permitted use clauses to limit the overall lot yield at the site to a maximum of 700 lots.

The land is subject to the provisions of the Vegetation SEPP, which provides protection for trees in non-rural areas (as discussed above) and the provisions of the BC Act, which was not in effect when the original planning proposal was lodged. In recognition of the changes reflected by the BC Act, it is considered that the development can be delivered in a fashion that satisfies the aims of the BC Act.

It is important to understand that the change in approach of zoning some of the land from E/C4 to R5, and the removal of the RE1 land, does not result in a net reduction of open space. The development still conceptually provides around 25 hectares of open space. The proposal also introduces new protection areas designed to ensure that development on sloping land only occurs in a coordinated and considered fashion, with specific LEP and DCP provisions to be provided. The inclusion of the protected areas mapping also excludes the application of the Codes SEPP from these areas of land, and avoids the risk of development

proceeding as complying development that would not be subject to the proposed LEP/DCP provisions. In this way, the protections over the land are considered consistent with the outcome of the original amendment and are thus not inconsistent with the direction.

By application of the above measures, the objectives of the directions have been adequately considered and the inconsistency with the direction justified.

Direction 2.3 – Heritage conservation

The objective of Direction 2.3 is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The direction applies to all planning proposals.

Section 5 of Direction 2.3 states:

> *(5) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:*
>
> *(a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or*
>
> *(b) the provisions of the planning proposal that are inconsistent are of minor significance.*

The original planning proposal was supported by an Aboriginal heritage assessment and based on the implementation of the recommendations of that report, and the carrying out of necessary investigations at DA stage, it is considered that the applicable provisions of the NPW Act can be implemented. An update of the due diligence assessment is provided in **Appendix H**. Consultation with Heritage NSW (**Appendix G**) has confirmed that carrying out of further investigations at DCP preparation stage of the project is acceptable.

On this basis, the inconsistency with the direction is acceptable.

Direction 2.6 – Remediation of Contaminated Land

Direction 2.6 applies when a planning proposal authority prepares a planning proposal applying to land specified in paragraph (2) of Direction 2.6, being:

> *(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,*
>
> *(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
>
> *(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:*
>
> > *(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
> >
> > *(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Where the direction applies:

> *(4) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:*
>
> > *(a) the planning proposal authority has considered whether the land is contaminated, and*
> >
> > *(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
> >
> > *(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.*
>
> *In order to satisfy itself as to paragraph (4)(c), the planning proposal authority may need to include certain provisions in the local environmental plan.*
>
> *(5) Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.*

A phase 1 preliminary site investigation was completed in relation to the gazetted 2020 rezoning, which concluded that negligible risks to human health or the environment existed at the site. Residual contamination aspects would be more practicably addressed at construction DA stages(s) following subdivision and are not considered to be prohibitive with regard to the site being rendered suitable for the proposed land use(s). Such aspects are summarised below:

- Hydrocarbon impacted soil was identified at the following locations, which exceeded the Assessment of Site Contamination NEPM 1999 (Amended 2013)[1] 'Management Limits', which consider the formation of phase separated hydrocarbons, fire and explosion risks, damage to buried infrastructure and aesthetics.
  - Within the footprint of the machinery shed; and
  - Base of former ponds of the 'Wool Topmaking' discharge area to the south of the former orchard area
- Potential has been identified for asbestos containing materials (ACM) – likely present in abattoir structures, caretaker's residence, pump-house and the former dwelling in the site's north-west – to have weathered and impacted soil proximal to (and underlying) these areas. Premise notes that potential exists for impending demolition activities to similarly result in ACM-impacts to soil, and subsequent asbestos clearance and certification (as required under SafeWork NSW codes of practice) may be extended for all identified areas.
- Potential exists for transformer oils from the abattoir substation to have resulted in localised polychlorinated biphenyl (PCB) impacts to the surrounding soil. Due to the nature of residual surface and underground infrastructure in this area, assessment of soil for PCB impacts would be conducted following demolition of the substation.

[1] National Environment Protection Council (NEPC), Amended National Environment Protection (Assessment of Site Contamination) Measure 1999 (Amended 2013)

The increase in lot yield associated with this proposal does not affect the overall conclusion that the site is suitable (or can be made suitable noting the above aspects being addressed) for land uses permitted under the proposed R5 zoning.

As a result of comments received from TfNSW during the regulatory consultation phase, updated sampling has been completed and the outcome is provided in **Appendix F**. This assessment confirms that all soil samples met the investigation criteria for all analytes.

It is noted that the most sensitive of land uses permitted under both the R5 and E/C4 zoning remains as residential purposes.

A phase 2 assessment and Remediation Action Plan would be prepared at DA stage to ensure that remediation occurs such that the land is suitable for the use proposed.

Direction 3.1 – Residential Zones

Direction 3.1 is applicable where:

> *(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),*
>
> *(b) any other zone in which significant residential development is permitted or proposed to be permitted.*

The proposal seeks to increase the area of R5 zoned and remove the E/C4 zoning of a portion of the land. Adequate services and infrastructure will be in place prior to any residential development being completed. This will be ensured through future development applications which will extend existing infrastructure to the site and provide adequate services and facilities to meet the needs of a residential development of this scale.

The proposal does not reduce the permissible density of the land and seeks to provide additional developable residential lots, in line with the intent of the draft LHS Orange .

Direction 3.4 – Integrating Land Use and Public Transport

Ministerial Direction 3.4 applies where a planning proposal will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The objective of this direction is to:

> *ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*
>
> *improving access to housing, jobs and services by walking, cycling and public transport, and*
>
> *increasing the choice of available transport and reducing dependence on cars, and*
>
> *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
>
> *supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.*

This direction applies to this Proposal as it is creating/altering the residential zoned portion of the land. The land is currently zoned for a combination of residential and environmental living purpose, with a consistent

minimum lot size across the land. The land is also in close proximity to the North Orange retail centre and the burgeoning commercial areas of North Orange, including the industrial areas within Clergate Road (which are directly accessible via the new access road) and the business zones located in Leeds Parade.

The indicative concept plan demonstrates that there is potential to provide interconnected pedestrian and cycle networks that have the capacity to be linked to the existing networks accessing the Charles Sturt University Campus and future networks throughout the North Orange residential areas. Road connections are designed to support public transport (if required). This would meet the objectives of current transport guidelines and planning policies, and therefore the proposal is not inconsistent with the direction.

Direction 4.4 – Planning for bushfire protection

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.

The Site contains a small portion of land identified as being bushfire prone. This portion of the site was understood to have been mapped as bushfire prone due to the existence of a stand of pine trees in the mapped area. These pine trees were cleared by the property owner several years ago however the bushfire prone land map has not been updated. Given the threat vegetation has been removed, and the very minor extent of mapped bushfire prone land, it is not considered likely that the proposal will result in any adverse impact on future residential development of the land, particularly considering this land is already zoned R5 Large Lot Residential.

In the event the subject planning proposal is supported, any future development application will be required to be issued with a Bush Fire Safety Authority in accordance with Section 100B of the *Rural Fires Act 1997.*

It is a requirement of the Gateway approval that consultation occur with RFS. Subject to the feedback of RFS, the planning proposal may be further updated.

The proposal is considered to be consistent with Direction 4.4.

Direction 5.10 – Implementation of Regional Plans

Direction 5.10 seeks to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

The direction applies to land to which a Regional Plan has been released by the Minister of Planning. The Central West and Orana Regional Plan has been approved and applies to the Orange LGA.

The Vision of the Regional Plan is:

> *A unique part of Western NSW with a diverse economy, supported by the right infrastructure, an exceptional natural environment and resilient communities.*

The Vision of the Regional Plan is delivered by four key goals and 29 specific directions. Relevant to this planning proposal are a number of goals and directions, outlined and discussed in **Table 1**.

The planning proposal is considered suitable in the context of land that has been rezoned for large residential and environmental lots. The proposal put forward seeks to build on the existing zoning of the land by achieving the goals listed above, in particular the four directions discussed under Goal 4. The planning proposal is important in assisting with the delivery of the above goals and directions. The planning proposal is considered to be consistent with the intent and vision of the Regional Plan. The planning proposal is therefore consistent with Direction 5.10.

Direction 6.1 – Approval and Referral Requirements

Ministerial Direction 6.1 – Approval and Referral Requirements applies to all planning proposals forwarded for Gateway Determination by a local authority.

To be compliant with Direction 6.1, a planning proposal must be consistent with the following provisions;

> *"A planning proposal must:*
>
> *(a) Minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
>
> *(b) Not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
>
> *(i) The appropriate Minister or public authority, and*
>
> *(ii) The Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
>
> *(c) Not identify development as designated development unless the relevant planning authority:*
>
> *(i) Can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
>
> *(ii) Has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act".*

The proposed planning proposal does not generate the need for any explicit concurrence, consultation or referral to the Minister or public authority and is therefore consistent with Direction 6.1.

Direction 6.2 – Reserving land for public purposes

Direction 6.2 seeks:

> *(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and*
>
> *(b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition*

It applies to all planning proposals. The applicability of the direction is discussed in **Table 3**.

Table 3 – Ministerial Direction 6.2

What a relevant planning authority must do if this direction applies	Assessment
(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes	Approval is sought via this planning proposal

What a relevant planning authority must do if this direction applies	Assessment
without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).	
(5) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must: (a) reserve the land in accordance with the request, and (b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and (c) identify the relevant acquiring authority for the land.	N/A – no additional reserved land proposed.
(6) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must: (a) include the requested provisions, or (b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.	N/A – no additional reserved land proposed.
(7) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request	The proposal to remove the reservation is proposed to provide flexibility in final zone boundaries and does not seek to reduce the net amount of recreation land proposed to be provided. The concept plan retains provision of approximately 25 hectares of open space, consistent with the original proposal. Subject to final design, a future re-zoning would be possible to ensure the protection of this land from subdivision. This is provided in the short term through the adoption of a DCP and masterplan.

Given the response to point (7) above, the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) can be satisfied that the final arrangement of land will contain an area of dedicated reserved open space consistent with the original arrangement and thus any inconsistency with the direction is minor and inconsequential.

Direction 6.3 – Site Specific Provisions

Ministerial Direction 6.3 – Site Specific Provisions applies to all planning proposals forwarded for Gateway Determination by a local authority.

To be compliant with Direction 6.3, a planning proposal must be consistent with the following provisions:

> *(a) A planning proposal that would amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*
>
> • *Allow that land use to be carried out in the zone the land is situated on, or*
>
> • *Rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
>
> • *Allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*
>
> *(b) A planning proposal must not contain or refer to drawings that show details of the development proposal.*

The planning proposal amends only the Orange LEP and thus does not amend another EPI. As such, the proposal is consistent with the direction.

The introduction of a specific clause to limit the maximum number of lots to be developed on the site provides Council with a mechanism to ensure that development of the land does not exceed the targeted lot yield, as identified by the proponent.

Due to the size of the lots and their value/position in the market, perceived risk around developers buying multiple adjacent lots with a view to consolidating and re-subdividing, and thus impacting on lot yield, has a very low level of risk. It is only a risk following release of early stages and only where purchasers are sold multiple adjacent lots, which is expressly not proposed by the proponent. As the sole landowner in the scheme, this intention alone will ensure that likelihood of this happening is very low.

4.4 Environmental, social and economic impacts

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

A preliminary biodiversity analysis was completed in support of the original planning proposal applying to the land. That assessment was prepared to address the requirements of the (then) Native Vegetation Act 2003. The inception of the NSW *Biodiversity Conservation Act, 2016* (BC Act) means that any development application that would result in the clearing of native vegetation must consider whether the Biodiversity Offset Scheme (BOS) applies. The BOS will be triggered if:

1. Clearing exceeds the minimum clearing threshold (1 ha or more as minimum lot size is 40ha).
2. Clearing occurs on an area of outstanding biodiversity value (this is not applicable).
3. The proposal will result in a significant impact on threatened flora, fauna or ecological communities as determined by the Five Part Test of Significance.

