QPRC

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27 April 2020

The Director, Southern Region
Local and Regional Planning
Department of Planning, Industry and Environment
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Dear M/s Lee

Palerang Local Environmental Plan 2014 Amendment 10
(Referral for Gateway Determination)

Council has prepared a planning proposal in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* and the Department's guidelines.

At its Planning and Strategy Committee Meeting of 12 February 2020, Council considered a report and draft planning proposal to rezone parts of Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential and resolved to seek Gateway Determination from the Minister. A copy of the Council Report and Minutes containing the resolution supporting the Planning Proposal are enclosed together with the Planning Proposal and background studies.

The planning proposal will amend *Palerang Local Environmental Plan 2014* and will form Draft Palerang Local Environmental Plan 2014 (Amendment No. 10).

The objectives and intended outcomes of the planning proposal are to rezone parts of the localities of Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential zone, where that land has been determined to be wholly or predominantly Class 3 land (low value biodiversity). The planning proposal also seeks to permit without consent 'extensive agriculture' on land proposed to be rezoned to R5 Large Lot Residential.

It is requested that the Planning Proposal be forwarded to the LEP Review Panel for a Gateway determination under section 3.34 of the *Environmental Planning and Assessment Act 1979*

Delegation is not requested for this amendment.

Should you have any further enquiries please contact Ms Tanja Hogg of Council's Land-Use Planning branch on 6285 6276.

Yours sincerely

David Carswell
Service Manager, Land-use Planning
Queanbeyan-Palerang Regional Council

Cc Mr Will Mayes.

Encl: Draft Planning proposal, Council Report and Minutes – Planning and Strategy Meeting – 12 February 2020.

Planning Proposal

Parts of Wamboin and Bywong Zoning Amendment to R5 Large Lot Residential

Planning proposal prepared by AQ Planning and BIOSIS on behalf of

Queanbeyan-Palerang Regional Council

File:
PJT-0061-05-01
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Document History

Version	Revision	Date	Comments
Final Draft	04	29/1/2020	Final Draft for Council Report
Final Draft	05	9 April 2020	For Gateway determination - Amended in accordance with Council resolution PLA004/20

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Introduction

Purpose

The purpose of this planning proposal is to amend the *Palerang Local Environmental Plan 2014* (PLEP 2014) under the *NSW Environmental Planning and Assessment Act 1979,* to rezone parts of the localities of Bywong and Wamboin from E4 Environmental Living zone to R5 Large Lot Residential zone, where that land has been determined to be wholly or predominantly Class 3 land (low value biodiversity). In addition, at the 12 February 2020 Planning and Strategy Committee meeting, it was resolved (Minute No. PLA004/20) in part that:

1. *Council endorse the draft planning proposal to rezone part of Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential subject:*
   a. *Those 15 lots proposed to be split zoned being submitted as R5 Large Lot Residential zone only.*
   b. *The inclusion of extensive agriculture as a permitted use without consent pursuant to Schedule 1 of the PLEP 2014 as it applies to the planning proposal.*

Council is currently preparing a draft local environmental plan to bring together the existing local environmental plans including the *Palerang Local Environmental Plan 2014*. It is anticipated that the draft local environmental plan will be gazetted in 2020 or early 2021.

This planning proposal will be considered during the preparation of a new comprehensive local environmental plan for the Queanbeyan-Palerang Regional Council, and has been prepared in parallel with the new local environmental plan (comprehensive LEP) planning proposal to assist Queanbeyan-Palerang Regional Council in its consideration of future landuse zoning options for the study area.

Why is it being done?

Following concern from a number of community members regarding the application of the E4 Environmental Living land use zone, particularly in the Wamboin and Bywong localities. As a result Council agreed in February 2017 to review its application of the land use zone as part of the preparation of the draft Queanbeyan-Palerang Local Environmental Plan.

The recommendation concerning this (Minute No. 046/17 - 22 February 2017) is shown below:

2 *That land zoned E4 Environmental Living under the Palerang Local Environmental Plan 2014 be considered in terms of its fit for purpose and that this be part of the preparation of a new comprehensive local environmental plan for the Queanbeyan-Palerang Regional Council.*

3 *That Council note the advice of NSW Department of Planning and Environment on considering lands fit for purpose in land use rezoning decisions.*

On 13 December 2017 Council considered a further report in regard to this matter.

The review of the application of the E4 Environmental Living landuse zone in the localities of Wamboin and Bywong (that has led to the preparation of this planning proposal) follows Council's resolution of 13 December 2017 that states:

- "Parts of Bywong and Wamboin be assessed for consideration to R5 and RU4 zones in the draft LEP";

On 8 August 2018 Council again considered this matter and resolved that;

- "Council seek expression of interests for consultants to undertake relevant studies and a report be brought back to Council".

In accordance with the above resolutions Council engaged AQ Planning as the consultant

landuse planner and BIOSIS as the ecologist to undertake an independent review of the application of the E4 Environmental Living landuse zone in Bywong and Wamboin.

The biodiversity and planning review undertaken in late 2018/early 2019 reconsidered the application of the E4 Environmental Living landuse zone and evaluated any appropriate alternative landuse zones that meet the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning, Industry and Environment.

The planning report and review by AQ Planning "*Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin March 2019*" follows an assessment of the native vegetation by BIOSIS within both localities undertaken in November and December 2018 and should be read in conjunction with the BIOSIS Report "*Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment March 2019*".

Both reports form the basis of this planning proposal and are to be read in conjunction with it.

Council at its meeting on 22nd May 2019 considered a report on the Review of E4 Environmental Living Zone in Bywong and Wamboin, including an outline of both reports and resolved to:

1. *Receive the consultants' reports.*
2. *Retain land identified in the consultants' reports as being wholly or predominantly Class 1 or 2 as E4 Environmental Living zone.*
3. *Prepare a planning proposal to rezone land identified in the consultants' reports as being wholly or predominantly Class 3 land as R5 Large Lot Residential zone. The planning proposal should give consideration to minimising split zonings and fragmentation and isolation of zone boundaries.*
4. *Not include amending the Palerang Local Environment Plan (PLEP) Clause 6.3 map "Terrestrial Biodiversity" to include the consultants Class X mapped lands for the following reasons:*
    a. *the consultant's report refers to Class X land as having "potential" to contain native grasslands and or habitat of a critically endangered species rather than establishing that the Class X mapped land contains native grasslands and or habitat of a critically endangered species*
    b. *inclusion of Class X as incorporated in the Terrestrial Biodiversity Map and Clause 6.3 of the PLEP would apply to both land within the E4 Environmental Living zone as well to land within the R5 Large Lot residential zone*
    c. *the existing provisions of the PLEP already require adequate consideration of the impacts on biodiversity*
    d. *Implementation of the Class X layer would be unwieldy and unnecessary and will result in greater complexity for residents and greater cost when lodging development applications.*
5. *Reference in the Planning Proposal that it is Council's assessment that a Local Housing Strategy can be dispensed with in this case as no change to the minimum lot size or density of development is proposed.*
6. *Prepare the Planning Proposal as a separate proposal and if finalised in time be amalgamated with the Queanbeyan-Palerang Local Environment Plan (comprehensive LEP).*

As a result this planning proposal has been prepared in accordance with the above Council

resolution.

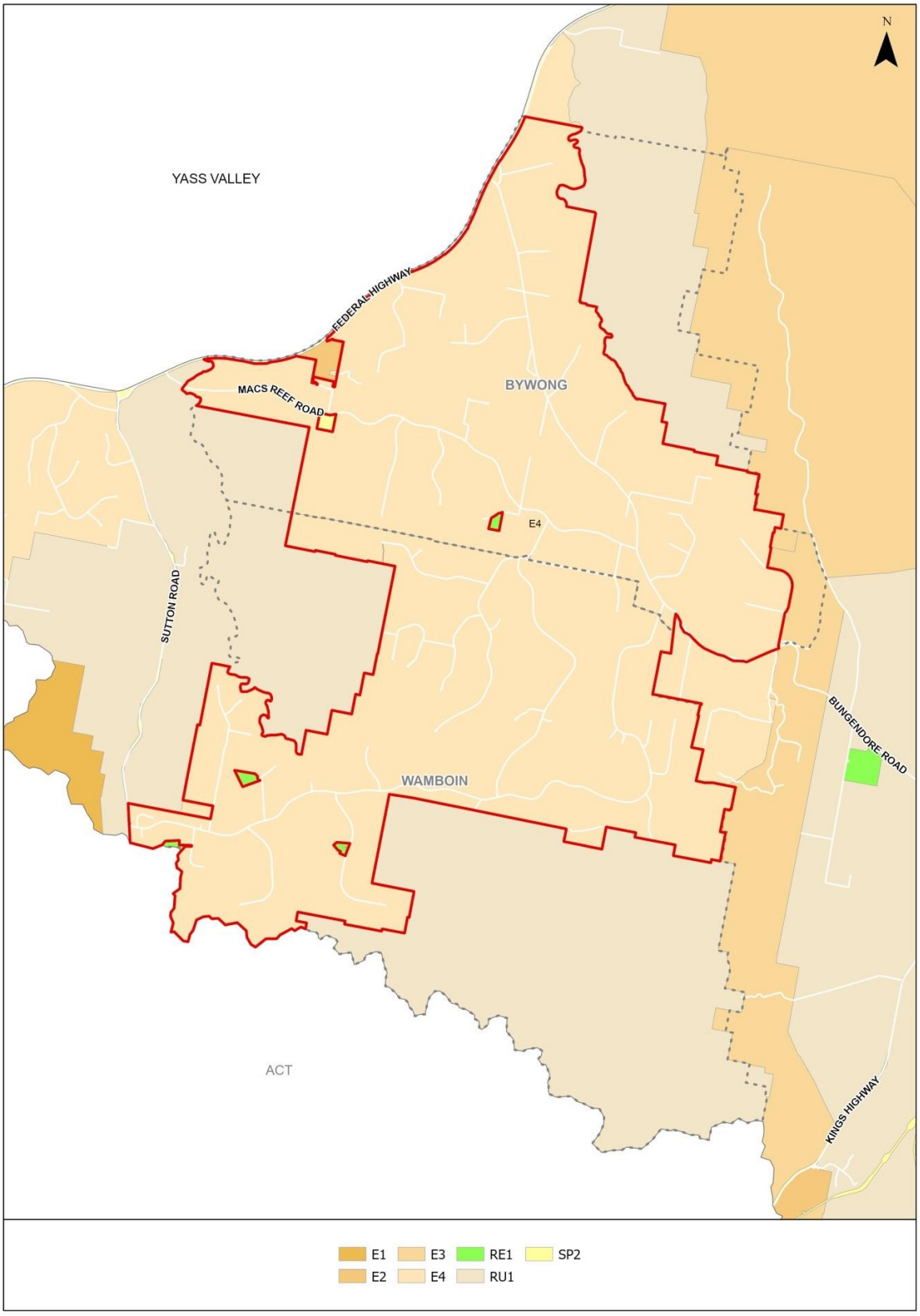
Where does it apply?

The study area is located approximately 12 kilometres north from Queanbeyan CBD, approximately 7 kilometres north-west from Bungendore, and 20 kilometres north-east of Canberra Civic Centre, and north of the boundary of New South Wales (NSW) and Australia Capital Territory (ACT).

The study area covers approximately 9,500 hectares comprising the localities of Bywong and Wamboin, NSW within the Queanbeyan-Palerang Regional Council LGA as outlined below in Figure 1.

The predominant existing landuse within the study area is residential living with dwellings located on most lots. Landuses currently being undertaken in conjunction with residential activities include landuses such as, but not limited to, bed and breakfasts, home occupations, home businesses, home industries, stables and horse riding, limited livestock grazing, limited crop growing and horticulture, and community halls and RFS sheds.

Figure 1: Map of area subject to planning proposal



Background

The review of the application of the E4 Environmental Living landuse zone in the localities of Wamboin and Bywong (resulting in the preparation of this planning proposal) follows a number of Council reports and reviews in 2017 and 2018, as outlined earlier.

In 2018 Council engaged AQ Planning as the consultant landuse planner and BIOSIS as the ecologist to undertake an independent review of the application of the E4 Environmental Living landuse zone in Bywong and Wamboin.

Council at its meeting on 22nd May 2019 considered a report on the Review of E4 Environmental Living Zone in Bywong and Wamboin, including consideration of the independent reports and resolved to:

1. *Receive the consultants' reports.*
2. *Retain land identified in the consultants' reports as being wholly or predominantly Class 1 or 2 as E4 Environmental Living zone.*
3. *Prepare a planning proposal to rezone land identified in the consultants' reports as being wholly or predominantly Class 3 land as R5 Large Lot Residential zone. The planning proposal should give consideration to minimising split zonings and fragmentation and isolation of zone boundaries.*
4. *Not include amending the Palerang Local Environment Plan (PLEP) Clause 6.3 map "Terrestrial Biodiversity" to include the consultants Class X mapped lands for the following reasons:*
    a. *the consultant's report refers to Class X land as having "potential" to contain native grasslands and or habitat of a critically endangered species rather than establishing that the Class X mapped land contains native grasslands and or habitat of a critically endangered species*
    b. *inclusion of Class X as incorporated in the Terrestrial Biodiversity Map and Clause 6.3 of the PLEP would apply to both land within the E4 Environmental Living zone as well to land within the R5 Large Lot residential zone*
    c. *the existing provisions of the PLEP already require adequate consideration of the impacts on biodiversity*
    d. *Implementation of the Class X layer would be unwieldy and unnecessary and will result in greater complexity for residents and greater cost when lodging development applications.*
5. *Reference in the Planning Proposal that it is Council's assessment that a Local Housing Strategy can be dispensed with in this case as no change to the minimum lot size or density of development is proposed.*
6. *Prepare the Planning Proposal as a separate proposal and if finalised in time be amalgamated with the Queanbeyan-Palerang Local Environment Plan (comprehensive LEP).*

Part 1 - Objectives or Intended Outcomes

The purpose of this planning proposal is to amend the *Palerang Local Environmental Plan 2014* (PLEP 2014) under the NSW *Environmental Planning and Assessment Act 1979*, to rezone parts of the localities of Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential zone, where that land has been determined to be wholly or predominantly Class 3 land (low value biodiversity). In addition the planning proposal seeks amend Schedule 1 of PLEP 2014 to permit without consent extensive agriculture on land included in this planning proposal and proposed to be rezoned to R5 Large Lot Residential.

The planning proposal has regard to, and considers the findings of the biodiversity and planning review undertaken in late 2018/early 2019 which reconsidered the application of the E4 Environmental Living landuse zone within the subject area and evaluated any appropriate alternative landuse zones that meet the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning, Industry and Environment.

The planning report and review by AQ Planning “Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin March 2019” follows an assessment of the native vegetation by BIOSIS within both localities undertaken in November and December 2018 and should be read in conjunction with the BIOSIS Report “Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment March 2019”.

Both reports form the basis of this planning proposal and are to be read in conjunction with this proposal and are attached to it.

The studies, reports, and this planning proposal respond to concern from a number of community members regarding the application of the E4 Environmental Living land use zone, particularly in the Wamboin and Bywong localities. As a result Council agreed in February 2017 to review its application of the land use zone as part of the preparation of the draft Queanbeyan-Palerang Local Environmental Plan.

This planning proposal will be considered during the preparation of a new comprehensive local environmental plan for the Queanbeyan-Palerang Regional Council, and has been prepared in parallel with the new local environmental plan (comprehensive LEP) planning proposal to assist Queanbeyan-Palerang Regional Council in its consideration of future landuse zoning options for the study area.

The planning proposal aims to rezone some E4 Environmental Living zone identified in the BIOISIS report as being wholly or predominantly Class 3 land (low biodiversity value) as R5 Large Lot Residential zone.

Land identified as being wholly or predominantly Class 1 or 2 has been retained as E4 Environmental Living zone.