The future subdivision of the land will trigger the BOS due to the presence of native vegetation on the site (refer **Figure 5**) and the anticipated level of clearing. Any future Development Application to subdivide the

land will therefore need to be accompanied by a Biodiversity Development Assessment Report (BDAR), which will assess the potential impact on biodiversity in accordance with the Biodiversity Assessment Method (BAM) established under the BC Act. This future BDAR must describe the biodiversity values on the Study Area, identify means to avoid, minimise or mitigate biodiversity impacts, and assess the residual impact to biodiversity values using the BAM online calculator (BAM-C) to determine any offset requirements for those impacts.

An accredited assessor must implement the BAM and prepare a BDAR in accordance with part 6 of the BC Act.

A preliminary site visit to the property was completed by Premise ecologists on the 8-9 April 2021 and the results of that survey is reflected in **Figure 5**. Further vegetation surveys are required to satisfy the requirements of the BAM to adequately identify PCTs and collect quantitative data for input into the BAM Calculator to determine any offset liability.

The project area is mostly cleared, modified pasture with remnant native isolated paddock trees and some remnant woodland areas.

State Vegetation Mapping identifies the project area as PCT 1330, PCT 732, and PCT 277.

Vegetation surveys conducted in April 2021 confirm the presence of PCT 1330, PCT 732, and PCT 277 – refer **Appendix D**.

Threatened flora, fauna and ecological communities predicted to occur or have habitat on the project site have been identified via four data sources:

- BAM online calculator – Lists predicted credit species and candidate credit species generated by the BAM-C based on IBRA subregion, PCTs present and vegetation integrity (DPIE, 2021b).
- The NSW BioNet Threatened Biodiversity Data Collection (TBDC) (DPIE, 2021d) – Provides data on vegetation types (PCTs), habitats and habitat constraints for threatened species.
- BioNet website – Searches of the NSW Atlas of Wildlife, NSW State Forests, Australian Museum and Royal Botanic Gardens Sydney databases (DPIE, 2021c). The search area comprised a 20 × 20 km square centred on the Study Area. This search returned a list of threatened species known to occur within the search area.
- Commonwealth Department of the Environment and Energy (DEE) website – Protected Matters Search Tool (PMST) (DAWE, 2021). The search area comprised the same 20 × 20 km square as for the BioNet search. The PMST uses actual records and habitat modelling to return a list of 'protected matters' that are known or predicted to occur in the search area, including threatened species, migratory species, ecological communities, wetlands of international significance, and national and world heritage properties.

Database searches returned 13 threatened flora species, 40 threatened fauna species and 2 threatened ecological communities. The potential for these species and ecological communities to occur on the project area have been based on a literature review and preliminary vegetation surveys and are assessed in this report and the results summarised in the tables at **Appendix D**.

Threatened species considered unlikely to occur on the project area based on individual species requirements and habitat assessment are not assessed further in this report, unless they are Candidate Credit Species identified in BAM-C. Candidate Credit Species can only be excluded from the BAM-C if the species:

- has habitat constraints listed in the TBDC (DPIE, 2021d) and none of these constraints are present on the project area;

- Is vagrant in the area (taken as the record being well outside the species range or natural distribution);
- is unable to use the habitat constraints listed in the TBDC (DPIE, 2021d) or known microhabitats that the species requires to persist on or use because the habitat constraints are degraded to the point where the species will no longer be present; or
- targeted searches are conducted on the project area by suitably qualified people at the appropriate time of year using accepted methods to determine the presence/absence of identified threatened species

The BAM-C returned 18 Predicted Credit Species and 15 Candidate Credit Species. Eight of the fauna species are duel Predicted and Candidate Credit Species. All species returned by the BAM-C will require consideration in the assessment of any future DA applications which involve the clearing of land on the site.

Preliminary review of habitat constraints on the Study Area reveals three flora and 12 fauna species considered to have potential habitat on the site that is likely to require offsetting. Targeted flora and fauna surveys would be required to ascertain whether these species are actually present or absent on the Study Area.

A summary of appropriate timing of targeted surveys for Candidate Credit Species is provided in the tables in **Appendix D**.

Twenty nine plant populations and 21 terrestrial fauna populations are listed as endangered under NSW TSC Act, as at June 2021 (NSW Scientific Committee, 2016). None are applicable to the project area.

Native vegetation on the project area is likely to be remnant of PCT 1330, PCT 277 and PCT 732. PCT 1330 and 277 are associated with Threatened Ecological Community *White Box - Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland in the NSW North Coast, New England Tableland, Nandewar, Brigalow Belt South, Sydney Basin, South Eastern Highlands, NSW South Western Slopes, South East Corner and Riverina Bioregions.* This TEC is listed as Critically Endangered on the BC Act and the EPBC Act.

There are no TECs associated with PCT 732.

Whilst further fauna and flora surveys need to be completed to finalise the biodiversity strategy for the planned subdivision (ahead of any future DA lodgement), the proposal is considered capable of complying with the provisions of the *Biodiversity Conservation Act 2016*.

LEP clause 7.3 ensures consideration and protection of mapped high environmental value land, which is consistent with the mapped native vegetation as per **Figure 5**.

The site specific DCP will contain site specific measures to ensure protection is provided to native vegetation and these will include, but are not limited to, the following:

1. Areas containing mapped sensitive biodiversity would incorporate lots of a larger size to accommodate protected vegetation; and
2. Lots within mapped sensitive biodiversity areas would incorporate building envelopes to ensure development protects and retains significant native vegetation; and
3. Riparian areas would be landscaped with endemic species to provide compensation for tree removal where it cannot be avoided due to the siting of infrastructure.

Subject to the carrying out of the BDAR, the existing LEP clauses and the proposed DCP provisions, impacts to biodiversity can be managed to ensure they are not significant.

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

Environmental impacts associated with the use of the land for residential purpose are consistent with the current zoning of the land.

Any future development of the land would be the subject of detailed design including considering known site environmental constraints and the need to provide appropriate environmental controls.

As discussed elsewhere in this proposal, the management of potential impacts associated with biodiversity, slope, Aboriginal heritage and contamination is achievable in a manner that would not result in significant residual impacts.

Has the planning proposal adequately addressed any social and economic effects?

The development is considered to result in social and economic benefits to the locality, through providing greater opportunities for residential development.

The *Draft Centres Policy 2009* (Policy) provides a number of questions that should be considered in determining whether to proceed with a rezoning; referred to as the Net Community Benefit Test. These questions together with a response are provided in **Table 4**.

The Policy identifies that if it is judged that the rezoning would produce a net community benefit, the proposal should proceed through the rezoning process. If no benefit is identified, the proposed rezoning should not proceed.

The outcome of the discussion provided in **Table 4** confirms that the rezoning would have a net community benefit and accordingly it is considered that the rezoning should proceed.

Table 4 – Net community benefit test

Evaluation criteria	Community costs and benefits			
	Base case – current situation	**Planning proposal**	**Qualitative Community Benefit per Criteria**	**Quantitative Community Benefit per Criteria**
Would the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors)?	A range of adopted directions and strategies apply to the site, as discussed earlier in this planning proposal.	The proposed LEP seeks to rezone part of the land from E/C4 to R5 and amend the Lot Size Map to provide for a greater number of large lots; consistent with a large portion of the site.	Provides additional residential land close to Orange and provides greater opportunities for housing diversity.	No external cost to the community. Increased investment would be a benefit.
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or another regional/sub-regional strategy? Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	The site is within the area of the Central West and Orana Regional Plan. The proposal is not inconsistent with the vision and goals of the Regional Plan.	The proposed LEP seeks to amend the LEP to rezone a portion of the site from E/C4 to R5, and amend the Lot Size Map to provide for the development of large residential lots; consistent with the existing zoning of a large portion of the site.	The development of large residential lots on the periphery of Orange will not set an undesirable precedent.	No external cost to the community
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	No other spot re-zonings are known to have occurred in the locality.	The Planning Proposal provides for the rezoning of the land to reflect the existing and future use of the land for large lot residential development.	No external cost to the community	No external cost to the community
Would the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The land affected is currently zoned R5, E/C4, RE1 and SP2.	The proposal will provide for short and medium term employment generation.	No external cost to the community	No external cost to the community

Evaluation criteria	Community costs and benefits			
	Base case – current situation	**Planning proposal**	**Qualitative Community Benefit per Criteria**	**Quantitative Community Benefit per Criteria**
Would the LEP impact upon the supply of residential land and therefore housing supply and affordability?	The Site currently contains a land zoned R5, E/C4, RE1 and SP2.	The proposal seeks to rezone the Site to R5.	The proposal will provide greater supply of land for residential development.	Greater affordability of large residential lots.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Yes	This has been demonstrated with the existing zoning of the land. The proposal seeks to expand on this.	No external cost to the community	No external cost to the community
Would the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	The site is currently rural/agricultural land and has been rezoned for residential and environmental development.	The proposal seeks to expand on the existing zoning of the land to provide for a greater number of residential lots over the same project area.	No external cost to the community	No external cost to the community
Are there significant Government investments in infrastructure or services in the area whose patronage would be affected by the proposal? If so, what is the expected impact?	No significant assets in the region that would be affected	The LEP seeks to provide capacity for greater residential development on large lots near Orange.	No external cost to the community	No external cost to the community
Would the proposal impact on land that the Government has identified a need to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land	The land is not unduly constrained.	By virtue of the current and continued use of the land for residential purposes, the general suitability of the land is confirmed.	No external cost to the community	No external cost to the community

Evaluation criteria	Community costs and benefits			
	Base case – current situation	**Planning proposal**	**Qualitative Community Benefit per Criteria**	**Quantitative Community Benefit per Criteria**
constrained by environmental factors such as flooding?				
Would the LEP be compatible/ complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Would the public domain improve?	The subject site is currently rural/agricultural land which has been rezoned for residential/environmental development purposes.	The LEP would allow for further residential development in the locality.	Additional residential development opportunities in the locality.	No external cost to the community
Would the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	No retail or commercial uses operate on the site.	No retail or commercial uses are proposed with the rezoning.	No external cost to the community	No external cost to the community
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Not relevant to this planning proposal.			No external cost to the community
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	Residential development is only possible on a portion of the site.	Additional large residential lots would be provided in the locality	Public Interest is best served by enabling a wider range of residential development and housing opportunities thereby fostering local competition and improving vitality and viability.	Potential external cost to community if LEP does not proceed due to potential loss of economic opportunities noted above.
		Net Community Benefit =	**Positive**	**Positive**

4.5 State and Commonwealth Interests

It is not considered that the amendments proposed via this planning proposal would conflict with any State or Commonwealth interests.

After issue of the Gateway determination, and update of the planning proposal, a copy of the planning proposal was sent to the following regulatory agencies seeking comment within 21 days:

- Transport for NSW (TfNSW);
- Heritage NSW;
- Cabonne Council;
- Transgrid;
- Environment Protection Authority (EPA);
- DPE Biodiversity, Conservation and Science (BCS);
- John Holland Rail;
- DPE Water;
- Charles Sturt University (CSU);
- Natural Resource Access Regulator (NRAR); and
- Rural Fire Service (RFS)

Of the above agencies, responses were received within the 21 day period from Cabonne Council, EPA and BCS.

Responses were received from Heritage NSW and TfNSW outside of the 21 day period. TfNSW responded on behalf of the rail authority (JHR, noting the Rail Infrastructure Manager responsibilities were transferred from JHR to United Group Limited in January 2022).

Responses received are discussed in **Table 5**.

No response was received from Transgrid, John Holland Rail (noting the above), DPE Water, CSU, NRAR or RFS.

Specific commentary with respect to regulatory agencies is provided under the relevant headings below.

4.5.1 TRANSGRID

Noting the discussion in **Section 3.1.4**, and the lack of response from Transgrid, it is confirmed that the intended outcome of this planning proposal is for the high voltage ETL running through the site to be put underground and the alignment of the SP2 zoning either be amended or removed. In the event that agreement cannot be reached with Transgrid to relocate or amend the ETL alignment, the current zoning alignment would remain as per the current arrangement (refer **Figure 10**).