Biodiversity values and classes are detailed in Table 3 of the BIOSIS report. Biodiversity values recorded within the study area include items such state and Commonwealth listed TECs, non-threatened native vegetation and flora and fauna habitats. These biodiversity values as have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity. Biodiversity values and classes have been categorised as follows:

Class 1 – High biodiversity values.

- TECs listed under BC Act or EPBC Act.
- High condition threatened species habitat listed under BC Act or EPBC Act.
- Non threatened vegetation in good condition.
- High value biodiversity connectivity corridors.

Class 2 – Moderate biodiversity values.

- Moderate to low condition habitat for threatened species under BC Act or EPBC Act.
- Non-threatened native vegetation in moderate to poor condition.
- Moderate value biodiversity connectivity corridors.

Class 3 – Low biodiversity values.

- Non-threatened native derived grassland vegetation.
- Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.
- Low value biodiversity connectivity corridors.

In accordance with the Council resolution of 22nd May 2019 the planning proposal has given consideration to minimising split zonings and fragmentation and isolation of zone boundaries and is reflected in condition 1a of Council's Planning and Strategy Committees resolution of 12 February for this planning proposal. The facilitation or retention of biodiversity corridors was also considered in determining appropriate R5 Large Lot Residential zoned land.

Part 2 - Explanation of Provisions

E4 Environmental Living zone land being wholly or predominantly Class 3 land proposed as R5 Large Lot Residential zone.

This planning proposal aims to rezone that part of E4 Environmental Living zone identified in the BIOISIS report as being wholly or predominantly Class 3 land (low biodiversity value) as R5 Large Lot Residential zone.

Biodiversity values and classes are detailed in Table 3 of the BIOSIS report. Biodiversity values recorded within the study area include items such state and Commonwealth listed TECs, non-threatened native vegetation and flora and fauna habitats. These biodiversity values have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity.

Biodiversity values and classes have been categorised as follows:

Class 1 – High biodiversity values.

- TECs listed under BC Act or EPBC Act.
- High condition threatened species habitat listed under BC Act or EPBC Act.
- Non threatened vegetation in good condition.
- High value biodiversity connectivity corridors.

Class 2 – Moderate biodiversity values.

- Moderate to low condition habitat for threatened species under BC Act or EPBC Act.
- Non-threatened native vegetation in moderate to poor condition.
- Moderate value biodiversity connectivity corridors.

Class 3 – Low biodiversity values.

- Non-threatened native derived grassland vegetation.
- Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.
- Low value biodiversity connectivity corridors.

Land identified as being wholly or predominantly Class 1 or 2 has been retained as E4 Environmental Living zone.

The facilitation or retention of biodiversity corridors was also considered in determining appropriate R5 zoned land.

To minimise zone fragmentation and isolation of zone boundaries, in accordance with the Council resolution of 22nd May 2019, only those lots within areas of equal to or greater than 5 adjoining lots of predominantly Class 3 zoned land have been proposed as R5 Large Lot Residential zone. Under clause 2.6 of *Palerang Local Environmental Plan 2014* the minimum lot size within the study area is category AA2 - 6 hectares. A minimum of 5 adjoining lots would therefore result in an area of at least 30 hectares for R5 zoned land which is considered of sufficient size to avoid isolated R5 zoned land areas, and a suitable area for specific landuses within the R5 zone. Consideration was given to the pattern of Class 3 land within the study area to determine an appropriate size criteria.

Split zonings have been minimised and only proposed where lots adjoin a proposed R5 Large Lot Residential zone (where land is wholly or predominantly Class 3 land) and met the

following criteria:

a. More than 51% of the lot is Class 3 with the balance Class 2; OR

b. More than 66% of the lot is Class 3 with the balance Class 1

In those circumstances where the lot met the above criteria, but was isolated or fragmented it has not been proposed as a split zone lot and retained as E4 Environmental Living zone.

Utilizing the above criteria, 15 lots would have been zoned both R5 Large Lot Residential and E4 Environmental Living. At the 12 February 2020 Planning and Strategy Committee meeting to minimize split zoning, it was resolved (Minute No. PLA004/20) in part that:

1. Council endorse the draft planning proposal to rezone part of Bywong and Wamboin from E4 Environmental Living to R5 Large Lot Residential subject:

a. Those 15 lots proposed to be split zoned being submitted as R5 Large Lot Residential zone only.

The planning proposal has subsequently been amended so that the 15 lots proposed to be zoned both E4 Environmental Living and R5 Large Lot Residential are now proposed to be wholly zoned R5 Large Lot Residential.

Figure 2: Existing Zones

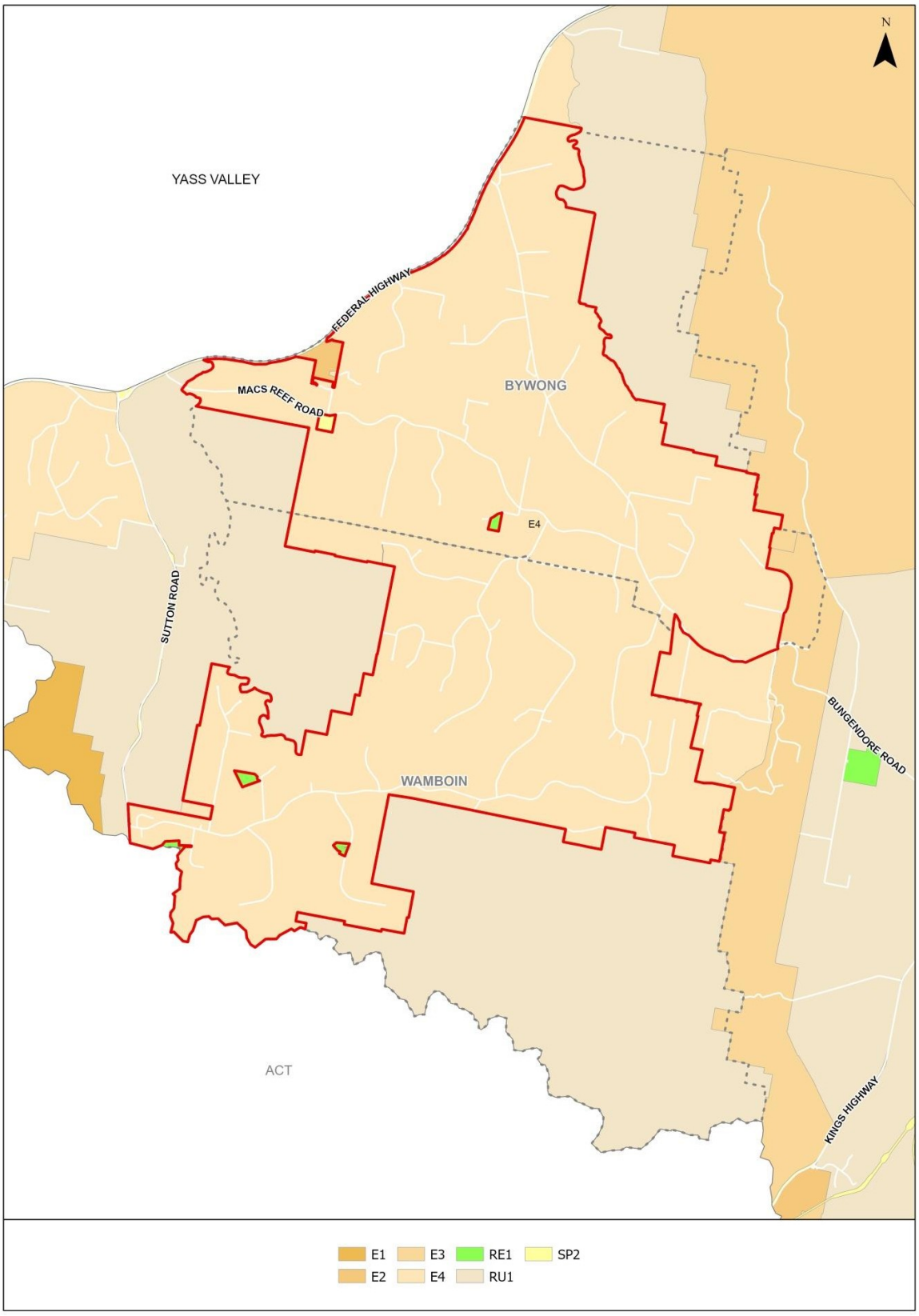
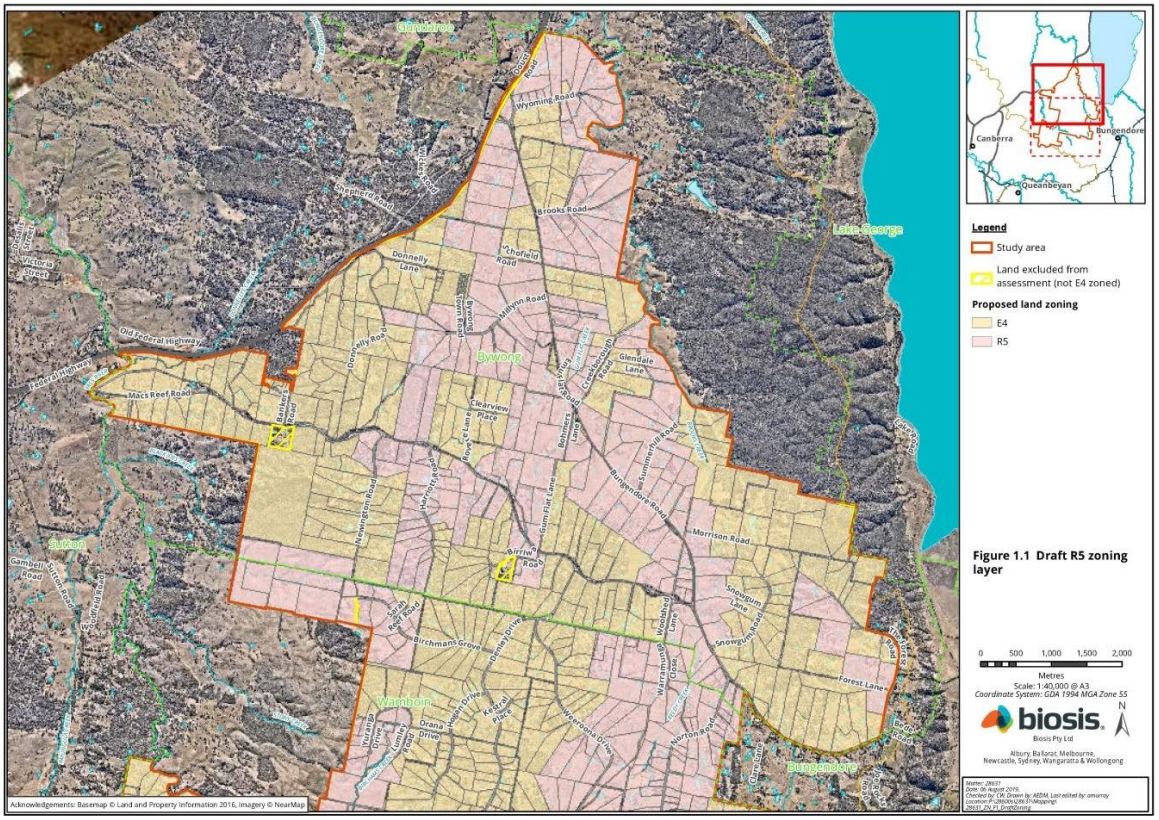
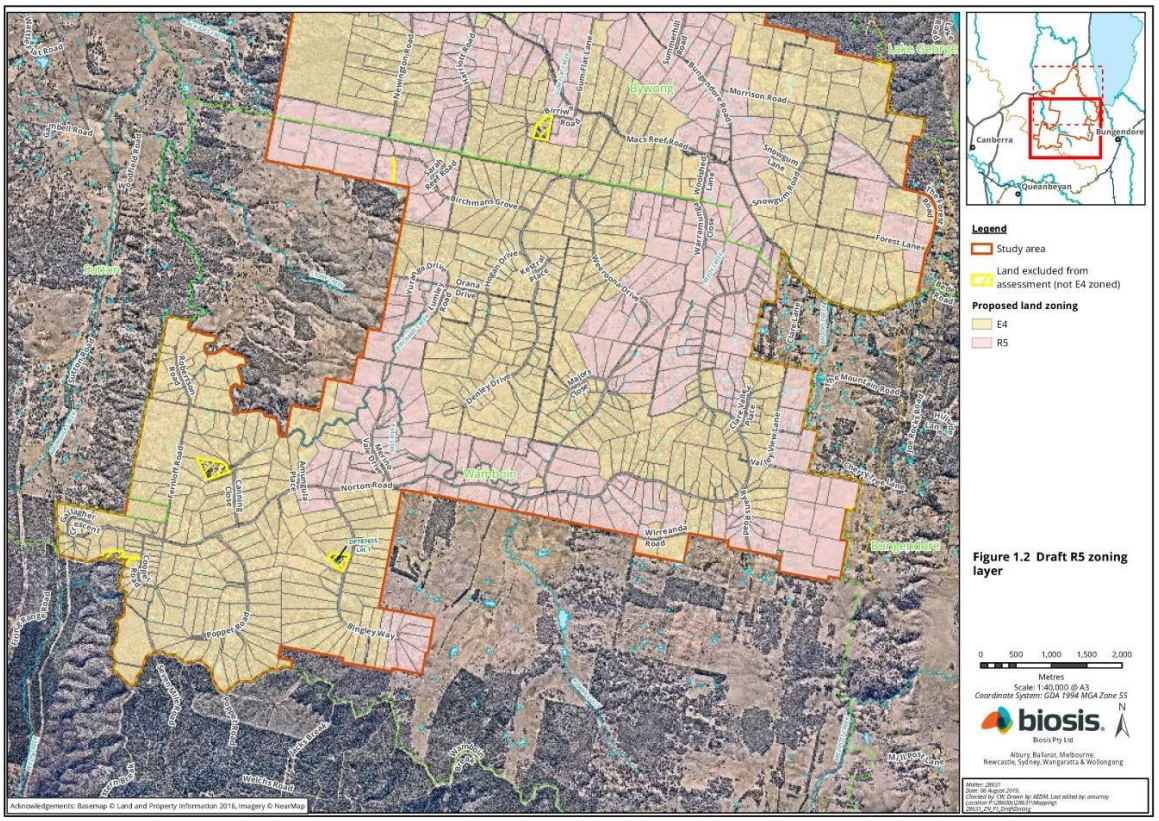


Figure 3 and 4: Proposed Zones





Part 3 - Justification

Section A - Need for the planning proposal

Council agreed in February 2017 to review its application of the E4 Environmental Living land use zone as part of the preparation of the draft Queanbeyan-Palerang Local Environmental Plan following concern from a number of community members regarding the application of the E4 Environmental Living land use zone in the Wamboin and Bywong localities.

The suitability of other zones was considered in detail in the planning report and review by AQ Planning "Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin March 2019". This follows an assessment of the native vegetation by BIOSIS within both localities undertaken in November and December 2018 and should be read in conjunction with the BIOSIS Report "Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment March 2019".

The planning proposal is the only option to amend existing zones within the study area to adopt the BIOSIS study findings for land considered to have low biodiversity value.

APPLICATION OF R5, RU4 ZONES AND OTHER ALTERNATIVE ZONES IN THE LOCALITIES OF BYWONG AND WAMBOIN

As part of preparing this planning proposal, the following were considered:

Practice Note PN011-002 Preparing LEPs using the Standard Instrument: standard zones provides an overview of the standard zones in the Standard Instrument (Local Environmental Plans) Order 2006, and the intended purpose of each zone.

The Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument) sets out 35 standard zones for councils to use when preparing new principal local environmental plans (LEPs) for their local government areas.

For each zone, the Standard Instrument (SI) sets out 'core' objectives for development, and certain mandated permitted or prohibited land uses.

The intended purpose of each zone that could apply to the study area is outlined below with a comment on possible applicability.

RU1 Primary Production
This zone applies to land used for commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is allocated to land where the principal function is primary production.