4.5.2 DPE BIODIVERSITY, CONSERVATION AND SCIENCE (BCS)

A meeting was held between Premise and BCS on the 6 June 2022 to discuss the content of the BCS response to Council's request for comment – attached at **Appendix G**. Detailed comments with respect to the advice from BCS is addressed in **Table 5, cells 10-17**.

It was generally agreed at that meeting that updates to the planning proposal were required to map high environmental value land (**Figure 4**) and to provide ground-truthing of this HEV land (**Figure 5**). As noted elsewhere, the ground-truthing by Premise ecologists reflects that the areas of the site mapped as HEV

accord with areas of mapped high sensitivity across the site (and in the majority of instances provide sufficient buffers around these ground-truthed areas), which is in turn consistent with the LEP sensitive biodiversity mapping. Land affected by this sensitive biodiversity mapping is subject to LEP Clause 7.4. At DA stage, specific consideration is required to this land to ensure, in this instance, the subdivision design has afforded adequate protection of sensitive land in the context of the clause objectives.

It was also agreed that the site specific DCP should incorporate guiding provisions to ensure the protection of sensitive vegetation. These principles include (but are not limited to):

1. Areas containing mapped sensitive biodiversity would incorporate lots of a larger size to accommodate protected vegetation; and
2. Lots within mapped sensitive biodiversity areas would incorporate building envelopes to ensure development protects and retains significant native vegetation; and
3. Riparian areas would be landscaped with endemic species to provide compensation for tree removal where it cannot be avoided due to the siting of infrastructure.

The above recommended measures, to be adopted and developed through preparation of the site specific DCP prior to subdivision DA, ensure that the project can be delivered in a sustainable manner that accords with the provisions of the BC Act and the LEP, and thus do not result in significant or unreasonable impacts to biodiversity on the site.

4.5.3 HERITAGE NSW

A meeting was also held between Heritage NSW, Premise and Orange City Council on the 18 August 2022 to discuss Heritage NSW advice within their response to regulatory consultation – attached as **Appendix G**. Detailed comments in respect of the Heritage NSW advice is provided in **Table 5, cells 19-21**.

Additional information was provided to Heritage NSW after that meeting to clarify the extent of the site to be impacted by the project and to demonstrate that, in the event areas of additional sensitivity were identified requiring protection, that this could be accommodated without prejudicing the maximum lot yield. In short:

- As proposed by the applicant via the planning proposal, the limit of 700 lots is to be enshrined in a specific LEP clause that will ensure that the maximum lot yield of the scheme does not exceed this number. In the context of the proposed minimum lot size of 2,000m2, and the areas conceptually be set aside for open space and roads, we note the following:
  - The site has an area of approximately 290 hectares
  - 700 lots at an MLS of 2,000m2 would require a minimum area of 140 ha
  - Areas set aside for roads and open space (via the concept plan) are, respectively, 62.3 ha and 28.2 ha.
  - Being reasonable and assuming that lots within areas of steeper slope or containing native vegetation may be larger, we have assumed that 30% of lots are in fact a minimum of 3,900m2 (strategically ensuring these are less than 4,000m2 so that further subdivision is not possible). This would result in approximately 490 x 2000m2 lots and 210 x 3900m2 lots. This increases the conceptual minimum development area from 140 ha to 180 ha.
  - 290 ha less areas for roads and open space (62.3+28.2) leaves 199.5 ha for development.
- As a means of testing the above, it is common in land use planning terms to assume that around 20% of land should be excluded from conceptual lot yields to account for open space and roads. This is typically increased to 30% where the land is constrained (eg, due to slope). In this case, assuming a 30% reduction factor against the original 290 ha, leaves 203 ha for lot development, which is very close to the 199.5 ha figure flagged above. 203 ha divided by the 2000m^2 minimum lot size suggests the land could

accommodate around 1,015 lots of 2000m2. As per the above, a limit of 700 is placed on this subdivision, to ensure that lots can be larger than the minimum, or to provide for the yield target whilst still ensuring any areas of sensitivity can be accommodated.

- Therefore, considering the difference between the area needed to deliver a mix of 2000 and 3900 m2 lots, around 20 hectares of land could, if needed, be set aside for protection purposes. This is a significant area and more than sufficient to ensure that any conflict between the targeted lot yield and ensuring adequate protection of sensitive landforms or sites is possible.

4.5.4 CABONNE COUNCIL

Cabonne Council provided a response within the 21 day consultation period and raised a number of concerns around the potential for conflicts between adjacent rural land uses and the proposed rezoned land.

A detailed response to the points raised by Cabonne Council are provided in **Table 5, cell 18**. Concerns around conflicts between land uses are proposed to be addressed by the site specific DCP, and in consultation with Cabonne Council, including but not limited to:

- Noise, lighting and spray drift from the active orchard to the north can be reduced through the physical separation of land uses via the instatement of building envelopes and the installation of a vegetated buffer that is sufficiently mature as to be effective before the development reaches these areas. The specific requirements for this buffer would be contained within the proposed Development Control Plan to be prepared in respect of the land and would be consistent with the existing provisions contained within Section 6 of the Orange Development Control Plan 2004;
- Education of the community;
- Adoption of water sensitive urban design principles; and
- Bushfire hazard can be addressed by complying with design and management practices contained in Planning for Bushfire Protection (2018).

4.5.5 TRANSPORT FOR NSW (TFNSW)

A late submission from TfNSW was received and a detailed response to the points raised is provided in **Table 5, cells 22-29**.

To address concerns around potential contamination associated with proximity to the rail corridor, further sampling has been completed and is set out in **Appendix F**. This confirms that all samples collected reflects analytes within criteria limits.

4.5.6 ENVIRONMENT PROTECTION AUTHORITY

The EPA provided two responses during the consultation phase, with the majority of comments associated with the potential contamination status of the land.

A detailed response to all points raised by the EPA is provided in **Table 5, cells 1-9**.

4.5.7 JOHN HOLLAND RAIL (JHR)

No response was received from JHR.

Since the issue of the Gateway approval, United Group Limited has replaced JHR as the Rail Infrastructure Manager for the Country Regional Network. The response received from TfNSW addresses both road and rail matters and thus should be read as a response on behalf of JHR.

4.5.8 DPE WATER

No response was received from DPE Water.

4.5.9 CHARLES STURT UNIVERSITY (CSU)

No response was received from CSU.

4.5.10 NATURAL RESOURCE ACCESS REGULATOR (NRAR)

No response was received from NRAR.

4.5.11 RURAL FIRE SERVICE (RFS)

No response was received from RFS.

Table 5 – Regulatory agency consultation summary

	Matter raised	Response
Environment Protection Authority		
1st EPA response – dated 14 April 2022		
1	Land Management - *The EPA recommends that Council ensure an adequate buffer distance between the* (surrounding) *IN1, RU1 and the proposed R5 land. The buffer should consider potential noise, water and air quality impacts on the community from industrial activities such as those regulated by the EPA under Schedule 1 of the Protection of the Environment Operations Act (POEO Act). A list of industries the EPA regulates in the Orange local government area can be obtained via the EPA's public register, which can be found at https://apps.epa.nsw.gov.au/prpoeoapp/default.aspx*	The need for buffers is acknowledged and understood. There is sufficient room within the site to enable these to be accommodated via design at subdivision DA stage. The requirement for this will be outlined in the project specific DCP, which is required prior to the approval of any subdivision DA. The recent adoption of the Orange Local Housing Strategy at the June 2022 Council meeting has also reinforced Council's strategic direction to develop residential housing in the northern areas of Orange and move away from industrial land uses in this area.
2	Contaminated land - *The EPA suggests that Council ensures that all site remediation work is completed in a planned and proper manner. This includes the removal of all asbestos waste by a trained and licenced professional to ensure further site contamination is not caused. After the destruction and removal of all abattoir infrastructure, including any underground storage units Council should ensure a full site investigation is completed to fully assess any potential ground and water pollution.*	The need for this is acknowledged and understood. The original contamination investigation completed in relation to the site provides a conclusion that there are no barriers to rezoning for residential purposes along with a range of measures to be implemented at DA subdivision stage. This remains the intent for the project and there have been no changes in site conditions that warrant a change to this approach. The required investigations would be completed prior to DCP preparation and any sensitive areas identified in the DCP to ensure that where a stage or stages are affected by contamination, this is clearly reflected in the DCP, to ensure the remediation occurs prior to development of the stage commencing.
2nd EPA response – dated 6 May 2022		
3	Noise – The proposed rezoning is in the vicinity of a rail line that has the potential to produce noise from its operation over a 24-hour period. It may be necessary to undertake an acoustical assessment to assess any potential noise impacts from the operation of the rail line to help identify any reasonable and feasible mitigation measures. Such an	The need to consider noise in the relation to the rail corridor is understood and acknowledged. Conceptual lot layout provides longer lots and the capacity for building envelopes on these lots adjacent to the railway corridor so that dwellings are a minimum of 40 metres from the corridor. This approach

	Matter raised	Response
	assessment should be prepared by a suitably qualified acoustical consultant.	is in line with the requirements of the *Development near Rail Corridors and Busy Roads - Interim Guideline*.
4	Potential land contamination – 1. An updated preliminary site investigation is required	Site conditions have not changed in the intervening period since the original planning proposal was prepared. The original PSI confirmed no sheep dips on site and none have been installed in the intervening period (noting the ongoing use for cattle grazing only). The only notable change is the approval to demolish existing abattoir buildings on site. This demolition has not yet occurred. It is proposed that once this demolition has occurred, further investigations could occur in advance of preparation of a subdivision DA. An updated PSI is not warranted at this time and is therefore not proposed. As noted above, a PSI would be completed prior to adoption of the DCP and remediation required will be clearly outlined in the DCP to ensure that this occurs prior to release of affected stages.
5	Potential land contamination – 2. A targeted environment investigation is recommended for some areas	Supplementary site sampling was completed on the 15 and 16 August 2022, incorporating targeted sampling to determine the extent whether the land adjacent to the railway corridor indicates any instances of contamination requiring remediation. The outcome of this sampling and analysis is provided in **Appendix F**. This reporting demonstrates that all soil samples met the investigation criteria for the respective analytes.
6	Potential land contamination – 3. A site audit statement should be prepared	The proponent has no objection to preparing an SAS in conjunction with the subdivision DA. This is a matter to be dealt with at that time and does not impact this planning proposal.
7	Potential land contamination – 4. Consent conditions should ensure that contamination risk does not increase	The applicant has no objection to a consent condition of this nature in relation to the future subdivision DA. This is a matter to be dealt with at that time and does not impact this planning proposal.
8	Potential land contamination – 5. There may be a duty to notify the EPA of contamination	The applicant is aware of and understands their obligations with respect to contamination notification

	Matter raised	Response
9	Potential land contamination – 6. Certified consultants should be used to assess contamination	The applicant has no objection to the use of certified consultants in relation to future reporting.
Biodiversity, Conservation and Science		
10	*BCS has the following primary areas of interest relating to strategic land use planning proposals:* *1. The impacts of development and settlement intensification on biodiversity* *2. Adequate investigation of the environmental constraints of affected land* *3. Avoiding intensification of land use and settlement in environmentally sensitive areas (ESAs)* *4. Ensuring that development within a floodplain is consistent with the NSW Government's Flood Prone Land Policy, the principles set out in the Floodplain Development Manual, and applicable urban and rural floodplain risk management plans.* *We also understand that planning proposals must comply with current statutory matters such as the* *Local Planning Directions under S9.1 of the Environmental Planning and Assessment Act 1979 (EP&A Act).*	This comment fails to acknowledge that the land was historically in use for rural residential and industrial purposes, and was zoned for large lot residential and environmental living purposes via Amendment 13 to the LEP. The current proposal seeks to amend the minimum lot size to provide for additional lots within the amendment area, but does not result in greater impacts than currently allowable, noting the extent and intensity of development currently permitted under the existing zoning. The development of lots with a minimum lot size of 2,000 square metres across the site is capable of resulting in development of land for housing with established gardens, subject to compliance with the relevant statutory provisions, particularly with respect to mapped biodiversity values and clause 7.4 (Terrestrial Biodiversity). A review of the concept lot layout provided within the current planning proposal by comparison to the concept layout provided in relation to amendment 13 demonstrates that the extent of roads and infrastructure associated with the development area has not substantially changed. The area of riparian corridors has also not substantially reduced. Impacts associated with the planning proposal are therefore consistent with the current zoned arrangement. Following direct discussions with BCS a range of agreed principles have been provided within this planning proposal that would be adopted in the preparation of a DCP – refer to the numbered points in cell 12 of this table.
11	*The proposed zoning, minimum lot size and subdivision plan could be revised to improve consistency with regional and local strategies.* ***Central West and Orana Regional Plan 2036***	The Planning Proposal has been updated (at **Figure 4**) to provide details of the current sensitive terrestrial biodiversity land mapping from the LEP, which is consistent with the draft High Environmental Value (HEV) land mapping prepared by the Department of Planning and Environment.

	Matter raised	Response
	• *Planning proposals should demonstrate consistency with the strategic planning framework including the relevant Regional Plan. To achieve directions, and actions in the relevant Regional Plan for areas with High Environmental Value (HEV), Planning Proposals should identify areas of HEV at the property scale and the current land uses in such areas should not be intensified.* • *The planning proposal is not consistent with the directions and actions of the Central West and Orana Regional Plan that relate to biodiversity. The planning proposal is not consistent with;* – *Direction 13 – protect and manage environmental assets* – *Action 13.1 – protect high environmental assets through local environmental plans* – *Action 13.2 – minimise potential impacts arising from development in areas of high environmental value, and consider offsets or other mitigation mechanisms for unavoidable impacts*	Furthermore, ground truthing of vegetation mapping has been completed by Premise and there is a large degree of consistency between the Premise plant community type mapping and the draft HEV/sensitive terrestrial biodiversity mapping – refer **Figure 5**. Consideration has been given to the need to update the sensitive terrestrial biodiversity mapping however, given the very minor differences between the mapping it is not considered warranted in this scenario. This existing mapping applies to the land and provides an additional layer of protection that obligates development to consider the provisions of clause 7.4 of the LEP in the determination of any development application. These controls are adequate to provide protection to HEV land. At DA subdivision stage a Biodiversity Development Assessment Report would be provided that would follow the hierarchical assessment of avoid, minimise and offset as per the provisions of the BC Act. There is adequate capacity within the land to achieve both the maximum density yield of 700 lots and also ensuring there is sufficient land set aside for protection, in the event the BDAR process identifies sensitive land requiring protection/avoidance. The planning proposal is therefore consistent with the CWORP in that environmental assets benefit from existing protections and these are not reduced by the planning proposal.
12	*Whilst the planning proposal states that 'the future subdivision of the land will trigger the BOS' and therefore any impacts will be assessed under the Biodiversity Assessment Method (BAM) and offset in accordance with the Biodiversity Conservation Act 2016 (BC Act), the planning proposal does not show that there has been any attempt to avoid areas of HEV, nor does it propose any provisions to protect these values. Furthermore, land use intensification is proposed for the areas that are currently zoned for conservation (C4).*	Protections for HEV land is not reduced by this planning proposal on the basis that the extent of impacts are no greater. Land mapped as HEV is protected via the provisions of clause 7.4 of the LEP and no changes to this are proposed. Whilst lot sizes are proposed for reduction in areas of C4 zoning, this does not amount to intensification on the basis that the extent of impact is consistent with the current zoning and land use pattern. Road and infrastructure areas do not substantially increase and the extent of development is broadly similar. Under the current zoning, the development of lots to 4,000 square metres would result in impacts to land that are consistent with the proposed density pattern. Protections must be considered and provided at DA subdivision stage

	Matter raised	Response
		to ensure compliance with clause 7.4. The proposed development would not lead to greater impacts. It is also proposed to ensure that protections are incorporated into a site specific DCP to further limit the potential for impacts to biodiversity. A tiered approach to protections are proposed, consistent with the following principles: 1. *Areas containing mapped sensitive biodiversity would incorporate lots of a larger size to accommodate protected vegetation* 2. *Lots within mapped sensitive biodiversity areas would incorporate building envelopes to ensure development protects and retains significant native vegetation* 3. *Riparian areas would be landscaped with a variety of species to provide compensation for tree removal where it cannot be avoided due to the siting of infrastructure.*
13	***Draft Central West and Orana Regional Plan 2041*** *In additional to above the draft Central West and Orana Regional Plan 2041 advocates;* • *the validation of regional scale HEV mapping via site specific investigations during strategic and local planning, and development proposals* • *avoidance of areas with identified HEV and focusing development on areas with lower biodiversity values* *The planning proposal has not clearly identified all areas of HEV present or likely to be present on the subject site nor has there been any attempt to avoid such values.*	HEV/sensitive terrestrial biodiversity mapping is provided within the updated planning proposal. As above, impacts to HEV land are not substantially increased by the project and protections by virtue of clause 7.4 are not reduced.
14	***Orange Local Strategic Planning Statement 2020 (LSPS)*** *Planning priority 13 of the Orange LSPS is 'Protect, conserve and enhance Oranges urban tree canopy, landform, waterways and bushland'.*	Riparian corridors are substantial throughout the site and are a key attribute and feature of the concept layout. These areas are to be conserved and enhanced; the project is therefore consistent with planning priority 13, action 3.

	Matter raised	Response
	Action 3 of the planning priority is 'require greenfield subdivisions to protect and enhance waterways and riparian corridors'. *Page 23 of the planning proposal states, 'the mapped vegetation community in the south-west of the site would be predominantly retained and enhanced through augmentation of the waterway and the development of a riparian management and vegetation plan'. The planning proposal proposes to remove current RE1 and C4 zonings in areas where the riparian corridors are present. This is not consistent with planning priority 13 and action 3.* *Recommendations* *a) The planning proposal should further identify and map the extent of areas of HEV on the subject site with both desktop analysis and site investigations.* *b) Areas identified as HEV should be protected through planning mechanisms (e.g. C zones and minimum lot sizes to preclude subdivision).*	Whilst the zoning is proposed to change, the sensitive terrestrial biodiversity mapping remains, and the protections provided by clause 7.4 are not reduced. Ground truthing by Premise confirms the validity of the current mapping and its consistent with information on the ground a) HEV mapping is provided within the updated planning proposal. Ground-truthed biodiversity mapping by Premise is provided as **Appendix C** to this response. It is evident that there is a high degree of consistency between the ground survey and the HEV mapping. b) The existing site features substantial areas of environmental living zone (now C4) that permits subdivision down to 4,000 and 8,000 square metres. The recommendation that subdivision should not be permitted in C4 zoned areas is inconsistent with the current situation and is an unreasonable requirement. The tiered controls addressed in cell 12 of this table, along with the retention of the sensitive terrestrial biodiversity mapping and the effect of the provisions of LEP clause 7.4, ensure adequate controls exist in these areas. As noted with respect to the heritage comments, there is adequate capacity within the site to enable the delivery of the proposed 700 lots, a consistent amount of recreation space (by comparison to the current arrangement), necessary roads and provide for areas of protection if required.
15	*2. Conclusions of the likelihood of occurrence for predicted threatened species is not adequately justified or consistent* *The planning proposal has not adequately justified conclusions that threatened species are unlikely to occur on the site. The assessment of likelihood for predicted threatened species presented in Table 5 of Appendix D of the planning proposal is not consistent with the*	The assessments of likelihood provided in the planning proposal have been completed by BAM accredited ecologists in the context of the provisions of the BC Act. The former report by FloraSearch was prepared in the context of the now repealed Native Vegetation Act. Variance between the two is therefore not unexpected.

	Matter raised	Response
	conclusions in the Ecology Report (prepared by FloraSearch) that accompanies the planning proposal. *Recommendation* *a) Conclusions that threatened species are unlikely to occur should be adequately justified. Otherwise Council should acknowledge that the likelihood of threatened species being present on the site has not been adequately assessed and assume that future subdivision and development of the site has the potential to impact on threatened species habitat.*	A BDAR will be prepared to support a future subdivision DA. It is pre-emptive to do so at this juncture when developed design of the subdivision has not yet been completed. The provisions of the BC Act will be addressed via the BDAR to support the DA and that is the appropriate time to do so, when there can be certainty about the design. Regulators and the community can be confident, via the measures discussed above, that impacts to threatened species will be not inconsistent with the level of impact currently permitted under existing zoning and minimum lot size, and this should be the benchmark for the analysis. The advice from BCS fails to acknowledge the extent of impact permitted by the current zoning. As noted elsewhere, there is sufficient capacity within the site to ensure that protection/avoidance can be provided as required whilst still delivering the 700 lot yield.
16	*3. Biodiversity Offset Scheme is likely to apply to future subdivision of the site* *The BC Act and Biodiversity Conservation Regulation 2017 (BC Reg) section 7.1 apply to subdivisions. When assessing subdivisions, the consent authority must consider the clearing of native vegetation required, or likely to be required, for the purpose for which the land is to be subdivided.* *Native vegetation includes trees, understorey plants, groundcover and plants occurring in a wetland that are native to New South Wales (including planted native vegetation), not just trees.* *If the subdivision will impact native vegetation and the clearing exceeds the biodiversity offsets scheme (BOS) thresholds (Part 7, BC Reg), the BAM must be applied and a biodiversity development assessment report (BDAR) prepared to assess and calculate the biodiversity offset credit requirement.* *Biodiversity offsets are calculated and secured in accordance with the BC Act for the subdivision.*	It is acknowledged and clearly understood that the provisions of the BC Act apply to the site and that a BDAR is required to be prepared to support the future subdivision of the land. This situation has not changed and will apply whether or not the amendment is gazetted. Impacts to vegetation can be adequately avoided, minimised and offset through adoption of the measures outlined in the planning proposal, this response and via the continued application of clause 7.4 of the LEP.

	Matter raised	Response
	Once this is done, no further offsets are required for subsequent development of the land that is within the approved subdivision. *The BAM requires proponents to demonstrate that biodiversity impacts have been avoided and minimised as far as possible, with residual impacts offset. Both the complexity of assessments, and the costs to the proponent associated with complying with the BOS, are lower where impacts on biodiversity are avoided and/or concentrated in areas of lower vegetation integrity.* *Based on the information provided it is likely that the impacts of the future subdivision of the subject site will trigger entry into the BOS. Entities at risk of SAII have additional assessment requirements under the BAM (see below for further information).*	
17	4. Any future development is likely to impact on SAII entities. Based on the information provided, BCS understands that the area currently zoned as C4 contains remnant native vegetation that is likely to conform to the threatened ecological community White Box - Yellow Box - Blakely's Red Gum Grassy Woodland and Derived Native Grassland in the NSW North Coast, New England Tableland, Nandewar, Brigalow Belt South, Sydney Basin, South Eastern Highlands, NSW South Western Slopes, South East Corner and Riverina Bioregions (Box Gum Woodland). Box Gum Woodland is listed as a Critically Endangered Ecological Community (CEEC) under the BC Act and therefore is listed as an entity for Serious and Irreversible Impacts (SAII). Where a proposal is determined likely to have a serious and irreversible impact on biodiversity values the planning authority must not grant approval. As stated above the planning proposal should identify and map the extent of HEV within the subject site. Any future development assessment could be simplified by identifying the extent of HEV and SAII entities on the subject site up front in the strategic planning for the site.	The HEV land is mapped at **Figure 4** of the updated planning proposal. The proposal does not result in land use intensification in HEV areas, noting that the current development scheme provides for subdivision of this land under the current zoning and minimum lot size maps. The reduction in MLS will result in additional housing, but no greater intensity of development on the basis that land developed as 4,000 and 8,000 square metre lots would be fully developed under the current scheme, within the context of the provisions of clause 7.4. This situation remains applicable and no greater impact is anticipated. The tiered approach to protections outlined in cell 12 above and which would be addressed in a site specific DCP, together with the provisions of clause 7.4, ensure that impacts are manageable and no greater than the current situation.