This zone is not considered suitable as the principal function of the land in the study area is not primary production or likely to be primary production.

This is supported by the report to Council dated 13 December 2017, which included a summary of the 2016 Census data for the statistical areas of Bywong, Wamboin and Krawaree. That table indicates that no persons considered themselves as being engaged in the Agriculture, Forestry and Fishing sector in the 2016 Census. The report noted the following in relation to the Census data for 2016:

- *The Bywong and Wamboin areas have a higher number of people in professional occupations and employed by federal and state government.*
- *It is suggested that based on the census data that there is not a high proportion of people in the Bywong and Wamboin areas who view themselves as being engaged in the Agriculture, Forestry and Fishing sector.*

In regard to a discussion on Rural land-use the 13 December 2017 report to Council noted:

- *The smaller lot sizes with dwellings, sealed public roads, opportunities for small scale agriculture, community facilities and its proximity to retail services and primary schools suggest that the localities could be described as rural living*
- *If the area was to be planned now, it would be unlikely to be located in a stressed water catchment (the Yass River catchment is recognised as being stressed) and areas containing endangered ecological communities or threatened species*
- *There is limited opportunity for agriculture in areas with high native tree cover*
- *A large part of the Bywong locality is class 3 agricultural land*
- *The land that is not predominantly native vegetation is not necessarily used for agriculture*
- *The small lot sizes and general low agricultural classifications allow for very limited agricultural enterprises. At least 1200 hectares is required in this region for a broad scale agricultural property that 'breaks even'*
- *There is limited opportunity to clear native vegetation for agriculture due to NSW legislation.*

RU2 Rural Landscape

This zone is for rural land used for commercial primary production that is compatible with ecological or scenic landscape qualities that have been conserved (often due to topography). It may apply to land that is suitable for grazing and other forms of extensive agriculture, or intensive plant agriculture (such as 'viticulture'), but where the permitted uses are usually more limited and differ from RU1 land due to landscape constraints.

This zone is not considered suitable as it is to be used for commercial primary production that is compatible with ecological or scenic landscape qualities and not to be used where the main purpose of the zone is to protect significant environmental attributes or to provide for rural residential accommodation.

The former Palerang Council chose not to use the RU2 Rural Landscape zone within *Palerang Local Environmental Plan 2014*.

RU4 Primary Production Small Lots

This zone (previously named Rural Small Holdings) is for land which is to be used for commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings.

It is a rural zone for agricultural uses, and not considered a pseudo-residential zone. The Practice Note states that it is a zone with an agricultural industry/food production focus and not a rural residential lifestyle zone.

This zone is considered suitable where an E4 zone or R5 zone is not considered appropriate in accordance with LEP Practice Note PN 09–002 Environment Protection Zones.

RU5 Village

This zone is a flexible zone for centres where a mix of residential, retail, business, industrial and other compatible land uses may be provided to service the local rural community. The RU5 Village zone would typically apply to small rural villages within rural areas.

This zone is not considered suitable as the study area is not a small rural village with a mix of residential, retail, business, industrial and other compatible land uses.

RU6 Transition
The transition zone is to be used in special circumstances only in order to provide a transition between rural land uses (including intensive agriculture, landfills, mining and extractive industries) and other areas supporting more intensive settlement or environmental sensitivities.

This zone is not considered suitable as it is to be used in special circumstances only and LEP Practice Note PN 09–002 Environment Protection Zones recommends the use of an RU4 zone or R5 zone where an E4 zone is not considered appropriate.

R5 Large Lot Residential
This zone is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas.

This zone is considered suitable where an E4 or RU4 zone is not considered appropriate. LEP Practice Note PN 09–002 Environment Protection Zones recommends the use of an RU4 zone or R5 zone in those situations, and if there are few environmental considerations, the R5 may be the appropriate zone.

Practice Note PN011-002 notes that the allocation of large lot residential land should be justified by council's housing/ settlement strategy prepared in accordance with planning principles set out in regional and subregional strategies, Section 9.1 directions and relevant SEPPs.

E3 Environmental Management
This zone is generally intended to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards.

A limited range of development including 'dwelling houses' could be permitted. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses such as rural or residential.

This zone is considered suitable for land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. It is noted that Council chose to apply the E4 Environmental Living zone to the study area, and the E3 zone only permits a limited range of development.

E4 Environmental Living
This zone is generally intended for land with special environmental or scenic values, and accommodates low impact residential development. This zone may be applicable to areas with existing residential development in a rural setting, which still has some special conservation values.

This is the existing zone for the study area and is considered suitable for areas where the protection of the environmental significance of the land is the primary consideration in accordance with Practice Note PN 09-002 Environment Protection Zones.

In summary, the practice note advises that the E4 Environmental Living zone is for land with special environmental or scenic values that accommodates low impact residential development and is applied where the protection of the environmental significance of the land is the primary consideration.

Therefore in determining the suitability of the E4 Environmental Living zone the environmental significance of the land shall be established as the primary consideration.

Where the environmental significance of the land is determined as not the primary consideration other zones may be considered.

Where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 Rural Small Holdings zone should be considered. If there are few environmental considerations, then R5 may be the appropriate zone.

In this regard land that has been determined to be wholly or predominantly Class 3 land (low value biodiversity) within the subject area is considered suitable for R5 Large Lot Residential.

Where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone. As such the E4 zone has been retained for land where environmental capabilities are the primary concern as classified by BIOSIS.

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

The planning proposal follows the planning report and review by AQ Planning "*Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin March 2019*" and an assessment of the native vegetation by BIOSIS within both localities undertaken in November and December 2018 and should be read in conjunction with the BIOSIS Report "*Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment March 2019*".

Both reports form the basis of this planning proposal and are attached to it.

BIOSIS were engaged to review biodiversity within the study area. The BIOSIS Report "*Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment February 2019*" concluded that:

Biodiversity values recorded within the study area include items such state and Commonwealth listed TECs, non-threatened native vegetation and flora and fauna habitats. These biodiversity values as have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity. Biodiversity values and classes are detailed in Table 3 and have been categorised as follows:

Class 1 – High biodiversity values.

- *TECs listed under BC Act or EPBC Act.*
- *High condition threatened species habitat listed under BC Act or EPBC Act.*
- *Non threatened vegetation in good condition.*
- *High value biodiversity connectivity corridors.*

Class 2 – Moderate biodiversity values.

- *Moderate to low condition habitat for threatened species under BC Act or EPBC Act.*
- *Non-threatened native vegetation in moderate to poor condition.*
- *Moderate value biodiversity connectivity corridors.*

Class 3 – Low biodiversity values.

- *Non-threatened native derived grassland vegetation.*
- *Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.*
- *Low value biodiversity connectivity corridors.*

Biodiversity values have been grouped as such to provide context to the biodiversity present within the study area at the landscape scale, to account for variation in specific PCTs and potential TECs present that require more detailed assessment to differentiate, and to allow future planning decision to be made at a more strategic level.

Where certain biodiversity values were not able to be determined at the scale of the current assessment, i.e. detailed site based and/or seasonal surveys are required to determine presence/absence, an additional category 'Class X' has been mapped and intended for use as an overlay to provide details on areas of potential high biodiversity values. Class X mapping should either be included in an updated Terrestrial Biodiversity layer in the Palerang LEP, or applied in similar manner. Overlap exists between the mapped Class X biodiversity values and the Terrestrial Biodiversity LEP layer (clause 6.3, PLEP 2014), which is expected, and it is intended that areas mapped as Class X should consider potential impacts to biodiversity values at the re-zoning or DA stages. These Class X biodiversity values are further detailed in Table 3.

BIOSIS concluded that Class 3 lands consist of low biodiversity values including:

- *Non-threatened native derived grassland vegetation.*
- *Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.*
- *Low value biodiversity connectivity corridors.*

Recommendations of the report "*Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin March 2019" are outlined below:*

Recommendation 1:

a) *Council consider an R5 Zone for BIOSIS Class 3 mapped land; and*

b) *Council consider an amendment to PLEP 2014 Clause 6.3 Map "Terrestrial Biodiversity" to include BIOSIS Class X mapped lands not included as "Biodiversity" on the Terrestrial Biodiversity Map.*

The recommendation was based on the BIOSIS Assessment, Class 3 land which does not meet the guidelines for use of an E4 Zone as outlined in LEP Practice Note Environment Protection Zones PN 09–002 where protection of the environmental significance of the land is the primary consideration.

Practice Note 09–002 recommends the use of an RU4 zone or R5 zone where E4 is not considered appropriate in accordance with the Practice Note.

An R5 Zone reflects the predominant landuse of residential living with dwellings and landuses associated with residential living, and given limited commercial primary industry production landuses exist or are likely to be undertaken to meet the RU4 zone objectives and guidelines for use of zone, an RU4 zone was not considered suitable.

Both reports however considered that an amended Biodiversity layer for Class X, and R5 zone objectives relating to preserving, and minimising impacts on, environmentally sensitive locations and scenic quality, and to minimise the impact of any development on the natural environment, would ensure biodiversity issues are considered at development application

stage. It is noted that Council did not adopt the recommendation to amend the PLEP biodiversity layer (see Resolution No. 4 a - d, 22 May 2019).

The report also considered that an R5 zone would enable agricultural activities to continue and be permitted with consent such as: Cellar door premises; Extensive agriculture; Farm buildings; Horticulture; Viticulture (as included in PLEP 2014 R5 landuse table), and the difference between E4 and R5 zone permitted landuses is not significant under the current PLEP 2014.

Under the provisions of PLEP 2014 clause 2.6 the minimum lot size within the study area is category AA2 - 6 hectares.

Any change of zone without alteration to the existing minimum allotment size is unlikely to result in any additional dwellings than would currently be possible under the existing E4 zone as dwellings and dual occupancy development are permissible with consent in both the R5 and E4 zones in PLEP 2014. This is discussed further in Section B.

Recommendation 2:

a) Council consider retaining the existing E4 zone for BIOSIS Class 1 and 2 mapped land; and

b) Council consider an amendment to PLEP Clause 6.3 Map "Terrestrial Biodiversity" to include BIOSIS Class X mapped lands not included as "Biodiversity" on the Terrestrial Biodiversity Map.

This recommendation was proposed as the BIOSIS Class 1 and 2 mapped land has biodiversity value as outlined in the BIOSIS report consistent with LEP Practice Note Environment Protection Zones PN 09–002 for use of the E4 zone.

BIOSIS found that generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

BIOSIS have suggested that some Class 1 and 2 lands be considered for either RU4, E2 or E3 subject to meeting the criteria outlined in Table 4 of the BIOSIS report.

The use of the RU4 zone is not considered appropriate for the reasons outlined in Recommendation 1, and Class 1 and 2 mapped land has biodiversity value consistent with LEP Practice Note Environment Protection Zones PN 09–002 for use of the E4 zone.

BIOSIS also recommended that detailed biodiversity assessments are required for future landuse changes / development activities in accordance with State and Commonwealth legislation for Class 1 and 2 land. Any proposed zone change from E4 to either RU4, E2 or E3 would require further detailed biodiversity assessment.

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

The planning proposal is the only means of delivering the intended outcomes of the Council resolution dated 22nd May 2019 for this area.

Section B - Relationship to strategic planning framework

3) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including any exhibited draft plans or strategies)?

The *South East and Tablelands Regional Plan 2036* is the relevant regional strategy.

The planning proposal is considered to be consistent with the Strategy for the reasons outlined in the comment section below.

The plan states that the Queanbeyan-Palerang Local Government Area is expected to require an additional 12,050 dwellings by the year 2036, and identifies growth areas at Googong and the proposed South Jerrabomberra which is being pursued.

The plan does not include any specific aims or controls applicable to the study area.

The plan includes the following relevant considerations for the Queanbeyan-Palerang Regional Council area:

Direction 8: Protect important agricultural land

8.2 Protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.

Direction 14: Protect important environmental assets

14.5 Support planning authorities to undertake strategic, landscape-scale assessments of biodiversity and areas of high environmental value.

14.2 Protect the validated high environmental value lands in local environmental plans.

14.3 Minimise potential impacts arising from development on areas of high environmental value, including groundwater-dependent ecosystems and aquatic habitats, and implement the 'avoid, minimise and offset' hierarchy.

Direction 24: Deliver greater housing supply and choice

24.2 Prepare local housing strategies consistent with the Settlement Planning Principles to provide a surplus supply of residential land to meet projected housing needs.

Direction 25: Focus housing growth in locations that maximise infrastructure and services

25.1 Focus future settlement to locations that:

- *maximise existing infrastructure and services and minimise the need for new services;*
- *prioritise increased densities within existing urban areas; and*
- *prioritise new release areas that are an extension of existing strategic and local centres.*

Direction 28: Manage rural lifestyles

28.1 Enable new rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.

28.2 Locate new rural residential areas:

- *close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure;*

- *to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and*
- *to avoid areas of high environmental, cultural and heritage significance, important agricultural land and areas affected by natural hazards.*

28.3 Manage land use conflict that can result from cumulative impacts of successive development decisions.

Comment

As outlined in the planning report by AQ Planning, the difference between E4 and R5 zone permitted landuses is not significant under the current PLEP 2014. At the time of preparing that report a draft E4 and R5 zone to be incorporated within the comprehensive LEP had not been finalised.

Under the provisions of PLEP 2014 clause 2.6 the minimum lot size within the study area is category AA2 - 6 hectares. The proposed change of zone does not propose any alteration to the existing minimum allotment size.

Any change of zone without alteration to the existing minimum allotment size is unlikely to result in any additional dwellings than would currently be possible under the existing E4 zone as dwellings and dual occupancy development are permissible with consent in both the R5 and E4 zones in PLEP 2014.

In this regard no new rural residential development or future settlement is proposed than would otherwise be possible under the existing E4 zone, potential landuse conflict would be minimised, and no change is anticipated for housing supply and choice.

Likewise as no new rural residential development or future settlement is proposed, important agricultural land and environmental assets are protected and unlikely to be impacted by the proposal.

Any future consideration of minimum lot sizes which could result in any additional dwellings than would currently be possible under the existing E4 zone would need to be further assessed against the above relevant Directions of the *South East and Tablelands Regional Plan 2036* and local character, which will be a component of the preparation of future local strategic planning statements. This would require a further planning proposal and is not proposed or being considered by Council.

Any alteration to the minimum lot size which could potentially enable new rural-residential development would need to address Direction 28.1 of the *South East and Tablelands Regional Plan 2036*. This enables new rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning, Industry and Environment.

In addition, the resulting R5 Large Lot Residential Zone in certain areas is unlikely to result in any additional dwellings than would currently be possible under the existing E4 zone as dwellings and dual occupancy development are permissible with consent in both the R5 and E4 zones in PLEP 2014.

Council at its meeting on 22nd May 2019 in considering both studies resolved, in part, that:

…. it is Council's assessment that a Local Housing Strategy can be dispensed with in this case as no change to the minimum lot size or density of development is proposed.

Consequently it is agreed that the preparation of a local housing strategy to support this planning proposal is not needed.

4) Is the planning proposal consistent with a council's local strategy, or other local strategic plan?

As the proposed change of zone does not propose any alteration to the existing minimum allotment size, the resulting R5 Large Lot Residential Zone in certain areas is unlikely to result in any additional dwellings than would currently be possible under the existing E4 zone as dwellings and dual occupancy development are permissible with consent in both the R5 and E4 zones in PLEP 2014.

In accordance with the Council resolution of 22nd May 2019 it is Council's assessment that a Local Housing Strategy can be dispensed with in this case as no change to the minimum lot size or density of development is proposed.

In this regard, and as no new housing or residential lots are proposed than would currently be possible, the draft plan is considered to be consistent with the Palerang Rural Lands Strategy.

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

The planning proposal is considered not to be inconsistent with any *State Environmental Planning Policy* (SEPP). Where applicable Council has had regard to the following SEPPs whilst preparing this planning proposal.

SEPP 21 Caravan Parks

Consistent - The planning proposal does not involve the construction of a caravan park.