	Matter raised	Response
	BCS does not support amendments that facilitate land use intensification in areas of HEV.	
Cabonne Council		
18	*Council requests that consideration be given in the proposed rezoning of land known as 440 Clergate Road and 463 Leeds Parade, Orange, as to potential impact upon both Cabonne Council and the State government's right to farm policies, the protection of farmland within the Cabonne LGA, and request consideration of the aims and objectives of the Cabonne LEP 2012, the objectives of the RU1 zone, and measures to including biosecurity measures, to ensure the protection of established farming north of the subject land.* *Furthermore, that consideration be given to implementation of adequate buffer distances or planning controls to address potential land use conflict between residential and rural land uses, biosecurity measures, and to protect the right to farm for established nearby farmland should the rezoning proposal proceed.*	The issues raised by Cabonne Council relate to concerns about conflicts at the zone interface. This issue was comprehensively addressed in the original planning proposal that rezoned the land and measures to manage conflicts are to be addressed in a site specific DCP. This response and approach remains valid in our view. In short, the site specific DCP would incorporate a range of measures to manage the potential for conflict, including: • Noise, lighting and spray drift from the active orchard to the north can be reduced through the physical separation of land uses via the instatement of building envelopes and the installation of a vegetated buffer that is sufficiently mature as to be effective before the development reaches these areas. The specific requirements for this buffer would be contained within the proposed Development Control Plan to be prepared in respect of the land and would be consistent with the existing provisions contained within Section 6 of the Orange Development Control Plan 2004; • Education of the community; • Adoption of water sensitive urban design principles; and • Bushfire hazard can be addressed by complying with design and management practices contained in Planning for Bushfire Protection (2018).
Late submission from Heritage NSW		
19	Archaeological test excavation is recommended within the planning proposal area. This should occur before the planning proposal is determined to provide accurate information about the extent and nature of Aboriginal heritage sites and the potential impact of the planning proposal	The extent of impacts associated with the development is not substantially changed by this planning proposal, noting that the rezoning of the land from RU1 and IN1 to R5 and E/C4 was supported on the basis of the due diligence investigations completed. Notwithstanding, an update to the due diligence assessment is provided at **Appendix H**. The land has not changed, and the extent of impact has not significantly changed as a result of the current planning proposal. An ACHA would be

	Matter raised	Response
		prepared to support the subdivision DA and there is no justification or need for this to be completed at this time. The conclusion of the original assessment was that there were no significant barriers to proceed with development across the site as per the (then) concept plan. Consultation with Heritage NSW (as reflected in **Appendix G**) confirms that it is appropriate to defer the ACHA to DCP preparation stage. This is on the basis that: • The maximum lot yield will not exceed 700 lots. • Out of the 290 hectare site, around 20 hectares of land could, if needed, be set aside for protection of sensitive landforms or sites. • If the detailed investigations reveal the need for a greater area of protection, the resulting outcome would be delivery of less lots than the anticipated maximum. This is a reality the applicant fully understands. • The current proposal to rezone those areas of the site not currently identified as R5, to R5, means that flexibility exists to design an appropriate subdivision layout that takes full account of identified site sensitivities, such as those that may be identified through biodiversity, archaeological, stormwater or other detailed investigations.
20	An Aboriginal Cultural Heritage Assessment should inform the planning proposal	There has been no change to the planning framework such that an ACHA is required to be prepared at this time. The land has not changed and no additional AHIMS sites are noted apply to the land. An updated AHIMS search result is provided as an attachment to the due diligence review at **Appendix H**. The appropriate time to complete an ACHA is in conjunction with the design of the subdivision. As agreed with Heritage NSW, the carrying out of the ACHA will be deferred until DCP preparation stage.
21	Local heritage items are located on land near to the site, including Rosedale Homestead, Wyelbe House and Canobolas Wool Topmaking building.	The three locally listed heritage properties are on land adjacent to the subject site.

	Matter raised	Response
	We note that, as these Local heritage items are listed under your LEP, Council is the consent authority, and the assessment and consideration of any impacts on them from the planning proposal rests with Council. *The Heritage Council, and Heritage NSW as its Delegate, do not have a role in the assessment and approval of impacts to Local heritage items. As such, we do not provide advice on planning matters which impact on Local heritage.*	Rosedale homestead is approximately 320 metres to the east of the site boundary, Wyelbe house is approximately 350 metres to the west of the site boundary (separated by Clergate Road and the Main Western Railway line) and Canobolas Wool Topmaking is 120 metres to the south-west of the site boundary (also separated by Clergate Road and the Main Western Railway line). The likelihood of impact to these items by the planning proposal is low, noting the current zoning provides for large lot residential subdivision across the site to a minimum lot size of between 4,000-8,000 square metres. The reduction in the MLS is not considered likely to lead to any greater impacts that currently provided for. Consideration of heritage impacts would be provided within a subdivision DA to ensure compliance with clause 5.10 of the LEP.
Late submission from Transport for NSW		
22	TfNSW does not support the planning proposal in its current form. Specific matters discussed below.	Noted, and see specific responses below.
23	New Northern Access via Public Level crossing at Pearces Lane - *TfNSW requests additional safety assessment of the proposal against Australian Standard 1742.7 and Railway Crossing Safety Series 2011, Plan: Establishing a Railway Crossing Safety Management Plan (Roads and Traffic Authority 2011 and an ALCAM assessment on the crossing to confirm that it is safe and suitable to accommodate the expected increase in vehicle usage as a result of the development.*	The existing crossing at Pearce Lane was upgraded to an active crossing in around 2010 and meets current safety standards. Based on information provided by the TfNSW ALCAMS administrator, the most recent ALCAM assessment was completed in 2018. An updated ALCAM assessment completed in conjunction with the detailed design of the subdivision would be completed at DA stage. As the Pearce Lane connection would not occur to a later stage in the development, it is possible to 'lock up' these later stages via DCP controls until such time as this assessment is completed and authorised. This ensures that land is not released resulting in increased traffic movements at this intersection until the assessment is completed. It is also noted that the connection to Pearce Lane is predicted to accommodate only very small volumes of traffic and is not essential to the development of the project. In the event a safety assessment demonstrated issues with this level crossing, it would not significantly impact the project to remove this connection, utilising the Leeds Parade and new

	Matter raised	Response
		crossings. A lockable connection to Pearce Lane could be preserved for the purposes of providing emergency vehicle access if needed, but is not essential for the acceptable development of the site (as reflected by the low level of usage predicted).
24	New Western access and upgrade of private level crossing. TfNSW advise that the following assessments are required prior to the new crossing being approved: • Safety assessment adopting Safe Systems Approach and form safety interfacing agreement with all stakeholders investigating all treatment options including grade separation. • ALCAM assessment and assessment against Australian Standard 1742.7 and Railway Crossing Safety Series 2011, Plan: Establishing a Railway Crossing Safety Management Plan (Roads and Traffic Authority 2011 to confirm that (in the event of an upgraded level crossing being proposed) level crossing is safe and suitable to accommodate the expected increase in vehicle usage as a result of the development, and • Subject to the result of the above assessments, liaise and renew interfacing agreement with TfNSW regard the potential upgrade to the level crossing and subsequently form a Works In Kind agreement with local road authority (i.e Orange City Council).	As noted above, the western access would not be needed until the project development staging has progressed. The staging would be locked via the proposed site specific DCP to ensure that the necessary assessments are completed and land is not released until such time as the necessary upgrades, to the satisfaction of TfNSW, are completed.
25	Private overbridge – the bridge does not form part of the application is not impacted by the planning proposals. The bridge may be required to be reviewed for future closure. *Prior to lodgement of the future DA for subdivision, it is requested that the applicant consult with TfNSW and the Rail Infrastructure Manager in regard to the future use of this overbridge.*	It is understood a licence previously existed to enable use of this bridge in relation to the subject land, but that this was handed in following the cessation of the use of the abattoir. As such, the proponent does not have the capacity to use the bridge (thus it is not proposed). This bridge does not form part of the planning proposal. The proponent has no objection to a future assessment of the bridge.
26	Contamination of rail land – All rail corridors are deemed to be contaminated unless proven otherwise by sample testing.	As stated in respect of the EPA submission, a detailed PSI would be completed at subdivision stage. The work completed to date (including the results of the updated sampling provided at **Appendix F**) confirms that the land is suitable

	Matter raised	Response
	In accordance with State Environmental Planning Policy (Resilience and Hazards) 2021-Section 4.6 'Contamination and remediation to be considered in determining development application' (Previously State Environmental Planning Policy No. 55 – Remediation of Land) the consent authority (Council) must consider whether the land is contaminated.	for rezoning and development for residential purposes and that all sampled analytes are within an acceptable range by reference to the adopted criteria. At DA stage, a PSI would be completed.
27	Noise, vibration and air quality – any future development application must demonstrate compliance with the relevant SEPP and noise guideline. *As such, it is strongly recommended that Development for sensitive uses on the Site that is immediately adjacent to the operational rail corridor must ensure that acoustic building treatments are provided within 100m of the corridor to achieve noise requirements and compliance with the noise requirements shall only be based on shielding from fences, noise walls and intervening objects which are permanent structures, and exclude shielding from any object which forms part of a future development stage.*	As noted above, and in relation to the EPA correspondence, noise matters are adequately managed noting the size and orientation of lots, and through the placement of building envelopes. There is adequate room to ensure that dwellings can achieve recommended separation without the need for architectural attenuation. As noted above, the zoning on the western boundary is not proposed to change, and thus these comments are of limited relevance.
28	Stormwater management - *As the Land is immediately adjacent to the rail corridor, the rail corridor must not be adversely impacted by any future developments in the Land in terms of stormwater management.*	From analysis completed in relation to the amendment 13 planning proposal, it is evident that the land falls away from the rail corridor and that any stormwater would be directed to the east. Adverse impacts to the rail corridor as a result of stormwater are not predicted.
29	Future public transport provision - *Should the land be rezoned, and the project continue to the development assessment stage for subdivision, public transport service provision should be considered as part of the project scope. A future development application should consider opportunities to provide public transport through the subdivision area, providing customers with greater travel choices.*	As per the recommendation, this matter would be dealt with at DA stage. The proponent has no objection to this.

5. COMMUNITY CONSULTATION

5.1 Type of community consultation required

Section 6.5.2 of '*A Guide to Preparing Local Environmental Plans'* identifies two different exhibition periods for community consultation;

- Low Impact Proposals – 14 days; and
- All other planning proposals (including any proposal to reclassify land) – 28 days.

The Guide describes Low Impact Proposals as having the following attributes;

- A 'low' impact planning proposal is a planning proposal that, in the opinion of the person making the gateway determination, is;
  - Consistent with the pattern of surrounding land use zones and/or land uses;

The zoning of the land is currently for large lot residential development and environmental living purposes, with a generally consistent minimum lot size across the site. The proposal would build on the large lot residential component of the zoning of the Site by rezoning the site to allow entirely for large residential lots and providing a reduction in the minimum lot size. The proposed minimum lot size is consistent with other zoned large lot areas within the City of Orange and is therefore consistent with existing development levels within the city. The proposal does not fundamentally change the nature of the land use and therefore remains compatible with the surrounding land uses.

  - Consistent with the strategic planning framework;

Responses have been provided detailing the proposal's compliance with local and regional planning strategies, SEPPs, and ministerial directions.

  - Presents no issues with regard to infrastructure servicing;

All essential services will be provided to the site and these would be augmented as required by the applicant in the context of any future development of the land.

  - Not a principle LEP; and

The planning proposal is not for a principle LEP.

  - Does not reclassify public land.

The planning proposal does not seek to reclassify public land.

In accordance with the responses to the above points, the planning proposal is considered to be of low impact.

DPIE have identified the need for consultation for a period of 28 days. The updates to this planning proposal are provided to enable the planning proposal to proceed to the public consultation phase.

APPENDIX A

CORRESPONDENCE TO ORANGE CITY COUNCIL

APPENDIX B

CONCEPT MASTERPLAN

APPENDIX C

TRAFFIC STUDY

APPENDIX D

BIODIVERSITY DATA

Table 6 – Threatened Flora Species Returned by Database and Literature Searches of the Surrounding Region

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2,5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Acacia meiantha		Cand	Cand	-	✓	Very High	3	E	E	Moderate	Erect shrub to 1.5 m high, grows in dry sclerophyll forests or woodland on sandy to clay soils. Flowering occurs July – October. Three disjunct populations remain in the Central Tablelands, one of which is the Mullion Ranges approximately 9 km northwest of the Study Area (DPIE, 2021d).
Ammobium craspedioides	Yass Daisy	-	Cand	-	✓	Moderate	2	V	V	Nil	Perennial herb typically found within Box-Gum Woodland and moist/dry forests associated with Yellow Box (*Eucalyptus melliodora*), Blakely's Red Gum (*Eucalyptus blakelyi*) and Apple Box (*Eucalyptus bridgesiana*) (DPIE, 2021d). Species known to persist in lightly grazed areas. Species unlikely to occur on Study Area due to dominance of introduced species, cropping and over-grazing.
Eucalyptus aggregata	Black Gum	-	Cand	✓	✓	Moderate	2	V	V	Nil	Small to medium-sized tree (18 m tall) found in the Central and

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											Southern Tablelands, occurring in wetter and cooler areas at high altitudes (DPIE, 2021d). Species grows on poorly-drained alluvial soils and is associated with Ribbon Gum (*Eucalyptus viminalis*) and Swamp Gum (*Eucalyptus ovata*), as well as grasses including Tussock (*Poa labillardierei*) or Kangaroo Grass (*Themeda triandra*). Closest recorded sighting is at Summer Hill Creek (3.8 km north-east of the site) and is unlikely to occur on site due to historical clearing.
Eucalyptus canobolensis	Silver-leaf Candlebark	-	Cand	-	✓	Very high	3	V	E	Nil	Small tree (8-12 m) restricted exclusively to Mt Canobolas between 1000 m and 1300 m (DPIE, 2021d). Species occurs on shallow skeletal sands and is associated with sub-alpine vegetation including Ribbon Gum (*Eucalyptus viminalis*) and Broad-leaved Peppermint (*Eucalyptus dives*). Elevation across the Study Area vary between 833 m and 940 m.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Eucalyptus pulverulenta	Silver-leaved Mountain Gum			-	✓			V	V	Nil	Small tree (10 m tall) occurring in two distinct areas surrounding Lithgow and Bathurst, as well as the Monaro (DPIE, 2021d). Species grows on shallow soils in open forest dominated by Brittle Gum (*Eucalyptus mannifera*), Broad-leafed Peppermint (*Eucalyptus dives*) and Apple Box (*Eucalyptus bridgesiana*). Unlikely to occur on Study Area due to historical clearing and susceptibility to grazing and livestock trampling.
Eucalyptus robertsonii subsp. hemisphaerica	Robertson's Peppermint	-	Cand	-	✓	Very High	3	V	V	Nil	Tall tree occurs across the Central Tablelands between north of Orange to Burraga on light soils or granite (DPIE, 2021). Tree occurs in grassy or dry sclerophyll woodland or forest on upper slopes and rises. Associated species include Brittle Gum (*Eucalyptus mannifera*), Bundy (*Eucalyptus goniocalyx*) and Broad-leafed Peppermint (*Eucalyptus dives*). Species has been recorded in the Mullion

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2,5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											Ranges (9 km north-west of Study Area) but is unlikely to occur on the Study Area due to metasediment parent rock (slate, phyllites and siltstones) (DPIE 2021b).
Euphrasia arguta		-	Cand	-	✓	Very High	3	CE	CE	Nil	Semi-parasitic erect herb occurring in eucalypt forest with diverse grass and shrub understorey (DPIE, 2021d). Species has been recorded along the roadside, indicating resilience to disturbance. Species has historically been recorded near Bathurst, with current distributions restricted to Nundle in the North-western Slopes and Tablelands. Species unlikely to occur on Study Area due to clearing, grazing and herbicide use.
Swainsona recta	Small Purple-pea	Cand	Cand	-	✓	High	2	E	E	Low	Small Purple-pea occurs mainly in the grassy understorey of Box-Gum Woodlands and open-forests in association with understorey dominants that

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											include Kangaroo Grass, Poa tussocks and spear-grasses (DPIE, 2021d). There are no known records in the vicinity of the study area. However, Box Gum woodland is present on the study area.
Swainsona sericea	Silky Swainson-pea	Cand	Cand	✓	-	Moderate	2	V	-	Low	Erect perennial broadly distributed across Northern and Southern Tablelands, inland slopes and plains. Occurs in Snow Gum Woodland, Box Gum Woodland and Natural Temperate Grassland and can be associated with cypress-pine (*Callitris* spp.) (DPIE, 2021d). There are no known records in the vicinity of the Study Area. However, Box-Gum Woodland is present on the study area.
Dichanthium setosum	Bluegrass		Cand	-	✓	Moderate	2	V	V	Nil	Species occurs on the New England Tablelands, Northwest Slopes and Plains and the Central Western Slopes of NSW (DPIE, 2021d). It grows on heavy basaltic black soils and red-brown loamy

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											clays and is associated with White Box (*Eucalyptus albens*), Purple Wiregrass (*Aristida ramosa*) and Kangaroo Grass (*Themeda triandra*). Species unlikely to occur on Study Area due to grazing, slashing and cropping.
Lepidium hyssopifolium	Aromatic Peppercress		Cand	-	✓	High	2	E	E	Nil	Erect perennial herb distributed in small populations near Bathurst, Bungendore and Crookwell (DPIE, 2021d). Species occurs in grassy woodland and in grasslands. Unlikely to occur on Study Area due to restricted distribution and sensitivity to weed invasion, grazing and herbicides.
Leucochrysum albicans subsp. tricolor	Hoary Sunray		Cand	-	✓	High	2	-	E	Nil	Small herb associated with Kangaroo Grass (*Themeda triandra*) within grassland and grassy woodland. Occurs in two regions within north-eastern NSW (north of Newcastle) and south-eastern NSW (south of Canberra) (DPIE, 2021d). Unlikely to occur on Study Area due to the absence

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											of dense swards of Kangaroo Grass.
Thesium australe	Austral Toadflax		Cand	-	✓	Moderate	1.5	V	V	Nil	Small herb occurring in scattered populations across eastern NSW in grasslands or grassy woodlands (DPIE, 2021d). Species occurs as a root parasite and is often associated with Kangaroo Grass (*Themeda triandra*). Species is sensitive to grazing and weed invasion.

[1] Biodiversity Assessment Method online Credit Calculator (DPIE, 2021a): Cand = Candidate credit species (formerly species credit species); Pred = Predicted credit species (formerly ecosystem credit species).
[2] Threatened Biodiversity Data Collection (DPIE, 2021d)
[3] NSW Atlas of Wildlife (DPIE, 2021c)
[4] Protected Matters Search Tool (DAWE, 2021)
[5] Species with two likelihoods recorded are dual candidate and predicted credit species. The first likelihood refers to candidate credits and the second to predicted credits.
E = Endangered; CE = Critically Endangered; V = Vulnerable; M = Migratory.

Table 7 – Threatened Fauna Species Returned by Database and Literature Searches of the Surrounding Region.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Synemon plana	Golden Sun Moth	-	Cand	-	✓	Very High	3	E	CE	Nil	NSW distribution occurs between Tumut, Young, Gunning and Queanbeyan, with its historical range extending to Bathurst (DPIE, 2021d). Species occur in grassy Box-Gum Woodlands and Natural Temperate Grasslands and depends on wallaby grasses (*Austrodanthonia* sp.) with bare ground between tussocks. Suitable tussocks are absent from the Study Area and species is sensitive to fertiliser, ploughing and grazing.
Maccullochella macquariensis	Trout Cod	-	-	-	✓	-	-	-	E	Nil	* Listed as Endangered on the Fisheries Management Act, 1994 which is not part of this assessment. No suitable habitat on the Study Area.
Maccullochella peelii	Murray Cod	-	-	-	✓	-	-	-	V	Nil	* Listed as Vulnerable on the Fisheries Management Act, 1994 which is not part of this assessment. No suitable habitat on the Study Area.
Macquaria australasica[6]	Macquarie Perch	-	-	-	✓	-	-	-	E	Nil	* Listed as Endangered on the Fisheries Management Act, 1994 which is not part of this assessment. No suitable habitat on the Study Area.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Litoria booroolongensis	Booroolong Frog	Cand	Cand	-	✓	High	2	E	E	Nil	Medium sized tree frog which commonly inhabits permanent streams with fringing vegetation and cobble substrate in NSW and north-eastern VIC (DPIE, 2021d). Basking occurs on exposed rocks surrounding flowing water and eggs are laid in submerged rocks. Species is unlikely to occur on Study Area due to absence of suitable rocks, vegetation and substrate. Closest recorded sightings are in the Macquarie River near Bathurst (ALA, 2021).
Litoria castanea	Yellow-spotted Tree Frog		Cand	-	✓	Very High	3	CE	CE	Nil	Large frog occurring in two regions: New England Tableland and Southern/Central Tablelands from Bathurst to Bombala (DPIE, 2021d). Species requires large permanent waterbodies with emerged vegetation, including bulrushes and aquatic vegetation. Dams on Study Area lack aquatic vegetation.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Aprasia parapulchella	Pink-tailed Legless lizard	Cand	Cand	-	✓	Moderate	2	V	V	Nil	Species distribution includes Central and Southern Tablelands and the Southwestern Slopes. It inhabits rocks in well-drained, open woodland areas with native grasses, such as Kangaroo Grass (*Themeda australis*). Closest recorded sightings are near Canowindra and Hill End (ALA, 2021). Species is sensitive to habitat degradation through slashing, intensive grazing and weed invasion (DPIE, 2021d). Species is unlikely to occur on the Study Area due to grazing history and absence of suitable rocks.
Delma impar	Striped Legless Lizard	-	Cand	-	✓	Moderate	1.5	V	V	Nil	Lizard is found in grasslands of the Southern Tablelands and is associated with Box-Gum Woodland, Natural Temperate Grassland, and Kangaroo Grass (*Themeda triandra*) (DPIE, 2021d). Species has been recorded in disturbed grasslands but is unlikely to occur on the Study Area due to the absence of rocks and grazing pressures.
Grantiella picta	Painted Honeyeater	-	Pred	-	✓	Moderate	-	V	V	Nil	This specialist feeder occurs at low densities across central and eastern NSW, occurring at higher densities on the inland slopes of the Great Dividing

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											Range (DPIE, 2021d). Species commonly inhabits Box-Ironbark Forests and Box-Gum Woodland within Weeping Myall (*Acacia pendula*) trees. Species unlikely to occur on Study Area due to absence of mistletoe which is the core component of its diet.
Anthochaera phrygia	Regent Honeyeater	Pred/ Cand	Pred/ Cand	-	✓	Very High	3	CE	CE	Nil	Species occurs in patchy distributions across temperate woodlands and dry open forests of the inland slopes of south-east Australia. Commonly inhabits woodlands supporting high abundance and diversity of bird species and relies on Eucalypt species, such as White Box (*Eucalyptus albens*) and Yellow Box (*Eucalyptus melliodora*), as well as mistletoe for nectar (DPIE, 2021d). Nesting occurs in the fork of mature Eucalypts and Sheoaks within Box-Ironbark woodlands or riparian forests dominated by River Sheoak (*Casuarina cunninghamiana*) (DPIE, 2021d). Closest recorded sightings are near Lewis Ponds, east of the Study Area, and Mullion Creek, north of the Study Area (ALA, 2021). Species may occur in surrounding area for foraging but is