SEPP 30 Intensive Agriculture

Consistent - The planning proposal does not involve intensive agriculture.

SEPP 33 Hazardous and Offensive Development

Consistent - The planning proposal does not involve hazardous and offensive development.

SEPP 36 Manufactured Home Estates

Consistent - The planning proposal does not manufactured home estates.

SEPP 44 Koala Habitat Protection

Currently Consistent – At the time of preparing the planning proposal SEPP 44 applied.

The planning proposal only applies to land where that land has been determined to be wholly or predominantly Class 3 land (low value biodiversity), and the SEPP is triggered at development application stage. Before a council may grant consent to an application for consent to carry out development on land to which the SEPP applies, it must satisfy itself whether or not the land is a potential koala habitat. Before a council may grant consent to an application for consent to carry out development on land to which the SEPP applies that it is satisfied is a potential koala habitat, it must satisfy itself whether or not the land is a core koala habitat. The SEPP also outlines requirements for the preparation of plans of management.

It is noted that a new Koala SEPP will commence in March 2020 and a new Guideline is being developed. The new Guideline will provide detailed information about the process and content of Koala Plans of Management, streamlined criteria for development applications on land with no approved Koala Plan of Management, and a standard, scientifically-robust surveying methodology. The Guideline will be published before the new Koala SEPP commences on 1 March 2020.

Instead of preparing an Individual Plan of Management, proponents will be required to prepare their development application in accordance with the criteria in the new Guideline, for council to consider when assessing the application.

This new Guideline (when finalised) will need to be considered as part of this planning proposal. At the time of preparation of this planning proposal the new guideline had not been finalised and as such the implications of the new SEPP are unable to be further considered at this stage.

The Department of Planning, Industry and Environment (DPIE) will again be consulted during the agency consultation stage and will provide advice regarding the new SEPP and guideline. DPIE were consulted during the preparation of this planning proposal, and representatives of the NSW Office of Environment and Heritage attended a meeting with Council staff held on 16th August 2019 and were briefed on the planning proposal. However the new SEPP was not operational at that time and no comments were provided in relation to Koala habitat.

The Department of Planning, Industry and Environment (DPIE) submission in regard to this planning proposal is included as Appendix A.

SEPP 50 Canal Estates

Consistent - The planning proposal does not involve canal estates.

SEPP 62 Sustainable Aquaculture

Consistent - The planning proposal does not involve sustainable aquaculture.

SEPP 64 Advertising and Signage

Consistent - The planning proposal does not involve advertising or signage.

SEPP (Housing for Seniors or People with a Disability) 2004

Consistent - The planning proposal does not involve housing specifically for seniors or people with a disability.

SEPP (Building Sustainability Index BASIX) 2004

Consistent - The planning proposal does not involve the design of housing.

SEPP (Major Development) 2005

Consistent - The planning proposal does not involve major development of the nature detailed in the SEPP (Major Development) 2005.

SEPP (Mining Petroleum Production and Extractive Industries

Consistent - The planning proposal does not involve mining petroleum production or extractive industries.

SEPP (Infrastructure)

Consistent - The planning proposal does not involve the development of infrastructure.

SEPP (Miscellaneous Consent Provisions) 2007

Consistent - The planning proposal does not involve the erection of temporary structures.

SEPP (Exempt and Complying Development) 2008 - Impact

Consistent - The planning proposal does not involve exempt and complying development.

SEPP (Affordable Rental Housing) 2009

Consistent - The planning proposal does not involve the specific development of affordable rental housing.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Consistent – The policy does not impose any requirements for planning proposals.

6) Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1 Directions)?

These include the following directions.

Direction 1.2 Rural Zones

Consistent - The planning proposal does not affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

Direction 1.3 Mining, Petroleum Production and Extractive Industries

Consistent – The planning proposal does not have the effect of:

(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or

(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

Direction 1.5 Rural Lands

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

3*(a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or*

(b) changes the existing minimum lot size on land within a rural or environment protection zone.

Only clause 3(a) applies to this planning proposal as no change to existing minimum lot size is proposed.

The planning proposal is consistent with the applicable strategic plan, has had regard to agriculture and primary production, natural and physical constraints of the land, identifies and protects environmental values, does not impact on opportunities for investment in sustainable rural economic activities or impact farmers in exercising their right to farm. As a result of Resolution No. 1b of the Planning and Strategy meeting of 12 February 2020 in regard to this planning proposal it is proposed that extensive agriculture be undertaken without consent, and as such retains existing farming rights.

Direction 2.1 Environmental Protection Zones

Inconsistent. The inconsistency is justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction. That study determined that certain land currently zoned E4 has low biodiversity value (Class 3 land).

LEP Practice Note Environment Protection Zones PN 09–002 is the key consideration in determining the applicability of the E4 Environmental Living Zone. The practice note advises

that the E4 Environmental Living zone is for land with special environmental or scenic values, that accommodates low impact residential development and is applied where the protection of the environmental significance of the land is the primary consideration.

Therefore in determining the suitability of the E4 Environmental Living zone the environmental significance of the land must be established as the primary consideration. Where the environmental significance of the land is determined as not the primary consideration other zones may be considered. If there are few environmental considerations, then R5 may be the appropriate zone.

BIOSIS Class 1 and 2 mapped land has biodiversity value as outlined in the BIOSIS report consistent with LEP Practice Note Environment Protection Zones PN 09–002 for use of the E4 zone.

BIOSIS found that generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4 Environmental Living zone, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

Direction 2.3 Heritage Conservation

Consistent - The planning proposal does not affect provisions that facilitate the conservation of Aboriginal or non-Aboriginal heritage.

Direction 2.4 Recreation vehicle areas

Consistent - The planning proposal does not enable land to be developed for the purpose of a recreational vehicle area.

Direction 2.6 Remediation of Contaminated Land

Consistent – No change of residential landuse is proposed. However as the new comprehensive LEP R5 landuse table may include childcare centres and educational establishments a contaminated lands search has been undertaken by Council for all lots proposed R5 and Council as the planning authority has considered whether the land is contaminated.

Council's Potentially Contaminated Land mapping indicates that one lot proposed to be rezoned to R5 Large Lot Residential may be contaminated, however this lot (Lot 272 DP 1181419) has been developed for the purpose of a dwelling house and is unlikely to be developed further.

Direction 3.1 Residential Zones

Consistent - The planning proposal does not alter the provisions within PLEP 2014 that relate to residential zones that encourage the provision of housing that will:

(a) broaden the choice of building types and locations available in the housing market, and

(b) make more efficient use of existing infrastructure and services, and

(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and

(d) be of good design.

The planning proposal does not alter the provisions within Palerang LEP 2014 that:

(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and does

(b) not contain provisions which will reduce the permissible residential density of land.

The planning proposal is also of minor significance and not considered to result in any new

dwellings than would currently be permissible, or additional persons requiring need for additional services, transport or infrastructure.

Direction 3.2 Caravan Parks and Manufactured Home Estates

Consistent - The planning proposal does not impact on provisions that permit development for the purposes of a caravan park to be carried out on land, and retains the zonings of the existing caravan parks.

Direction 3.3 Home Occupation

Consistent - The planning proposal does not impact on the ability to undertake a home occupation.

Direction 3.4 Integrating Land Use and Transport

Inconsistent - The inconsistency is justified as the planning proposal would not result in any more new dwellings than would currently be permissible, or additional persons requiring the need for additional services, transport or infrastructure and is as such of minor significance. Also the planning proposal would not alter the objectives of:

(a) improving access to housing, jobs and services by walking, cycling and public transport, and

(b) increasing the choice of available transport and reducing dependence on cars, and

(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and

(d) supporting the efficient and viable operation of public transport services, and

(e) providing for the efficient movement of freight.

Direction 4.1 Acid Sulphate Soils

Consistent - The land is not mapped as having a probability of containing acid sulphate soils.

Direction 4.3 Flood Prone Land

Consistent - The land is not mapped as being Flood Prone Land.

Direction 4.4 Planning for Bushfire Protection

Inconsistent.

This direction applies when a planning proposal authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. The subject area is mapped as bushfire prone land.

Although the planning proposal would not result in any new dwellings than would currently be permissible within a bushfire prone area, the planning proposal may be inconsistent with the terms of this direction only if the planning proposal authority can satisfy the Secretary of the Department of Planning, Industry and Environment (or an officer of the Department nominated by the Secretary) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non- compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

Council will consult with the Commissioner of the NSW Rural Fire Service, to determine if the NSW Rural Fire Service does not object to the progression of the planning proposal.

Direction 5.1 Implementation of Regional Strategies

Consistent with *South East and Tablelands Regional Plan 2036* (see Section B above)

Direction 6.1 Approval and Referral Requirements

Consistent - The planning proposal will not result in development that requires additional concurrence or referral requirements

Direction 6.2 Reserving Land for Public Purposes

Consistent - Reserved land will not be affected.

Direction 6.3 Site Specific Provisions

Consistent - No site specific provisions are proposed.

Section C - Environmental, social and economic impact

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

A Biodiversity Values Assessment (BIOSIS 2019) was undertaken with scope to the review of biodiversity values of the site.

Biodiversity values were assessed and verified against the following:

- Commonwealth Department of the Environment and Energy (DEE) Protected Matters Search Tool for matters listed under the EPBC Act.
- NSW Office of Environment and Heritage (OEH) BioNet Atlas of NSW Wildlife for matted protected under the BC Act.
- ACTmapi – a public database that holds all current flora and fauna records for the ACT. Although the study area was located fully within the boundaries of NSW, a search of ACT database was also undertaken given the proximity to the ACT.
- Native Vegetation of the Palerang Local Government Area. Palerang Rural Lands Study - BioMetric Vegetation Types and Known Threatened Species (Umwelt 2015 [version updated 2018]). This dataset is based on the original 2015 data which has since been updated (last edit in 2018, version 3) to include the Queanbeyan area and the vegetation has been converted to Plant Community Types (PCT).
- Native vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands (SCIVI) (Tozer et al. 2010).
- Field inspections and site visits.

Key biodiversity values across the study area included:

- Areas of State and Commonwealth listed threatened ecological communities in varying ecological condition states.
- Habitat for listed threatened species ranging from high condition in larger patches of intact vegetation to poor condition in areas surrounded by grazed pasture.
- Large areas of intact non-threatened native vegetation, some of which provide high value movement corridors for flora and fauna species.
- Areas where the dominant land use has historically been agricultural and occur as mixed native / exotic pasture within scattered trees, providing limited biodiversity value.

These biodiversity values have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity. Biodiversity values and classes are detailed in Table 3 of the BIOSIS Report, and have been categorised as follows:

- Class 1 – High biodiversity values.
  - TECs listed under BC Act or EPBC Act.
  - High condition threatened species habitat listed under BC Act or EPBC Act.
  - Non-threatened vegetation in good condition.
  - High value biodiversity connectivity corridors.

- Class 2 – Moderate biodiversity values.
  - Moderate to low condition habitat for threatened species under BC Act or EPBC Act.
  - Non-threatened native vegetation in moderate to poor condition.

- Moderate value biodiversity connectivity corridors.

- Class 3 – Low biodiversity values.
  - Non-threatened native derived grassland vegetation.
  - Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.
  - Low value biodiversity connectivity corridors.

Based on the above listed biodiversity values, a range of recommendations have been developed with regard to the suitability of the current E4 zoning and the potential for certain areas, supporting lower levels of biodiversity, to be rezoned more appropriately for the current land use practices based on the biodiversity assessment.

Areas mapped as Class X are considered to have the potential to support biodiversity values of high conservation priority, which require detailed site-based and/or seasonal assessments to determine presence/absence. It is to be noted that at a Council meeting on 22nd May 2019 Council considered a report on the Review of E4 Environmental Living Zone in Bywong and Wamboin, and in relation to the BIOSIS Class X mapped land resolved the following:

> *Not include amending the Palerang Local Environment Plan (PLEP) Clause 6.3 map "Terrestrial Biodiversity" to include the consultants Class X mapped lands for the following reasons:*
> *a. the consultant's report refers to Class X land as having "potential" to contain native grasslands and or habitat of a critically endangered species rather than establishing that the Class X mapped land contains native grasslands and or habitat of a critically endangered species*
> *b. inclusion of Class X as incorporated in the Terrestrial Biodiversity Map and Clause 6.3 of the PLEP would apply to both land within the E4 Environmental Living zone as well to land within the R5 Large Lot residential zone*
> *c. the existing provisions of the PLEP already require adequate consideration of the impacts on biodiversity*
> *d. implementation of the Class X layer would be unwieldy and unnecessary and will result in greater complexity for residents and greater cost when lodging development applications.*

Table 4 of the Biodiversity Assessment (BIOSIS 2019) provides a list of recommendations with regards to the potential future zoning and how these relate to the biodiversity values recorded within the study area. Generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4 Environmental Living zone, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

Based upon the Biodiversity Values Assessment (BIOSIS 2019) and the associated allocation of proposed landuse zones, it was concluded that there is a moderate likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

However it is noted that any future development applications in these areas will require biodiversity surveys due to the various triggers within the PLEP 2014 and the Palerang DCP 2015. These surveys and associated reporting will ensure that the intent and requirements of the BC Act and EPBC Act are met, in any areas where landuse changes are proposed, which may support higher biodiversity values, than were able to be confirmed during the process of the current assessment.

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

The key environmental issues relate to potential biodiversity and the protection of biodiversity. This has been addressed by the background studies.

As the planning proposal is unlikely to result in any additional dwellings than would otherwise be permitted without the planning proposal, other potential environmental effects are not required to be addressed by this planning proposal.

The subject area is mapped as bushfire prone land. Council will consult with the Commissioner of the NSW Rural Fire Service, to determine if the NSW Rural Fire Service does not object to the progression of the planning proposal.

The management of the potential environmental impacts associated with this proposal will include:

- Continued application of the *Environmental Planning and Assessment Act 1979* in accordance with approved land use tables (Zone E4 Environmental Living and R5 Large Lot Residential) as provided with the current *Palerang Local Environmental Plan* (PLEP 2014), as well as Section B3 of the *Palerang Development Control Plan 2015*.
- Class 1 mapped biodiversity values are to be listed under Part 3.3 (1) of the PLEP 2014, by where "Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development "where under section 2 (j) "the land that is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*."
- The current *Palerang Local Environmental Plan* (PLEP 2014) biodiversity layer is utilised as a trigger for detailed site-based biodiversity assessment during future Development Applications (DA) or broader planning considerations.
- As a result of the Council resolution of the 12 February 2020 Planning and Strategy Committee meeting, the 15 lots proposed to be split zoned are now proposed to be wholly rezoned to R5 Large Lot Residential zone.
- Class 1 and Class 2 mapped biodiversity values are maintained as a continuous vegetated corridor to allow for the retention and protection of habitat features and allow for the movement native flora and fauna.

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

The planning proposal will not impact on the supply of housing in Queanbeyan-Palerang LGA. This is consistent with the principles of the Queanbeyan Residential and Economic Strategy and the *South East and Tablelands Regional Plan 2036*. The planning proposal will apply a more suitable zoning to the subject land following the detailed biodiversity assessment as discussed above.

Section D - State and Commonwealth interests

10) Is there adequate public infrastructure for the planning proposal?

The planning proposal will not require any further public infrastructure as the proposal is unlikely to result in any additional dwellings than would otherwise be permitted without the planning proposal.

11) What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council intends to consult with the following public authorities:

- Department of Planning, Industry and Environment (DPIE)
- NSW Office of Water
- NSW Department of Primary Industries
- Transport NSW
- NSW Rural Fire Service
- ACT Government.

The Department of Planning, Industry and Environment (DPIE) were consulted during the preparation of this planning proposal. Representatives of the NSW Office of Environment and Heritage attended a meeting with Council staff held on 16th August 2019 and were briefed on the planning proposal, and invited to provide comments.

The Department of Planning, Industry and Environment (DPIE) provided comments in regard to this planning proposal on 13 November 2019 (Ref: DOC19/994085), and that submission is included as Appendix A.