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											unlikely to nest on Study Area due to unsuitable vegetation.
Botaurus poiciloptilus	Australasian Bittern		Pred	-	✓	High		E	E	Nil	Large wetland species occurring within a widespread, fragmented distribution across south-eastern Australia (DPIE, 2021d). Species favours dense vegetation such as spike rushes (*Eleocharis* spp.) and bullrushes (*Typha* spp.). Study Area lacks favourable aquatic habitat and vegetation.
Artamus cyanopterus cyanopterus	Dusky Woodswallow	Pred	Pred	✓	-	Moderate	-	V	-	High	Species is widespread across NSW, inhabiting dry sclerophyll forests and woodland usually dominated by eucalypts (DPIE, 2021d). It has also been recorded on farmland near woodlands and has been recorded on the Study Area (2005), as well as near Summer Hill Creek (3.8 km north-east of the site) (DPIE, 2021c.).
Chthonicola sagittate	Speckled Warbler	Pred	Pred	-	-	Moderate	-	V	-	Low	Lives in a wide range of Eucalyptus dominated communities that have a grassy understorey, often on rocky ridges or gullies. Habitat includes scattered native tussock grasses, a sparse shrub layer, some eucalypt regrowth and an open canopy. Requires

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											relatively undisturbed remnants for this species to persist (DPIE, 2021d) Recorded sparsely in areas surrounding the Study Area (ALA 2021). Species may utilise Study Area for foraging habitat within a larger range.
Climacteris picumnus victoriae	Brown Treecreeper (eastern subspecies)	Pred	Pred	✓	-	Moderate	-	V	-	Low	There are several records of this subspecies near Orange (DPIE, 2021d). It inhabits grassy woodlands with rough-barked trees at close to natural densities, sparse shrub cover and fallen timber on the ground (DPIE, 2021d).
Daphoenositta chrysoptera	Varied Sittella	-	Pred	✓	-	Moderate	-	V	-	Moderate	This sedentary species inhabits forests and woodland with rough-barked eucalypts and acacias (DPIE, 2021d). Species depends on complex habitat structures with bark crevices, stags, leaf litter and logs. Species has been historically recorded on the Study Area (1992).
Calidris ferruginea	Curlew Sandpiper	-	Pred/ Cand	-	✓	Very High	3	E	CE	Nil	Small migratory shorebird occurring in littoral and estuarine habitats along the NSW coastline, and freshwater wetlands of the Murray-Darling Basin. Inland sightings are likely to occur during migration from Siberia to Australia

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											(DPIE, 2021d). Study Area lacks suitable habitat and is outside migratory range.
Calyptorhynchus lathami	Glossy Black-Cockatoo	Cand/ Pred	Cand/ Pred	-	-	Moderate	2	V	-	Nil	Species is uncommon but widespread across Eastern NSW in open forest and woodlands containing Black Sheoak (*Allocasuarina littoralis*) and Forest Sheoak (*Allocasuarina torulosa*) (DPIE, 2021d). Nesting occurs in hollow-bearing Eucalypts. Closest recorded sighting is north of the Study Area at Cullya, however, species is unlikely to occur on the Study Area due to lack of suitable associated vegetation and degradation of habitat due to stock grazing and weed infestation.
Falco hypoleucos	Grey Falcon	-	Pred	✓	✓	High	-	E	V	Nil	Medium-sized bird sparsely distributed across central and western NSW, predominantly throughout Murray-Darling Basin. Species commonly occurs in grassland, shrubland, wooded watercourses and near wetlands, preying on birds such as pigeons and parrots (DPIE, 2021d). Study Area does not contain suitable habitat as it is geographically isolated from inland wetlands.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Glossopsitta pusilla	Little Lorikeet	Pred	Pred	-	-	Moderate	-	V	-	High	Forages primarily in the canopy of open *Eucalyptus* Forest and woodland, yet also finds food in *Angophora*, *Melaleuca* and other tree species., especially in riparian areas. Occurs in isolated flowering trees in open country (DPIE, 2021d). Species is occasionally record close to Orange (ALA, 2021). It can be expected to occur on the Study Area when woodland eucalypts are in flower.
Haliaeetus leucogaster	White-bellied Sea-Eagle	Pred/ Cand	Pred/ Cand	-	-	Moderate	2	V	-	Nil	Species is distributed along the Australian coastline and along major inland rivers within the Murray-Darling Basin (DPIE, 2021d). It favours habitats with large open water, breeding in mature tall open forest within emergent Eucalypts. Closest recorded sightings include three records west of Summer Hill, one record west of Mt Canobolas State Conservation Area and one recording in the centre of Orange. Species is unlikely to occur on the Study Area as water sources are restricted to farm dams and an unnamed tributary of Summer Hill Creek which exists in a degraded, unvegetated condition.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2,5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Hirundapus caudacutus	White-throated Needletail	-	Pred	-	✓	Moderate	-	-	V	Nil	Species are non-breeding migrants distributed almost exclusively aerially across eastern and northern Australia, favouring the coast (Australian Museum, 2018). Species have been observed roosting in trees. However, breeding occurs in northern Asia (Birdlife, 2021a). Unlikely to occur on the Study Area due to lack of potential roosting trees and the aerial life-style of the species.
Lathamus discolor	Swift Parrot	Pred/ Cand	Pred/ Cand	-	✓	Very High	3	E	CE	Nil	Species migrates to south-eastern Australia during autumn/winter (DPIE, 2021d). The NSW distribution is primarily on the southwest slopes and coastline. Known associated species include: Swamp Mahogany (*Eucalyptus robusta*), White Box (*Eucalyptus albens*) and Spotted Gum (*Corymbia maculata*). Closest recorded sightings occur near Bathurst and Cudal with one record Burrendong Way in Orange. The Swift Parrot is only regarded as a candidate credit species where areas of 'important' habitat have been mapped for it. The study area is not one of these areas.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Leipoa ocellata	Malleefowl	-	Pred	-	✓	High	-	-	V	Nil	Large, ground-dwelling bird found in central NSW, within tall, dense mallee communities. Species has been observed in Eucalypt woodlands, such as Bimble Box Woodlands and Inland Grey Box (DPIE, 2021d). Unlikely to occur on Study Area due to lack of suitable vegetation and shrub understorey.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Melanodryas cucullata	Hooded Robin	Pred	Pred	✓	-	Moderate	-	V	-	Nil	Occurs over most of NSW except some coastal areas and the arid northwest. Prefers lightly wooded country, usually open eucalypt woodland, acacia scrub and mallee, often in or near clearings or open areas (DPIE, 2021d). Requires structurally diverse habitats featuring mature eucalypts, saplings, shrubs and a ground layer of moderately tall native grasses. This species is rarely recorded on the tablelands and upper slopes (DPIE, 2021d) and is unlikely to occur.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Numenius madagascariensis	Eastern Curlew	-	Pred/ Cand	-	✓	Very High	3	-	CE	Nil	Migratory shorebird which is widespread across north-east and south Australian coastlines (Birdlife, 2021b). Species rarely observed inland due to dependence on intertidal mudflats, sandflats and seagrass for diet (crabs, molluscs). Unlikely to utilise Study Area due to lack of suitable habitat and dietary requirements.
Petroica boodang	Scarlet Robin	Pred	Pred	✓	-	Moderate	-	V	-	Moderate	Breeds in high altitude eucalypt forest with an open understorey (Blakers et al., 1984), such as occurs on Mt Canobolas. Juveniles disperse to more open country at lower altitudes in autumn. Closest recorded sighting is 3.8 km north-east of Study Area near Summer Hill Creek. It is unlikely to breed on the study area but may utilise it as part of a wide foraging range in autumn and winter.
Petroica phoenicea	Flame Robin	Pred	Pred	-	-	Moderate	-	V	-	Moderate-High	Breeds in upland tall moist forests and woodlands, often on ridges. The ground layer of breeding habitat is dominated by native grasses and shrub layer may be sparse or dense. This species occasionally occurs in temperate rainforest, herbfields, heathlands

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											shrublands and sedgelands at high altitudes but prefers clearings or areas of open understoreys. In winter, this species migrates to drier more open habitats in lowlands (DPIE, 2020d). There have been numerous records of this species in the Orange area (ALA 2021).
Polytelis swainsonii	Superb Parrot	Pred/ Cand	Pred/ Cand	✓	✓	Moderate	2	V	V	High/Low	Large parrot abundantly distributed across central and eastern inland NSW, predominately east of Bathurst (DPIE, 2021d). Species migrates during winter to upper regions of Gwydir and Namoi Rivers and nests in hollows of riparian vegetation. It is found in association with Box-Cypress pine, River Red Gum Forest, Box-Gum and Boree Woodlands and may forage 10 km away from home range in grassy box woodland. Species is likely to occur on Study Area due to suitable hollows and vegetation. Species is regularly recorded in and around Orange (DPIE, 2021c).
Pomatostomus	Grey-crowned Babbler	Pred	Pred	-	-	Moderate	-	V	-	Nil	Inhabits open Box-Gum Woodlands on slopes, and Box-Cyress-pine and open Box Woodland on alluvial plains. There

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
temporalis temporalis	(eastern subspecies)										are no records of this species in the surrounding the study area. Species unlikely to utilise the Study Area due to lack of suitable habitat.
Rostratula australis	Australian Painted Snipe	-	Pred	-	✓	High	-	E	E	Nil	Small freshwater bird distributed in south-east Australia, predominantly in the Murray-Darling Basin wetlands and swamps. Species prefers fringes of dams, swamps and wetlands with nesting occurring among tall vegetation (DPIE, 2021d). Foraging occurs on mudflats and in shallow water, feeding on worms, insects, plants and molluscs. Suitable habitat is absent from the Study Area.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2,5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Stagonopleura guttata	Diamond Firetail	Pred	Pred	✓	-	Moderate	-	V	-	Moderate	Species is endemic to south-eastern Australia occurring within grassy eucalypt woodlands (Box-Gum and Snow Gum), open forest (Natural Temperate Grasslands) and riparian zones in lightly wooded agricultural areas (DPIE, 2021d). Closest recorded sighting is 3.8 km north-east of Study Area near Summer Hill Creek.
Dasyurus maculatus	Spotted-tailed Quoll	Pred	Pred	-	✓	High	-	V	E	Nil	Generalist predator widely distributed across eastern Australia. However, sightings on mainland are considered rare (DPIE, 2021d). Species utilise a wide range of habitats including riparian forest, open forest and woodland. Hollows, logs, burrows and caves are commonly inhabited. The habitat on the study area and surrounds is too highly disturbed to be suitable for this species.
Myotis macropus	Southern Myotis	Cand	Cand	-	-	Moderate	2	V	-	Nil	Species occurs across coastal areas of eastern and southern NSW and is rarely found more than 100 km inland, except for along major rivers (DPIE, 2021d). Foraging occurs over streams and pools, while roosting occurs in riparian tree hollows, caves and man-made

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											structures such as bridges, mines and in ceilings (Australian Museum, 2021). Closest recorded sightings are south of Mt Canobolas State Conservation Area, along the Belubula River near Mandurama and along the Bell River north-east of Molong. Species unlikely to occur on Study Area due to predominant coastal distribution and lack of major waterbodies on the site.
Phascogale tapoatafa	Brush-tailed Phascogale	Cand	Cand	-	-	Moderate	2	V	-	Low	Tree-dwelling marsupial with a patchy distribution across coastal Australia, predominantly east of the Great Dividing Range in NSW (DPIE, 2021d). Species prefers dry sclerophyll open forest with sparse groundcover and leaf litter. Nesting occurs in tree hollows (2.5-4 cm wide.
Phascolarctos cinereus	Koala	Pred/ Cand	Pred/ Cand	✓	✓	Moderate	2	V	V	Nil	Arboreal marsupial with a fragmented distribution throughout eastern Australia. Predominately found in NSW on the central and north coasts, southern/northern tablelands, southern highlands, southern coastal forests and Blue Mountains with small populations occurring west of the Great Dividing

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											Range (DPIE, 2021d). Species inhabits eucalypt woodlands and has a widely variable home range. Species has been recorded multiple times south of Bathurst near Newbridge and Rockley and has also been recorded as roadkill in 2011 and 2014 in Orange near Cargo Road and Mitchell Highway. Species is unlikely to occur on the Study Area due to level of degradation from agriculture and very low suitable tree cover. Orange is also excluded from the list of local government areas likely to contain key Koala habitat as identified by State Environmental Planning Policy (Koala Habitat Protection) 2020.
Petauroides volans	Greater Glider	-	Cand	-	✓	Moderate	2	-	V	Nil	There are many records for the Greater Glider on Mt Canobolas and a few in the Mullion Ranges north of Orange (DPIE, 2021c). It is found in highest abundance in taller, montane, moist eucalypt forests with relatively old trees and abundant hollows (DPIE, 2021d). The Greater Glider favours forests with a diversity of eucalypt species. The Study Area does not support potential habitat for this species.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Petaurus norfolcensis	Squirrel Glider	Cand	Cand	✓	-	Moderate	2	V	-	Low	Species is broadly distributed across eastern Australia in mature Box, Box-Ironbark woodlands and River Red Gum forest (DPIE, 2021d). Prefers shrub or Acacia dominated mid-storey with abundant hollows. Feeds on Acacia gum, eucalyptus sap, nectar, pollen and invertebrates. Closest recorded sightings are near Mt Canobolas Conservation Area (ALA, 2021).