In response to the submission, it is acknowledged that BIOSIS was only able to ground-truth biodiversity values on 33 lots within the study area during the current assessment, which equates to a small percentage of the overall lots. Access was requested to about half the 1200+ lots in the study area via letters sent to property owners.

Responses were received from over 150 properties granting access, of which BIOSIS were able to access 33 of these lots to undertake more detailed field validation of biodiversity values. A number of properties that granted access imposed restrictive conditions on site access that were unable to be met at the time. To address this issue, areas of potential habitat have been determined based on existing knowledge, survey work completed, drive thoughts and the known ecological niches occupied by these threatened items.

The entire study area was mapped to the finest scale possible during field investigations, which in a number of areas equated to 'over the fence' surveys, drive throughs and mapping of the dominant tree and shrub species. The Class X category of biodiversity values was developed to address this and the potential for high value biodiversity items to be present in areas where the survey effort undertaken was insufficient in scale to accurately determine presence or absence of these values.

It is also acknowledged that detailed future surveys would be required in Class X areas to demonstrate the presence or absence of biodiversity values such as Derived Native Grassland or Golden Sun Moth habitat, to the level required to support any future changes to the minimum lot sizes or changes to the land use table in land zoned R5.

However it is noted that any future development applications in these areas will require biodiversity surveys due to the various triggers within the Palerang LEP 2014 and the Palerang DCP 2015. These surveys and associated reporting will ensure that the intent and requirements of the BC Act and EPBC Act are met, in any areas where landuse changes are proposed, which may support higher biodiversity values, than were able to be confirmed during the process of the current assessment.

Part 4 – Mapping

The planning proposal will **ONLY** amend the following *Palerang LEP 2014 maps:*
Land Zoning Map LZN - 001

- Land Zone Map LZN - 004

All maps will be prepared consistent with the Department of Planning, Industry and Environment's relevant guidelines and in consultation with the Department's GIS unit.

Part 5 - Community Consultation

It is intended to publicly exhibit the draft plan for a period of 28 days.

During that period Council also intends to consult with the following public authorities:

- The Biodiversity and Conservation Branch of Department of Planning, Industry and Environment (DPIE)
- NSW Office of Water
- NSW Department of Primary Industries
- Transport NSW
- NSW Rural Fire Service
- ACT Government.

Part 6 - Project Timeline

It is anticipated the planning proposal may take up to 12 months to finalise. An indicative project timeline is provided below.

Action	**Timeframe**
Report to Council	February 2020
Gateway determination	April/May 2020
Agency consultation	June 2020
Public exhibition	July/August 2020
Consideration of submissions and Report to Council	September 2020
Parliamentary Counsel Opinion and DPE GIS Mapping Liaison	October/November 2020
Plan Finalised by Minister (or delegate)	December 2020

Appendix A - Submission from Department of Planning, Industry and Environment (DPIE) (ECM 469736)

NSW GOVERNMENT | Planning & Environment

MDPE18/184

Mr Peter Tegart
Interim General Manager
Queanbeyan-Palerang Regional Council
PO Box 90
QUEANBEYAN NSW 2620

Dear Mr Tegart

I write in response to Council's letter to Ms Carolyn McNally, Secretary of the Department of Planning and Environment, regarding Council's proposal to rezone parts of Bywong and Womboin. The Secretary has asked me to respond on her behalf.

As you are aware, information provided by Council in relation to this proposal should provide strategic justification for any inconsistencies with the South East and Tablelands Regional Plan 2036 and relevant section 9.1 Ministerial Directions. Direction 2.1 Environment Protection Zones is particularly relevant and requires that planning proposals not reduce the environmental protection standards that apply to the land.

Any study provided in support of the proposal should include sufficient information to justify the rezoning on a site-by-site basis. While I acknowledge that the material provided by Council with its letter seeking the Department's advice is comprehensive, I recommend Council revise this information to ensure it contains details relevant only to those sites where rezoning is proposed, and adequately demonstrates how the proposed rezoning addresses relevant planning considerations.

Given the environmental values that have been identified for this area, I also encourage Council to liaise with the Office of Environment and Heritage (OEH) to establish any requirements it may have when investigating changes to zoning in the area. The views and advice of OEH regarding the environmental significance of the subject sites would be a major consideration for this proposal.

Should you have any further questions in relation to this matter, please contact Ms Meredith McIntyre, Acting Senior Planner, Southern Region, at the Department on 6229 7912.

Yours sincerely

7 March 2018

Stephen Murray
Executive Director, Regions
Planning Services

Appendix B - AQ Planning, Review of E4 Environmental Living Zone in the Localities of Bywong and Wamboin – March 2019

PLANNING REPORT

Review of E4 Environmental Living Landuse Zone in the Localities of Bywong and Wamboin

Prepared for:
Queanbeyan-Palerang Regional Council

Table of Contents

1 Introduction

1.1 GENERAL

This Planning Report has been prepared to assist Queanbeyan-Palerang Regional Council in its consideration of future landuse zoning options for the study area.

This report includes a description of the study area, background, overview of ecological values based on the BIOSIS Values Assessment report February 2019, planning considerations and recommendations.

1.2 CLIENT INSTRUCTIONS

The Report has been prepared in response to the brief provided by Queanbeyan-Palerang Regional Council.

Council engaged an independent consultant planner AQ Planning and independent ecologist BIOSIS to undertake this landuse zoning review and consider any areas within the Bywong and Wamboin E4 zone that may be appropriate for an alternative landuse zone.

Council is currently preparing a draft local environmental plan to bring together the existing local environmental plans including the Palerang Local Environmental Plan 2014. It is anticipated that the draft local environmental plan will be gazetted in 2020.

It is understood that depending on the progress of the review of the E4 Environmental Living landuse zone in Bywong and Wamboin it may be possible to include any proposed rezonings in the new local environmental plan (amending LEP) planning proposal, otherwise a separate planning proposal could be pursued.

1.3 SCOPE OF REPORT

This Report describes the study area and its context, provides an assessment of the E4 zone in regard to NSW planning regulations, the potential opportunities for future landuse zones based on the BIOSIS assessment and NSW regulations/guidelines, and concludes with recommendations to assist Council in the consideration of future actions.

This report has considered possible landuse zones against the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning and Environment.

2 The Study Area

The study area is located approximately 12 kilometres north from Queanbeyan CBD, approximately 7 kilometres north-west from Bungendore, and 20 kilometres north-east of Canberra Civic Centre, and north of the boundary of New South Wales (NSW) and Australia Capital Territory (ACT).

The study area covers approximately 9,500 hectares comprising the localities of Bywong and Wamboin, NSW within the Queanbeyan-Palerang Regional Council LGA as outlined below in Figure 1.

The predominant existing landuse within the study area is residential living with dwellings located on most lots. Landuses currently being undertaken in conjunction with residential activities include landuses such as, but not limited to, bed and breakfasts, home occupations, home businesses, home industries, stables and horse riding, limited livestock grazing, limited crop growing and horticulture, and community halls and RFS sheds.

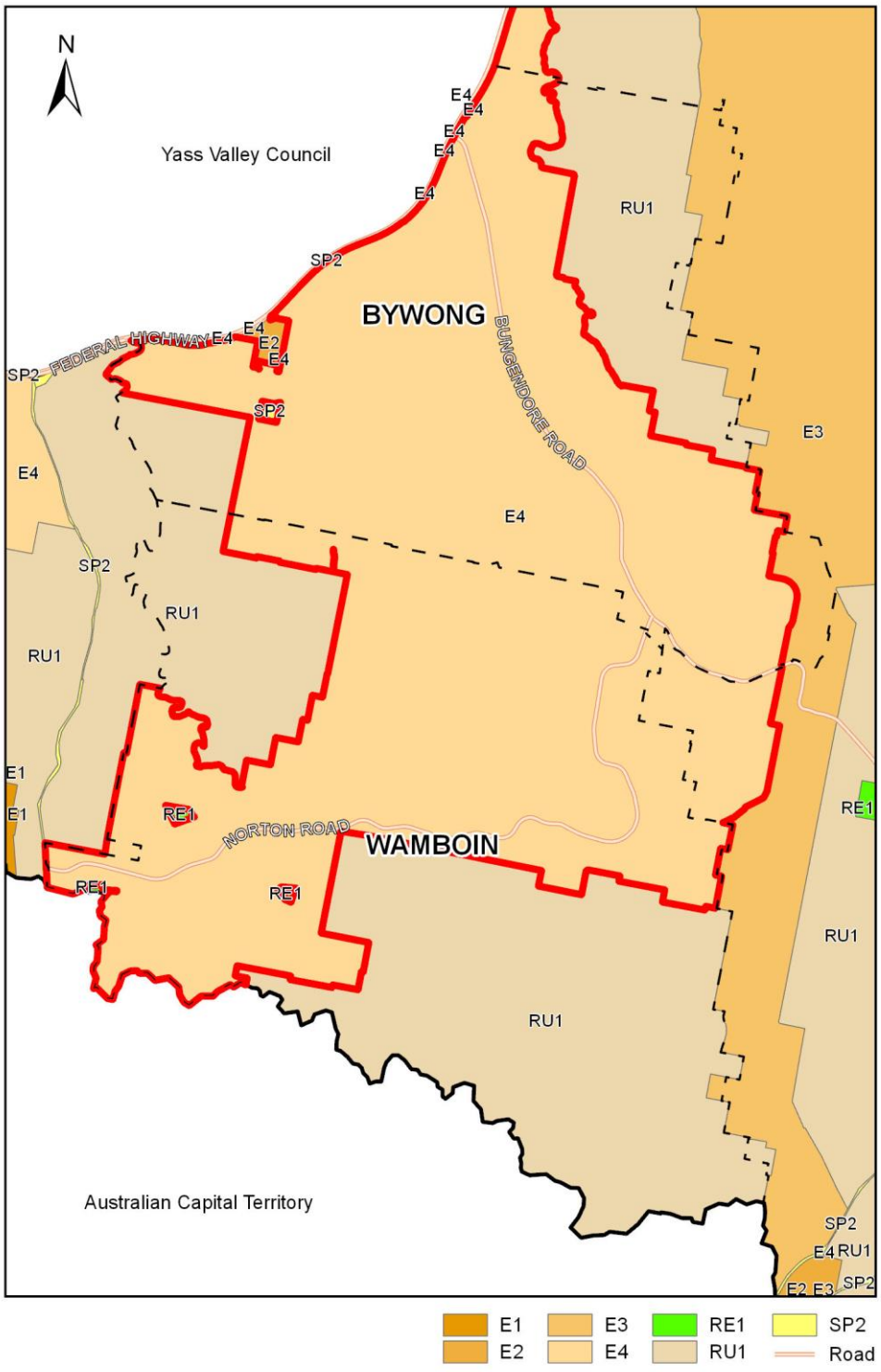


Figure 1: Study Area - Existing Zoning Palerang Local Environmental Plan 2014 (*source: QPRC Brief for Review of the Application of the E4 Environmental Living Zone in the localities Bywong and Wamboin 2018*)

2.1 BACKGROUND

This review of the application of the E4 Environmental Living landuse zone in the localities of Wamboin and Bywong follows Council's resolution of 13 December 2017 that states:

- *"Parts of Bywong and Wamboin be assessed for consideration to R5 and RU4 zones in the draft LEP"; and the subsequent resolution on 8 August 2018 that;*
- *"Council seek expression of interests for consultants to undertake relevant studies and a report be brought back to Council".*

In accordance with the above resolutions Council engaged AQ Planning as the consultant landuse planner and BIOSIS as the ecologist to undertake an independent review of the application of the E4 Environmental Living landuse zone in Bywong and Wamboin.

The review has reconsidered the application of the E4 Environmental Living landuse zone and evaluated any appropriate alternative landuse zones that meet the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning and Environment.

This planning report and review follows an assessment of the native vegetation by BIOSIS within both localities undertaken in November and December 2018 and should be read in conjunction with the BIOSIS Report "*Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment February 2019*".

3 Assessment of Relevant Controls and Policies

3.1 SOUTH EAST AND TABLELANDS REGIONAL PLAN

The South East and Tablelands Regional Plan was published in 2017 by the NSW Government Department of Planning and Environment. The Plan guides the NSW Government's land use planning priorities and decisions over the next 20 years and is an overarching framework to guide more detailed land use plans, development proposals and infrastructure funding decisions.

On 14th March 2018 the NSW Department of Planning and Environment advised Council that a proposal to rezone parts of Bywong and Wamboin should provide strategic justification for any inconsistencies with the South East and Tablelands Regional Plan and relevant section 9.1 Ministerial Directions (outlined in Section 3.5 below).

The South East and Tablelands Regional Plan does not include any specific aims or controls applicable to the study area.

The Plan includes the following relevant considerations for the Queanbeyan-Palerang Regional Council area:

- *Protect and enhance the area's high environmental value lands, waterways and water catchments.*
- *Diversify the agriculture industry, including opportunities for value-added activities and access to national and international markets.*
- *Encourage small-scale intensive animal production where this can be done without compromising the Sydney Drinking Water Catchment.*
- *Limit proposals for rural residential development to areas identified through an appropriate strategic planning process.*

Broad aims and actions of relevance outlined in the Plan include:

Direction 8: Protect important agricultural land

8.2 Protect identified important agricultural land from land use conflict and fragmentation and manage the interface between important agricultural land and other land uses through local environmental plans.

Direction 14: Protect important environmental assets

14.5 Support planning authorities to undertake strategic, landscape-scale assessments of biodiversity and areas of high environmental value.

14.2 Protect the validated high environmental value lands in local environmental plans.

14.3 Minimise potential impacts arising from development on areas of high environmental value, including groundwater-dependent ecosystems and aquatic habitats, and implement the 'avoid, minimise and offset' hierarchy.

Direction 24: Deliver greater housing supply and choice

24.2 Prepare local housing strategies consistent with the Settlement Planning Principles to provide a surplus supply of residential land to meet projected housing needs.

Direction 25: Focus housing growth in locations that maximise infrastructure and services

*25.1 Focus **future settlement** to locations that:*
• maximise existing infrastructure and services and minimise the need for new services;
• prioritise increased densities within existing urban areas; and
• prioritise new release areas that are an extension of existing strategic and local centres.

Direction 28: Manage rural lifestyles

*28.1 Enable **new** rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.*

*28.2 Locate **new** rural residential areas:*
• close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure;
• to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and
• to avoid areas of high environmental, cultural and heritage significance, important agricultural land and areas affected by natural hazards.

28.3 Manage land use conflict that can result from cumulative impacts of successive development decisions.

3.2 LEP PRACTICE NOTE ENVIRONMENT PROTECTION ZONES NOTE PN 09–002

This practice note is a key consideration in determining the applicability of the E4 Environmental Living Zone.

The purpose of this practice note is to provide guidance to councils on the environment protection zones and how they should be applied in the preparation of local environmental plans.

The practice note outlines that the **E4 Environmental Living zone** is for land with special environmental or scenic values, and accommodates low impact residential development.

The environment protection zones E2 through to **E4** are applied where the **protection of the environmental significance of the land is the primary consideration.** Prior to applying the relevant zone, the environmental values of the land should be established.

The **E4 zone** is typically applied to existing low impact residential development including areas already zoned for rural residential that have special conservation values.

The practice note highlights the fact that councils should distinguish carefully between the E4 zone, the RU4 Rural Small Holdings and R5 Large Lot Residential zones to address environmental, agricultural and residential land capabilities respectively.

An important guideline is that where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 zone should be considered, and if there are few environmental considerations, the R5 may be the appropriate zone.

Where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone.

3.3 LEP PRACTICE NOTE PREPARING LEPS USING THE STANDARD INSTRUMENT: STANDARD ZONES PN011-002

Practice Note PN011-002 provides an overview on the zones in the Standard Instrument (Local Environmental Plans) Order 2006. The Practice note provides an overview of the intended purpose of each zone.

Councils may select zones as appropriate to the needs of their local areas, taking into account any relevant State or regional planning guidance.

The Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument) sets out 35 standard zones for councils to use when preparing new principal local environmental plans (LEPs) for their local government areas.

For each zone, the Standard Instrument (SI) sets out 'core' objectives for development, and certain mandated permitted or prohibited land uses.

Further discussion in regard to the applicability of suitable zones to the Bywong and Wamboin areas is discussed in Section 4.2 below, including the zones suggested by Practice Note PN009-002 being R5 Large Lot Residential, RU4 Rural Small Holdings, and E4 Environmental Living.

3.4 PLANNING SYSTEM CIRCULAR PS 18–001 RESPECTING AND ENHANCING LOCAL CHARACTER IN THE PLANNING SYSTEM

Recent changes to the Environmental Planning and Assessment Plan 1979 include the introduction of local strategic planning statements.

Under the new provisions Council will prepare a local strategic planning statement outlining the 20–year vision for land–use in the local area, the special character and values that are to be preserved, and how change will be managed into the future.

The statements will need to align with the regional and district plans, and council priorities outlined in the community strategic plan.

Consideration of local character will be a component of the preparation of future local strategic planning statements.

3.5 SECTION 9.1 DIRECTIONS BY THE MINISTER

The relevant Section 9.1 Directions of the Minister that would be applicable to a planning proposal to change or alter the E4 Environmental Living zone within the study area are outlined below. Planning proposals may be inconsistent with the directions if Council can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are justified by a strategy or study, or in accordance with the relevant Regional Strategy.

Direction 2.1 Environment Protection Zones

2.1 Environment Protection Zones
Objective
(1) The objective of this direction is to protect and conserve environmentally sensitive areas.
Where this direction applies
(2) This direction applies to all relevant planning authorities.
When this direction applies
(3) This direction applies when a relevant planning authority prepares a planning proposal.
What a relevant planning authority must do if this direction applies
(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".
Consistency

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

(a) justified by a strategy which:

(i) gives consideration to the objectives of this direction,

(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and

(iii) is approved by the Director-General of the Department of Planning, or

(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or

(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

(d) is of minor significance.

Direction 1.2 Rural Zones

Objective

(1) The objective of this direction is to protect the agricultural production value of rural land.

Where this direction applies

(2) (a) Clause 4(a) of this direction applies to all relevant planning authorities.

(b) Clause 4(b) of this direction applies in the following local government areas (not Queanbeyan-Palerang):

When this direction applies

(3) This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

What a relevant planning authority must do if this direction applies

(4) A planning proposal must:

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

(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

Consistency

(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 the provisions of the planning proposal that are inconsistent are:

(a) justified by a strategy which:

(i) gives consideration to the objectives of this direction,

(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and

(iii) is approved by the Director-General of the Department of Planning, or

(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
(d) is of minor significance.

Direction 1.5 Rural Lands

Objectives
(1) The objectives of this direction are to:
(a) protect the agricultural production value of rural land,
(b) facilitate the orderly and economic development of rural lands for rural and related purposes.
Where this direction applies
(2) (a) This direction applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies, which includes all local government areas in the State other than the following local government areas (not Queanbeyan-Palerang):
When this direction applies
(3) This direction applies when:
(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.
What a relevant planning authority must do if this direction applies
(4) A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.
(5) A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.
(6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:
(a) justified by a strategy which:
i. gives consideration to the objectives of this direction,
ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and
iii. is approved by the Director-General of the Department of Planning and is in force, or
(b) is of minor significance.

Direction 3.1 Residential Zones

Objectives

(1) The objectives of this direction are:

(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,

(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and

(c) to minimise the impact of residential development on the environment and resource lands.

Where this direction applies

(2) This direction applies to all relevant planning authorities.

When this direction applies

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

(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.

What a relevant planning authority must do if this direction applies

(4) A planning proposal must include provisions that encourage the provision of housing that will:

(a) broaden the choice of building types and locations available in the housing market, and

(b) make more efficient use of existing infrastructure and services, and

(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and

(d) be of good design.

(5) A planning proposal must, in relation to land to which this direction applies:

(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and

(b) not contain provisions which will reduce the permissible residential density of land.

Consistency

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

(a) justified by a strategy which:

(i) gives consideration to the objective of this direction, and

(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and

(iii) is approved by the Director-General of the Department of Planning, or

(b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or

(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
(d) of minor significance.

3.6 STANDARD INSTRUMENT (LOCAL ENVIRONMENTAL PLANS) ORDER 2006

This is the legislation which prescribes the form and content of the principal local environmental plan and sets out 35 standard zones for councils to use when preparing new principal local environmental plans (LEPs) for their local government areas.

Councils are unable to add new landuse zones, create subzones, or change the name of a standard zone. For each zone, the Standard Instrument sets out 'core' objectives for development, and mandated permitted or prohibited land uses.

Further discussion regarding the zones that may be applicable to the study area is included in Section 4.2 below.

3.7 PALERANG LOCAL ENVIRONMENTAL PLAN 2014 (PLEP)

The Palerang Local Environmental Plan 2014 (PLEP) came into force in October 2014 replacing six local environmental plans applying to the former Palerang local government area.

The PLEP is based on the Standard Instrument Local Environmental Plan (LEP) which includes the land use zone E4 Environmental Living. This land use zone was applied to the land formally zoned:

1. 1(d) (Rural Residential) under the Yarrowlumla Local Environmental Plan 2002
2. 1(g) (Small Rural Holdings) under the Yarrowlumla Local Environmental Plan 2002
3. 1(c) (Small Rural Holdings) under the Tallaganda Local Environmental Plan 1991
4. A number of small areas of Zone 1(a) (General Rural) under the Yarrowlumla Local Environmental Plan 2002 and 1(a) (General Rural) under the Goulburn Local Environmental Plan 1990.

The current E4 Environmental Living Zone as included in PLEP 2014 applying to the Bywong and Wamboin study area is outlined below.

PLEP 2014 E4 Environmental Living Zone

1 Objectives of zone:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

- *To ensure that residential development does not have an adverse effect on those values.*
- *To encourage development that is visually compatible with the landscape.*
- *To minimise the impact of any development on the natural environment.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

2 Permitted without consent

Extensive agriculture; Home businesses; Home occupations

3 Permitted with consent

Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Farm buildings; Flood mitigation works; Function centres; Home-based child care; Home industries; Information and education facilities; Intensive plant agriculture; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Secondary dwellings; Waste or resource transfer stations; Water recycling facilities; Water storage facilities

4 Prohibited

Industries; Service stations; Turf farming; Warehouse or distribution centres; Any other development not specified in item 2 or 3

The table below compares the current PLEP 2014 E4 Environmental Living Zone with the PLEP 2014 R5 Large Lot Residential Zone and the RU4 Primary Production Small Lots zone as outlined in the Standard Instrument. PLEP 2014 does not include an RU4 zone and Council would need to select the RU4 zone from the Standard Instrument if it considered introducing an RU4 zone.

As outlined in Section 3.2 above both the R5 and RU4 zone are considered suitable where an E4 zone is not considered suitable (LEP Practice Note Environment Protection Zones PN 09–002). That practice note advises that where small holdings undertake agricultural production the RU4 zone should be considered, where there are few environmental considerations, the R5 may be the appropriate zone, and where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone.

A commentary on the key differences between each zone is outlined below.

TABLE 1: Zone Comparison

E4 Environmental Living (PLEP 2014)	R5 Large Lot Residential (PLEP 2014)	RU4 Primary Production Small Lots (Standard Instrument)
1 Objectives of zone: •To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. •To ensure that residential development does not have an adverse effect on those values. •To encourage development that is visually compatible with the landscape. •To minimise the impact of any development on the natural environment. •To ensure that development does not unreasonably increase the demand for public services or facilities. •To minimise conflict between land uses within the zone and land uses within adjoining zones.	**1 Objectives of zone:** •To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. •To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future. •To ensure that development in the area does not unreasonably increase the demand for public services or public facilities. •To minimise conflict between land uses within this zone and land uses within adjoining zones. •To minimise the impact of any development on the natural environment	**1 Objectives of zone:** •To enable sustainable primary industry and other compatible land uses. •To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature. •To minimise conflict between land uses within this zone and land uses within adjoining zones.
2 Permitted without consent Extensive agriculture; Home businesses; Home occupations	**2 Permitted without consent** Home businesses; Home occupations	**2 Permitted without consent** Home occupations
3 Permitted with consent Animal boarding or training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Farm buildings; Flood mitigation works; Function centres; Home-based child care; Home industries; Information and education facilities;	**3 Permitted with consent** Backpackers' accommodation; Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Flood mitigation works; Group homes; Home-based child care; Home industries;	**3 Permitted with consent** **Dwelling houses;** **Plant nurseries** **Direction.** The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone: Extensive agriculture Farm buildings Intensive plant agriculture Roads Roadside stalls

E4 Environmental Living (PLEP 2014)	**R5 Large Lot Residential (PLEP 2014)**	**RU4 Primary Production Small Lots (Standard Instrument)**
Intensive plant agriculture; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Secondary dwellings; Waste or resource transfer stations; Water recycling facilities; Water storage facilities	Horticulture; Neighbourhood shops; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Roadside stalls; Secondary dwellings; Sewage treatment plants; Viticulture; Water recycling facilities; Water supply systems	
4 Prohibited Industries; Service stations; Turf farming; Warehouse or distribution centres; Any other development not specified in item 2 or 3	**4 Prohibited** Any development not specified in item 2 or 3	**4 Prohibited**

A commentary on the key differences between each zone is outlined below.

Objectives

All zones include the objective *to minimise conflict between land uses within this zone and land uses within adjoining zones.*

The E4 and R5 zone both include an objective *to minimise the impact of any development on the natural environment.*

The key difference in objectives for each zone is:

E4 Zone: *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
R5 Zone: *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
RU6 Zone: *To enable sustainable primary industry and other compatible land uses.*

Permitted without consent

It is noted that *extensive agriculture* is currently permitted without consent in the E4 zone, although permitted with consent in the R5 zone. Council would have the option of deciding which category to include *extensive agriculture* in the RU4 zone.

"extensive agriculture" means any of the following:

(a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
(b) the grazing of livestock for commercial purposes,
(c) bee keeping,
(d) a dairy (pasture-based).

Permitted with consent

Landuses permitted with consent in both the E4 and R5 zones include such uses as:

Bed and breakfast accommodation; Building identification signs; Business identification signs; Cellar door premises; Dual occupancies; Dwelling houses; Environmental protection works; Farm buildings; Home-based child care; Home industries; Roadside stalls; Secondary dwellings.

The RU4 zone would require Council to determine the range of uses permitted with consent and as such a comparison is not possible.

The E4 zone permits with consent *Animal boarding or training establishments; Intensive plant agriculture; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Restaurants or cafes* not currently permissible within the R5 Zone in PLEP 2014.

It is noted that the R5 zone included within Queanbeyan Local Environmental Plan 2012 permits with consent uses such *as Landscaping material supplies; Markets; and Plant nurseries.* Council would have the option of including those and other landuses, as it considered appropriate, within a future R5 zone under a new LEP.

Prohibited

Expressly prohibited uses in the E4 zone such as "*Industries; Service stations; Turf farming; Warehouse or distribution centres*" would remain prohibited within the R5 zone based on the existing PLEP 2014 zone.

In general an R5 zone would still enable agricultural activities to continue and be permitted with consent such as *Cellar door premises; Extensive agriculture; Farm buildings; Horticulture; Viticulture. The* RU4 landuse table is more restrictive than both the R5 and E4 although Council would need to determine the range of landuses permitted with consent if an RU4 zone was considered appropriate.

The R5 zone permits all Standard Instrument RU4 landuses except *Intensive plant agriculture.*

Without amendment to the minimum lot size map the R5 zone is unlikely to result in any new residential development than would otherwise be permissible within the existing E4 zone as both the PLEP 2014 E4 and R5 zones permit *dwelling houses* and *dual occupancies* with consent.

4 Planning Considerations

4.1 REVIEW OF USE OF E4 ZONE IN ADJOINING LGAs

A comparative review of the extent of the application of the E4 zone in local government areas adjoining Queanbeyan-Palerang LGA was undertaken to determine the use of the E4 zone, or alternative zones in adjoining areas.

Key points from this review are:

Goulburn Local Environmental Plan 2009

- Limited E4 zones in rural areas
- Limited E4 zones adjoining R5 zone areas
- Small parcels of E4 adjoining the B6 zone adjacent to Hume Highway
- Predominant zones in rural areas are RU6, E3, RU2, RU1

Cooma-Monaro LEP 2013

- Predominant zones in rural areas are RU1 and E1
- Small parcels of E4 at **Binjura** with R5 or RU1 zones
- **Williamsdale** and **Michelago** are mostly RU1, with some areas of E3 zoned land to west of Williamsdale and E1 and E2 east of Michelago
- **Michelago village** areas is predominantly R5 and RU5
- **Bredbo** is predominantly R5 or RU1
- Some E4 west of the R5 in **Bungar**
- Limited E4 in **Cooma** township area adjoining the STP

Yass LEP 2013

- Rural areas are mostly RU1 or R5
- Limited use of E4 zone around **Binalong** although predominantly R5 and RU5
- **Bowning** has a small area of E4 near the Hume highway
- **Yass** – E4 limited to the end of Shersby Crescent adjoining R5, and E4 between Barton Highway and Yass River south of Lucernvale Road
- Small area of E4 near **Good Hope**
- **Sutton –** Land at Sutton adjoining Bywong is generally RU1 with an area of E3 along Ridge Road bounded by the Federal Highway.
- **Sutton village** area is either RU5, R5, E2, RU1 or RU2
- **Murrumbateman** is RU1, predominantly R5, with R2. Some areas of E4 to west of Murrumbateman village, with RU4 east of village
- **Gundaroo** – small number of lots zoned E4 predominantly north of village with mix of R2, RU1, RU5 and RU4 zones

The report to Council dated 13 December 2017 outlined the areas which included E4 zones within the Queanbeyan LEP 2012 and Palerang LEP 2014:

Queanbeyan LEP 2012

- E4 zones at Carwoola, Environa, Googong, Greenleigh, Jerrabomberra, Queanbeyan East, Royalla, The Ridgeway, Tralee, and Williamsdale.

Palerang LEP 2014

- E4 zones at Araluen, Braidwood, Budawong, Burra, Bywong, Carwoola, Googong, Hoskingtown, Manar, Mongarlowe, Nerriga, Rossi, Royalla, Sutton, Urila, and Wamboin.

From the above comparative review of the application of the E4 zone in local government areas adjoining Queanbeyan-Palerang LGA it is noted that the RU4 zone is not widely used, with limited application of both the E4 and R5 zones.

4.2 APPLICATION OF R5, RU4 ZONES AND OTHER ALTERNATIVE ZONES IN THE LOCALITIES OF BYWONG AND WAMBOIN

Practice Note PN011-002 - *Preparing LEPs using the Standard Instrument: standard zones* provides an overview of the standard zones in the Standard Instrument (Local Environmental Plans) Order 2006, and the intended purpose of each zone.

The Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument) sets out 35 standard zones for councils to use when preparing new principal local environmental plans (LEPs) for their local government areas.

For each zone, the Standard Instrument (SI) sets out 'core' objectives for development, and certain mandated permitted or prohibited land uses.

The intended purpose of each zone that could apply to the study area is outlined below with a comment on possible applicability.

RU1 Primary Production

This zone applies to land used for commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is allocated to land where the **principal function is primary production.**

This zone is not considered suitable as the principal function of the land in the study area is not primary production or likely to be primary production.