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Pteropus poliocephalus	Grey-headed Flying-fox	Pred/ Cand	Pred/ Cand	✓	✓	Moderate	2	V	V	Nil	Usually found within 200 km of eastern Australian coastline in subtropical and temperate rainforests, woodlands, tall sclerophyll forests, swamps, heaths (DPIE, 2021d). Species can be located outside of traditional range when there are natural resource shortages, travelling up to 50 km for foraging. Roosting camps are commonly found within 20km of regular food source in gullies, close to water with dense vegetation. Species has been recorded 10 times in and around Orange (DPIE, 2021c). Species is unlikely to occur on the Study Area due to the absence of suitable dense trees.
Chalinolobus dwyeri	Large-eared Pied Bat	-	Cand	-	✓	Moderate	3	V	V	Nil	Small to medium sized bat found in a patchy distribution in areas with extensive cliffs and caves in the NSW Southern Highlands (DPIE, 2021d). Observed in low to mid-elevation dry open forest and woodland close to cliffs and caves. Species has been recorded at Ophir Reserve, Hill End and along the Belubula River (DPIE, 2021c). However, it

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
											is unlikely to inhabit the Study Area due to lack of roosting habitat.

Scientific Name	Common Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area Foraging / Breeding	Assessment of Likelihood
		BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Miniopterus orianae oceanensis	Large Bent-winged Bat	Pred/ Cand	Pred/ Cand	✓	-	Moderate	3	V	-	Low	The Large Bent-winged Bat is widespread in the Orange region (DPIE, 2021d). Roosting occurs caves and man-made structures such as mines and storm water drains. Breeding and roosting numbers can vary from 100 to 15,000 individuals. Closest recorded sightings are along the Northern Distributor near the Mitchell highway intersection and along Mitchell Highway near Ammerdown in north-west Orange. Potential roosting habitat may occur on the Study Area in the form of the abandoned abattoir.

[1] Biodiversity Assessment Method online Credit Calculator (DPIE, 2021a): Cand = Candidate credit species (formerly species credit species); Pred = Predicted credit species (formerly ecosystem credit species).
[2] Threatened Biodiversity Data Collection (DPIE, 2021d)
[3] NSW Atlas of Wildlife (DPIE, 2021c)
[4] Protected Matters Search Tool (DAWE, 2021)
[5] Species with two likelihoods recorded are dual candidate and predicted credit species. The first likelihood refers to candidate credits and the second to predicted credits.
E = Endangered; CE = Critically Endangered; V = Vulnerable; M = Migratory.

Table 8 Threatened Ecological Communities Returned by Database and Literature Searches of the Surrounding Region

Ecological Community Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
	BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
Natural Temperate Grassland of the Southeastern Highlands			-	✓			-	CE	Low	Community occurs in the Southern Tablelands between 500m and 1200 m elevation on basalt or granite plains with poor drainage (DPIE, 2021d). It is commonly treeless and dominated by perennial tussock grasses, such as Kangaroo Grass (*Themeda triandra*), Slender Speargrass (*Austrostipa scabra*) and Wallaby Grasses (*Rytidosperma* sp.) (DEE, 2016). The community also contains a variety of forbs including Bindweed (*Convolvulus* sp.), Mat-rushes (*Lomandra* sp.) and Variable Plantain (*Plantago varia*).
White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland			-	✓			CE	CE	Remnant vegetation	Open woodland community with 20-50% canopy cover, including White Box (*Eucalyptus albens*), Yellow Box (*Eucalyptus melliodora*) and Blakely's Red Gum (*Eucalyptus blakelyi*). Intact sites contain a high diversity of plant, shrub, climbing, grass and herb species. Modification of this ecological community has occurred due to

Ecological Community Name	Data Source				Sensitivity to Loss[2]	BRW[2, 5]	Conservation Status		Likelihood to be on Study Area	Assessment of Likelihood
	BAMC[1]	TBDC[2]	BioNet[3]	PMST[4]			BC Act	EPBC Act		
										clearing and grazing (DECCW, 2010).

[1] Biodiversity Assessment Method online Credit Calculator (DPIE, 2021a): Cand = Candidate credit species (formerly species credit species); Pred = Predicted credit species (formerly ecosystem credit species).
[2] Threatened Biodiversity Data Collection (DPIE, 2021d)
[3] NSW Atlas of Wildlife (DPIE, 2021c)
[4] Protected Matters Search Tool (DAWE, 2021)
[5] Species with two likelihoods recorded are dual candidate and predicted credit species. The first likelihood refers to candidate credits and the second to predicted credits.
E = Endangered; CE = Critically Endangered; V = Vulnerable; M = Migratory.

Table 9 – Plant Species List

Status	Stratum	Scientific Name	Common Name	W4	DNG8b	P1	E10	W1
N	*TG*	*Acacia dealbata*	Silver Wattle	5				
HTW	-	*Agrostis capillaris*	Browntop Bent					10
N	*GG*	*Anthosachne scabra*	Wheatgrass, Common Wheatgrass	50	10			
N	*GG*	*Bothriochloa macra*	Red Grass		5			
E	-	*Briza maxima*	Quaking Grass	30				
E	-	*Bromus catharticus*	Praire Grass			300	2	
HTW	-	*Bromus diandrus*	Great Brome	10				
E		*Bromus hordeaceus*	Soft Brome		20	10	100	
N	*GG*	*Carex appressa*	Tall Sedge					2
HTW		*Carthamus lanatus*	Saffron Thistle	1	100			
N	*SG*	*Cassinia sifton*		50				
E		*Centaurea melitensis*	Maltese Cockspur			1		
HTW		*Chamaecytisus palmensis*	Tree Lucerne	10				
E		*Chondrilla juncea*	Skeleton Weed			3		
E		*Cirsium vulgare*	Spear Thistle			4	30	10
E		*Conyza bonariensis*	Flaxleaf Fleabane			10	5	
E		*Conyza spp.*			20			
N	*GG*	*Cynodon dactylon*	Common Couch			500	10	
E	-	*Dactylis glomerata*	Cocksfoot	50	10	100	30	300
N	*SG*	*Daviesia latifolia*	Bitter-pea	2				
N	*FG*	*Dianella revoluta*	Blueberry Lily	10				
N	*FG*	*Dysphania pumilio*	Small Crumbweed				5	
N	*GG*	*Echinopogon ovatus*	Forest Hedgehog Grass	1				
E		*Echium plantagineum*	Patterson's Curse			50	200	

E		*Echium vulgare*	Viper's Bugloss				50	5
E		*Eleusine tristachya*	Goose Grass			20	500	50
N	*TG*	*Eucalyptus albens*	White Box			2		
N	*TG*	*Eucalyptus blakelyi*	Blakely's Red Gum			3		5
N	*TG*	*Eucalyptus dives*	Broad-leaved Peppermint	1				
N	*TG*	*Eucalyptus melliodora*	Yellow Box			2		1
N	*TG*	*Eucalyptus viminalis*	Ribbon Gum	3				
N	*FG*	*Euchiton sphaericus*	Star Cudweed			10	10	
N	*SG*	*Exocarpos cupressiformis*	Cherry Ballart	20				
E		*Galium aparine*	Goosegrass					50
N	*FG*	*Geranium retrorsum*	Cranesbill Geranium			20		
N	*FG*	*Geranium solanderi*	Native Geranium	20			200	100
N	*OG*	*Hardenbergia violacea*	False Sarsaparilla	3				
E		*Hirschfeldia incana*	Buchan Weed			20	20	
E		*Hordeum leporinum*	Barley Grass			500	100	
HTW		*Hypericum perforatum*	St. Johns Wort	10	20	1		
E		*Hypochaeris glabra*	Smooth Catsear				200	
E		*Hypochaeris radicata*	Catsear	20	50	50		100
N	*GG*	*Juncus spp.*					2	1
E		*Lepidium africanum*	Common Peppercress			50		1
E		*Lolium rigidum*	Wimmera Ryegrass			100	30	
N	*GG*	*Lomandra filiformis*	Wattle Matt-rush	30				
N	*GG*	*Lomandra multiflora*	Many-flowered Mat-rush	10				
E		*Lysimachia arvensis*	Scarlet Pimpernel	3				
E		*Malva parviflora*	Small-flowered Mallow			5	1	
N	*GG*	*Microlaena stipoides*	Weeping Grass	500	100			100
E		*Modiola caroliniana*	Red-flowered Mallow			1		3
E		*Onopordum acanthium*	Scotch Thistle			1		3
N	*FG*	*Oxalis perennans*		20		200		1

N	*GG*	*Panicum effusum*	Hairy Panic	1	10			
E		*Paronychia Brasiliana*	Chilean Whitlow Wort, Brazilian Whitlow			3		
HTW		*Paspalum dilatatum*	Paspalum	10	10		30	
E		*Phalaris aquatica*	Phalaris	10			10	
E		*Plantago lanceolata*	Lamb's Tongues	500	50	300	300	1,000
E		*Polygonum aviculare*	Wireweed	10	5	200	3	1
N	*FG*	*Portulaca oleracea*	Pigweed				1	
E		*Prunus cerasus*	Sour Cherry					2
N	*SG*	*Pultenaea spinosa*						
E		*Rubus anglocandicans*	Blackberry	10		10		15
N	*FG*	*Rumex brownii*	Swamp Dock			10	1	5
N	*GG*	*Rytidosperma caespitosum*	Ringed Wallaby Grass	50				
N	*GG*	*Rytidosperma racemosum*	Wallaby Grass	1000			20	20
N	*GG*	*Rytidosperma setaceum*	Small-flowered Wallaby-grass			100		
E		*Solanum nigrum*	Black-berry Nightshade					1
N	*GG*	*Themeda australis*		20	5000			
E		*Trifolium angustifolium*	Narrow-leaved Clover	50				
E		*Trifolium glomeratum*	Clustered Clover		5	5		
E		*Trifolium repens*	White Clover			5		
E		*Trifolium spp.*				1		
E		*Trifolium subterraneum*	Subterranean Clover	20	500	100	100	100
E		*Urtica urens*	Small Nettle					10
E		*Vicia sativa*	Common vetch					1
E		*Vulpia myuros*	Rat's Tail Fescue	1000				
E		*Vulpia spp.*	Rat's-tail Fescue		2000		100	1,000

APPENDIX E

GATEWAY APPROVAL DOCUMENTS

APPENDIX F

SUPPLEMENTARY CONTAMINATION SAMPLING REPORT

APPENDIX G

REGULATORY RESPONSES

APPENDIX H

ABORIGINAL HERITAGE DUE DILIGENCE REVIEW

Premise