The report to Council dated 13 December 2017 included a summary of the 2016 Census data for the statistical areas of Bywong, Wamboin and Krawaree. That table indicates that no persons considered themselves as being engaged in the Agriculture, Forestry and Fishing sector in the 2016 Census. The report noted the following in relation to the Census data for 2016:

- *The Bywong and Wamboin areas have a higher number of people in professional occupations and employed by federal and state government.*
- *It is suggested that based on the census data that there is not a high proportion of people in the Bywong and Wamboin areas who view themselves as being engaged in the Agriculture, Forestry and Fishing sector.*

In regard to a discussion on Rural land-use the 13 December 2017 report to Council noted:

- *The smaller lot sizes with dwellings, sealed public roads, opportunities for small scale agriculture, community facilities and its proximity to retail services and primary schools suggest that the localities could be described as rural living*
- *If the area was to be planned now, it would be unlikely to be located in a stressed water catchment (the Yass River catchment is recognised as being stressed) and areas containing endangered ecological communities or threatened species*
- *There is limited opportunity for agriculture in areas with high native tree cover*
- *A large part of the Bywong locality is class 3 agricultural land*
- *The land that is not predominantly native vegetation is not necessarily used for agriculture*
- *The small lot sizes and general low agricultural classifications allow for very limited agricultural enterprises. At least 1200 hectares is required in this region for a broad scale agricultural property that 'breaks even'*
- *There is limited opportunity to clear native vegetation for agriculture due to NSW legislation*

RU2 Rural Landscape

This zone is for rural land used for **commercial primary production that is compatible with ecological or scenic landscape qualities** that have been conserved (often due to topography). It may apply to land that is suitable for grazing and other forms of extensive agriculture, or intensive plant agriculture (such as 'viticulture'), but where the permitted uses are usually more limited and differ from RU1 land due to landscape constraints.

This zone is not considered suitable as it is to be used for commercial primary production that is compatible with ecological or scenic landscape qualities and

not to be used where the main purpose of the zone is to protect significant environmental attributes or to provide for rural residential accommodation.

The former Palerang Council chose not to use the RU2 Rural Landscape zone within Palerang Local Environmental Plan 2014.

RU4 Primary Production Small Lots

This zone (previously named Rural Small Holdings) is for land which is to be used for **commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings**.

It is a rural zone for agricultural uses, and not considered a pseudo-residential zone. The Practice Note states that it is a zone with an agricultural industry/food production focus and not a rural residential lifestyle zone.

This zone is considered suitable where an E4 zone or R5 zone is not considered appropriate in accordance with LEP Practice Note PN 09–002 Environment Protection Zones.

Further discussion on the use of the RU4 zone is included in the conclusion and recommendations.

RU5 Village

This zone is a flexible zone for **centres where a mix of residential, retail, business, industrial and other compatible land uses** may be provided to service the local rural community. The RU5 zone would typically apply to small rural villages within rural areas.

This zone is not considered suitable as the study area is not a small rural village with a mix of residential, retail, business, industrial and other compatible land uses.

RU6 Transition

The transition zone is to be used in **special circumstances only in order to provide a transition between rural land uses (including intensive agriculture, landfills, mining and extractive industries) and other areas** supporting more intensive settlement or environmental sensitivities.

This zone is not considered suitable as it is to be used in special circumstances only and LEP Practice Note PN 09–002 Environment Protection Zones recommends the use of an RU4 zone or R5 zone where an E4 zone is not considered appropriate.

R5 Large Lot Residential

This zone is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas.

This zone is considered suitable where an E4 or RU4 zone is not considered appropriate. LEP Practice Note PN 09–002 Environment Protection Zones recommends the use of an RU4 zone or R5 zone in those situations, and if there are few environmental considerations, the R5 may be the appropriate zone.

Practice Note PN011-002 notes that the allocation of large lot residential land should be justified by council's housing/ settlement strategy prepared in accordance with planning principles set out in regional and subregional strategies, s.117 directions and relevant SEPPs.

E3 Environmental Management

This zone is generally **intended to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards.**

A limited range of development including 'dwelling houses' could be permitted. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses such as rural or residential.

This zone is considered suitable for land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. It is noted that Council chose to apply the E4 Environmental Living zone to the study area, and the E3 zone only permits a limited range of development.

E4 Environmental Living

This zone is generally intended for land with **special environmental or scenic values, and accommodates low impact residential development.** This zone may be applicable to areas with existing residential development in a rural setting, which still has some special conservation values.

This is the existing zone for the study area and is considered suitable for areas where the protection of the environmental significance of the land is the primary consideration in accordance with Practice Note PN 09-002 Environment Protection Zones.

4.3 MINIMUM LOT SIZE

Under the provisions of Palerang Local Environmental Plan 2014 clause 2.6 the minimum lot size within the study area is category AA2 - 6 hectares.

It is not within the scope of this study or the brief to review minimum lot size provisions.

4.4 BIODIVERSITY

The subject land is identified in the Palerang Local Environmental Plan 2014 Terrestrial Biodiversity Map.

Palerang Local Environmental Plan 2014 (LEP 2014) clause 6.3 is outlined below and the clause would continue to apply to any alternative zone adopted under the current PLEP 2014 where the Biodiversity map applies.

Clause 6.3 Terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by:
- *(a) protecting native fauna and flora, and*
- *(b) protecting the ecological processes necessary for their continued existence, and*
- *(c) encouraging the conservation and recovery of native fauna and flora and their habitats.*

(2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider:
- *(a) whether the development is likely to have:*
  - *(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
  - *(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
  - *(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
  - *(iv) any adverse impact on the habitat elements providing connectivity on the land, and*
- *(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- *(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- *(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- *(c) if that impact cannot be minimised—the development will be managed to mitigate that impact*

Biodiversity Assessment

Council engaged AQ Planning (landuse planner) and BIOSIS (ecologist) to undertake this review and consider any areas within the E4 zone that may be appropriate for an alternative landuse zone.

BIOSIS were engaged to review biodiversity within the study area. The BIOSIS Report "*Environmental Living (E4) Zone Review for Bywong and Wamboin NSW – Biodiversity Values Assessment February 2019*" concluded that:

Biodiversity values recorded within the study area include items such state and Commonwealth listed TECs, non-threatened native vegetation and flora and fauna habitats. These biodiversity values as have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity. Biodiversity values and classes are detailed in Table 3 and have been categorised as follows:

Class 1 – High biodiversity values.

- *TECs listed under BC Act or EPBC Act.*
- *High condition threatened species habitat listed under BC Act or EPBC Act.*
- *Non threatened vegetation in good condition.*
- *High value biodiversity connectivity corridors.*

Class 2 – Moderate biodiversity values.

- *Moderate to low condition habitat for threatened species under BC Act or EPBC Act.*
- *Non-threatened native vegetation in moderate to poor condition.*
- *Moderate value biodiversity connectivity corridors.*

Class 3 – Low biodiversity values.

- *Non-threatened native derived grassland vegetation.*
- *Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.*
- *Low value biodiversity connectivity corridors.*

Biodiversity values have been grouped as such to provide context to the biodiversity present within the study area at the landscape scale, to account for variation in specific PCTs and potential TECs present that require more detailed assessment to differentiate, and to allow future planning decision to be made at a more strategic level.

Where certain biodiversity values were not able to be determined at the scale of the current assessment, i.e. detailed site based and/or seasonal surveys are required to determine presence/absence, an additional category 'Class X' has been mapped and intended for use as an overlay to provide details on areas of potential high biodiversity values. Class X mapping should either be included in an updated Terrestrial Biodiversity layer in the Palerang LEP, or applied in similar manner. Overlap exists between the mapped Class X biodiversity values and the

Terrestrial Biodiversity LEP layer, which is expected, and it is intended that areas mapped as Class X should consider potential impacts to biodiversity values at the re-zoning or DA stages. These Class X biodiversity values are further detailed in Table 3.

5. Conclusion and Recommendations

This review has reconsidered the application of the E4 Environmental Living landuse zone and evaluated any appropriate alternative landuse zones that meet the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning and Environment. The E4 Environmental Living zone is for land with special environmental or scenic values, and accommodates low impact residential development.

BIOSIS have undertaken an assessment of the environmental significance of the study area and the findings from the report *Environmental Living (E4) zone review for Bywong and Wamboin, NSW Biodiversity Values Assessment* are provided below:

Following the biodiversity assessment undertaken across the study area, a range of biodiversity values were recorded, ranging from highly threatened, and as such high conservation value, vegetation and habitats to areas of exotic vegetation and exotic dominated pasture. As such a range of recommendations have been developed with regard to the suitability of the current E4 zoning and the potential for certain areas, supporting lower levels of biodiversity, to be rezoned more appropriately for the current landuse practices based on the biodiversity assessment.

Table 4 provides a list of recommendations with regards to the potential future zoning and how these relate to the biodiversity values recorded within the study area. Generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

Areas mapped as Class X are considered to have the potential to support biodiversity values of high conservation priority, which require detailed site-based and/or seasonal assessments to determine presence/absence. This level of investigation was not undertaken as part of the current scope of the assessment, where access was available to 33 of the total 1200+ lots within the study area. Re-zoning recommendations for areas where Class X biodiversity values have been mapped are based on the broader scale biodiversity values that were able to be confirmed as part of the current assessment. It is recommended the Class X mapping is used as a trigger for detailed site-based biodiversity assessment during future DAs or broader planning considerations.

The focus of this study has mainly been on terrestrial biodiversity values, and as noted in Section 4.4 aquatic habitats are generally in poor condition, however the protection of existing waterways is an important consideration in future landuse decisions. Waterways within the study area are typically first, second or third order waterways and as such, in accordance with the objectives of the WM Act, activities are to be restricted when occurring within proximity to the riparian corridor of these waterways. Works within 40 metres

of any waterway will be subject to controlled activity approval (public authorities such as Council are exempt) from a Controlled Activity Approval, with each application to be assessed on a case by case basis. Any subsequent subdivision or planning application will require the decommissioning of online water storages or water harvesting access licences will apply to the landholder. Although Council is exempt from a controlled activity approval, any proposed rezoning should consider the objectives of the Act as well as subsequent development applications.

The recommendations in Table 4 below should be considered if and when Council decide to rezone parts of the study area, and it is recommended that the development of biodiversity overlays be considered for protection of high level biodiversity values present in areas where the surrounding landuse is of an agricultural nature. This will allow flexibility for community members to continue to use and manage their land in the manner they wish, and allow for the protection of State and Commonwealth listed vegetation and habitats where they occur across the fragmented landscape.

The planning recommendations included in this report below follow the assessment of the native vegetation by BIOSIS within both localities undertaken in 2018 and have had regard to the Standard Instrument, Ministerial Directions, Practice Notes and other relevant requirements of the Department of Planning and Environment.

LEP Practice Note Environment Protection Zones PN 09–002 is the key consideration in determining the applicability of the E4 Environmental Living Zone.

In summary, the practice note advises that the E4 Environmental Living zone is for land with special environmental or scenic values, that accommodates low impact residential development and is applied where the protection of the environmental significance of the land is the primary consideration.

Therefore in determining the suitability of the E4 Environmental Living zone the environmental significance of the land must be established as the primary consideration.

Where the environmental significance of the land is determined as not the primary consideration other zones may be considered.

Where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 Rural Small Holdings zone should be considered. If there are few environmental considerations, then R5 may be the appropriate zone.

Where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone.

Recommendation 1:

a) **Council consider an R5 Zone for BIOSIS Class 3 mapped land; and**

b) **Council consider an amendment to PLEP 2014 Clause 6.3 Map "Terrestrial Biodiversity" to include BIOSIS Class X mapped lands not included as "Biodiversity" on the Terrestrial Biodiversity Map.**

Summary:

- BIOSIS concluded that Class 3 lands consist of low biodiversity values including:
  - Non-threatened native derived grassland vegetation.
  - Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.
  - Low value biodiversity connectivity corridors.

- Based on the BIOSIS Assessment, Class 3 land does not meet the guidelines for use of an E4 Zone as outlined in LEP Practice Note Environment Protection Zones PN 09–002 where protection of the environmental significance of the land is the primary consideration.

- Practice Note 09–002 recommends the use of an RU4 zone or R5 zone where E4 is not considered appropriate in accordance with the Practice Note.

- Limited commercial primary industry production landuses exist or are likely to be undertaken to meet the RU4 zone objectives and guidelines for use of zone.

- An R5 Zone reflects the predominant landuse of residential living with dwellings and landuses associated with residential living.

- An amended Biodiversity layer for Class X, and R5 zone objectives relating to *preserving, and minimising impacts on, environmentally sensitive locations and scenic quality, and to minimise the impact of any development on the natural environment* would ensure biodiversity issues are considered at development application stage.

- An R5 zone would enable agricultural activities to continue and be permitted with consent such as: *Cellar door premises; Extensive agriculture; Farm buildings; Horticulture; Viticulture (as included in PLEP 2014 R5 landuse table)*

- As outlined in Table 1 in Section 3.7 the difference between E4 and R5 zone permitted landuses is not significant under the current PLEP 2014

- Under the provisions of Palerang Local Environmental Plan 2014 clause 2.6 the minimum lot size within the study area is category AA2 - 6 hectares.

- Any change of zone without alteration to the existing minimum allotment size is unlikely to result in any additional dwellings than would currently be possible under the existing E4 zone as dwellings and dual occupancy development are permissible with consent in both the R5 and E4 zones in PLEP 2014.

Recommendation 2:

a) Council consider retaining the existing E4 zone for BIOSIS Class 1 and 2 mapped land; and

b) Council consider an amendment to PLEP Clause 6.3 Map "Terrestrial Biodiversity" to include BIOSIS Class X mapped lands not included as "Biodiversity" on the Terrestrial Biodiversity Map.

Summary:

- BIOSIS Class 1 and 2 mapped land has biodiversity value as outlined in the BIOSIS report consistent with LEP Practice Note Environment Protection Zones PN 09–002 for use of the E4 zone.

- BIOSIS found that generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

- BIOSIS have suggested that some Class 1 and 2 lands be considered for either RU4, E2 or E3 subject to meeting the criteria outlined in Table 4 of the BIOSIS report.

- The use of the RU4 zone is not considered appropriate for the reasons outlined in Recommendation 1, and Class 1 and 2 mapped land has biodiversity value consistent with LEP Practice Note Environment Protection Zones PN 09–002 for use of the E4 zone.

- BIOSIS also recommended that detailed biodiversity assessments are required for future landuse changes / development activities in accordance with State and Commonwealth legislation for Class 1 and 2 land. Any proposed zone change from E4 to either RU4, E2 or E3 would require further detailed biodiversity assessment.

Required Future Actions

Should Council resolve to prepare a planning proposal to rezone or amend the existing PLEP 2014 E4 zone the planning proposal would be required to address the following matters, and any other relevant matters specified by the Department of Environment and Planning:

- Comply with the relevant provisions of Section 9.1 Directions:
  - Direction 2.1 Environment Protection Zones
  - Direction 1.5 Rural Lands
  - Direction 3.1 Residential Zones
- Review R5 landuses. Different R5 zones are included in both the PLEP 2014 and QLEP 2012, requiring a detailed review of both R5 zones objectives and permitted uses prior to the preparation of a preferred R5 zone for a future LEP.
- An amendment to PLEP 2014 Clause 6.3 Map "Terrestrial Biodiversity" to include BIOSIS Class X mapped lands not included as "Biodiversity" on the Terrestrial Biodiversity Map.
- Any future consideration of minimum lot sizes which could result in any additional dwellings than would currently be possible under the existing E4 zone would need to be assessed against local character which will be a component of the preparation of future local strategic planning statements.
- Any alteration to the minimum lot size which could potentially enable **new** rural-residential development would need to address Direction 28.1 of the South East and Tablelands Regional Plan - *enable new rural residential development only where it has been identified in a local housing strategy prepared by council and approved by the Department of Planning and Environment.*
- Consult with the Department of Planning and Environment to confirm the need or otherwise for a local housing strategy having regard to the extent of existing rural residential development and potential for future rural residential development based on existing minimum lot size in accordance with:
  - Practice Note PN011-002 consideration that the allocation of large lot residential land should be justified by council's housing/settlement strategy; and
  - South East and Tablelands Regional Plan Actions
    - 28.1 *Enable new rural residential development only where it has been identified in a local housing strategy*

prepared by council and approved by the Department of Planning and Environment.

- 24.2: *Prepare local housing strategies consistent with the Settlement Planning Principles to provide a surplus supply of residential land to meet projected housing needs.*

6. References

BIOSIS 2019. *Environmental Living (E4) zone review for Bywong and Wamboin, NSW Biodiversity Values Assessment.*

Planning NSW 2011. *LEP practice note PLANNING SYSTEM Local Planning PN 11-002*

NSW Department of Planning 2009. *LEP practice note STANDARD INSTRUMENT FOR LEPS Standard zones Note PN 09–002*

NSW Department of Planning and Environment 2018. *Planning circular PLANNING SYSTEM Respecting and enhancing local character in the planning system Circular PS 18-001*

NSW Department of Planning and Environment 2017. *The South East and Tablelands Regional Plan 2036*

QPRC Brief 2018. *Review of the Application of the E4 Environmental Living Zone in the localities Bywong and Wamboin*

QPRC Business Paper 13 December 2017. Ordinary Meeting of the Queanbeyan-Palerang Regional Council.

Appendix C – BIOSIS, Environmental Living (E4) Zone Review for Bywong and Womboin NSW – Biodiversity Values Assessment - March 2019

Environmental Living (E4) zone review for Bywong and Wamboin, NSW

Biodiversity Values Assessment

FINAL REPORT

Prepared for Queanbeyan-Palerang Regional Council

15 March 2019

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- NSW Department of Primary Industries Fisheries for access to the predicted distribution maps for threatened species and fish communities

Biosis staff involved in this project were:

- James Lidsey, Callan Wharfe and Paul Price (fieldwork)
- Anne Murray (mapping)

Contents

Tables

Figures

Glossary

ACT	Australian Capital Territory
BC Act	*NSW Biodiversity Conservation Act 2016*
Biosecurity Act	The *Biosecurity Act 2015*
BOS	Biodiversity Offsets Scheme
CBD	Central Business District
CEEC	Critically Endangered Ecological Community
DEE	Department of the Environment and Energy
DPE	NSW Department of Planning and Environment
DPI	Department of Primary Industries
EEC	Endangered Ecological Community
EP&A Act	*Environmental Planning and Assessment Act 1979*
EPBC Act	*Environment Protection and Biodiversity Conservation Act 1999*
FM Act	*Fisheries Management Act 1994*
GIS	Geographic Information System
KTP	Key Threatening Process
LEP	Local Environmental Plan
LGA	Local Government Area
LLS	Local Land Services
Matters of NES	Matters of National Environmental Significance
NSW	New South Wales
OEH	NSW Office of Environment and Heritage
PCT	Plant Community Type
SIS	Species Impact Statement
study area	Approximately 9,500 hectares comprising the localities of Bywong and Wamboin, NSW within the Queanbeyan-Palerang Regional Council local government area
TEC	Threatened Ecological Community
WM Act	*Water Management Act 2000*

Summary

Biosis Pty Ltd was commissioned by Queanbeyan-Palerang Regional Council (Council) to undertake a review of biodiversity values of the E4 Environmental Living zones in the localities of Bywong and Wamboin (the project) (Figure 1).

The objective of this project was to undertake a region-wide biodiversity values assessment to guide potential future rezoning of E4 Environmental Living land as either R5 Large Lot Residential, RU4 Primary Production Small Lots or another suitable landuse zones.

The study area covers approximately 9,500 hectares comprising the localities of Bywong and Wamboin, NSW within the Queanbeyan-Palerang Regional Council local government area (LGA). The most dominant land uses include agricultural and semi-rural residential living with the study area having a mix of exotic and native vegetation with varying conditions.

The method for this biodiversity values assessment included a desktop database search and a field investigation that sampled a number of selected properties as well as rapid vehicle inspections of the remaining areas at a landscape scale.

Key biodiversity values across the study area included:

- Areas of state and Commonwealth listed threatened ecological communities in varying ecological condition states.
- Habitat for listed threatened species ranging from high condition in larger patches of intact vegetation to poor condition in areas surrounded by grazed pasture.
- Large areas of intact non-threatened native vegetation, some of which provide high value movement corridors for flora and fauna species
- Areas where the dominant landuse has historically been agricultural and occur as mixed native / exotic pasture within scattered trees, providing limited biodiversity value.

Recommendations

Following the biodiversity values assessment undertaken across the study area, a range of biodiversity values were recorded, ranging from threatened vegetation and habitats to areas of exotic vegetation and exotic dominated pasture. As such a range of recommendations have been developed with regard to the suitability of the current E4 zoning and the potential for certain areas, supporting lower levels of biodiversity, to be rezoned having regard to biodiversity considerations. Further means of protecting smaller and/or isolated batches of high value biodiversity in an agricultural landscape are suggested, such as biodiversity overlays or the use of planning instruments to convey positive covenants on areas.

1 Introduction

1.1 Project background

Biosis Pty Ltd was commissioned by Queanbeyan-Palerang Regional Council (herein referred to as Council) to undertake a review of biodiversity values of the E4 Environmental Living zoned land in the localities of Bywong and Wamboin (the project) (Figure 1).

The majority of both Bywong and Wamboin is zoned as E4 Environmental Living zone by the Palerang Local Environmental Plan 2014. The aim of an E4 Environmental Living zone is to protect land with special environmental or scenic values, while accommodating low impact residential development.

Council is considering to rezone parts of E4 zoned land within Bywong and Wamboin to a more appropriate zoning based on the biodiversity values present. Potential zones include R5 Large Lot Residential, RU4 Primary Production Small Lots or another suitable landuse zones.

The objective of this assessment is to undertake a preliminary region-wide biodiversity values assessment to guide potential future rezoning of E4 Environmental Living land. Biodiversity values considered include threatened flora, fauna, populations or ecological communities (biota) listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), NSW *Biodiversity Conservation Act 2016* (BC Act) and *Fisheries Management Act 1994* (FM Act) as well as non-threatened vegetation and flora and fauna.

This assessment will inform the preparation of a recommendation document being prepared by AQ Planning and it will ultimately inform the preparation for the draft Queanbeyan-Palerang Local Environmental Plan.

1.2 Location of the study area

The study area covers approximately 9,500 hectares comprising the localities of Bywong and Wamboin, NSW within the Queanbeyan-Palerang Regional Council LGA. The study area excludes any land not zoned E4 Environmental Living (Figure 1).

The study area is located approximately 20 kilometres north-east of Canberra and immediately north of the boundary of New South Wales (NSW) and Australia Capital Territory (ACT).

The study area is within the:

- South Eastern Highlands Interim Biogeographic Regionalisation of Australia (IBRA) bioregion
- Murrumbateman and Monaro IBRA subregions
- Murrumbidgee River catchment
- South East Local Land Services (LLS) Management Area

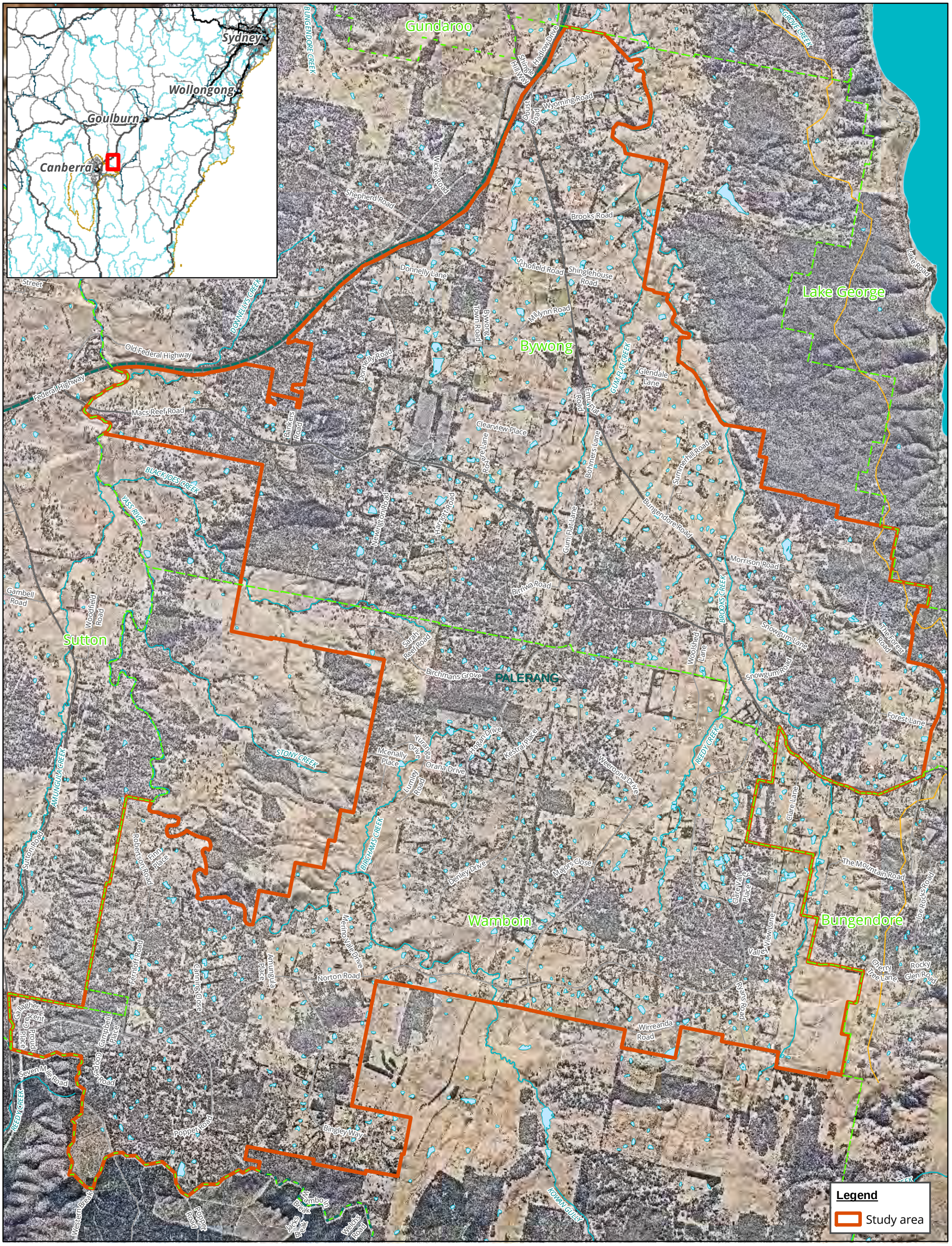

Figure 1: Location of the study area

Biosis Pty Ltd

Albury, Ballarat, Melbourne,Newcastle, Sydney, Wangaratta & Wollongong

Acknowledgements: Imagery (c) Nearmap 2014
Topo (c) NSW Land and Planning Information (2012)

Matter: 28631
Date: 18 January 2019,
Checked by: KRA, Drawn by: AEDM, Last edited by: amurray
Location:P:\28600s\28631\Mapping\
28631_F1_Location

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Metres
Scale 1:45,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

N

2 Legislative context

This section provides an overview of key biodiversity legislation and government policy considered in this assessment. Where available, links to further information are provided. This section does not describe the legislation and policy in detail and guidance provided here does not constitute legal advice.

2.1 Commonwealth

2.1.1 Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the Australian Government's key piece of environmental legislation. The EPBC Act applies to developments and associated activities that have the potential to significantly impact on Matters of National Environmental Significance (NES) protected under the Act. Under the EPBC Act, activities that have potential to result in significant impacts on Matters of NES must be referred to the Commonwealth Minister for the Environment and Energy for assessment.

A rezoning proposal would be required to consider impacts to matters of Matters of NES in its application. Matters of NES relevant to the current study include nationally threatened species and ecological communities that have been identified within the study area and are addressed in Section 4.

2.2 State

2.2.1 Environmental Planning and Assessment Act 1979

The EP&A Act was enacted to encourage the proper consideration and management of impacts of proposed development or land-use changes on the environment (both natural and built) and the community. The EP&A Act is administered by the NSW Department of Planning and Environment (DPE).

The EP&A Act provides the overarching structure for planning in NSW and is supported by other statutory environmental planning instruments. Sections of the EP&A Act of primary relevance to the natural environment are outlined further below.

A rezoning planning proposal would be assessed under 3.4 of the Act with Council as the planning proposal authority.

Local Environmental Plans

The study area is subject to the Palerang Local Environmental Plan 2014 (LEP) and is zoned E4 Environmental Living.

The objectives of this zone in accordance with the LEP are:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- *To encourage development that is visually compatible with the landscape.*
- *To minimise the impact of any development on the natural environment.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*

- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

2.2.2 Biodiversity Conservation Act 2016

The BC Act is the key piece of legislation providing for the protection and conservation of biodiversity in NSW through the listing of threatened species, populations and communities (biota), key threatening processes (KTPs) and critical habitat for threatened biota.

As part of the rezoning process impacts to threatened biota are assessed under Section 1.7 of the EP&A Act and Section 7.3 of the BC Act. If assessment under the EP&A Act and BC Act determines a project is likely to result in a significant effect to threatened biota then a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR) in accordance the BOS should be prepared.

Threatened biota listed under the BC Act are discussed in Section 4.3.

2.2.3 Fisheries Management Act 1994

The FM Act provides for the protection and conservation of aquatic species and their habitat throughout NSW. Impacts to threatened species, populations and communities, and critical habitats listed under the FM Act must be assessed through the Assessment of Significance process under Section 1.7 of the EP&A Act (see above). If assessment under Section 1.7 of the EP&A Act determines a project is likely to result in a significant effect to threatened species, populations or communities then a SIS should be prepared.

Threatened biota listed under the FM Act are discussed in Section 4.4.

2.2.4 Water Management Act 2000

The WM Act provides for the sustainable and integrated management of the state's water for the benefit of both present and future generations based on the concept of ecologically sustainable development. Under the WM Act an approval is required to undertake controlled activities on waterfront land, unless that activity is otherwise exempt under section 91E. Waterfront land is defined within the Act as the bed of any river, lake or estuary and any land within 40 metres of the river banks, lake shore or estuary mean high water mark. Under section 41 of the Water Management (General) Regulation 2018, public authorities are exempt from section 91E (1) of the Act obtaining a controlled activity approval.

Although Council is exempt from the WM Act, the rezoning process should consider the impacts the objectives of the Act as well as subsequent development applications by the landowners.

3 Methods

3.1 Literature and database review

In order to provide a context for the study area, information about flora and fauna from was obtained from relevant public databases. Records from the following databases were collated and reviewed:

- Commonwealth Department of the Environment and Energy (DEE) Protected Matters Search Tool for matters protected by the EPBC Act.
- NSW Office of Environment and Heritage (OEH) BioNet Atlas of NSW Wildlife for matted protected under the BC Act.
- ACTmapI – a public database that holds all current flora and fauna records for the ACT. Although the study area was located fully in within the boundaries of NSW, a search of ACT database was also undertaken given the proximity to the ACT.

Relevant vegetation mapping, including:

- *Native Vegetation of the Palerang Local Government Area. Palerang Rural Lands Study - BioMetric Vegetation Types and Known Threatened Species* (Umwelt 2015 [version updated 2018]). This dataset is based on the original 2015 data which has since been updated (last edit in 2018, version 3) to include the Queanbeyan area and the vegetation has been converted to Plant Community Types (PCT).
- *Native vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands* (SCIVI) (Tozer et al. 2010).

3.2 Site investigation

The aim of the field investigation was to broadly confirm and map the presence and condition of biodiversity values through the collection of landscape scale data on vegetation types and fauna habitats, supplemented by finer scale site based information where property access was available.

A field investigation of the study area was undertaken by Biosis ecologists Paul Price, James Lidsey and Callan Wharfe over two visits between 21-23 November 2018 and 19-20 December 2018. The field investigation included sampling a number of selected properties combined with rapid vehicle inspections of the remaining areas where access was not possible (Figure 2). Some properties were assessed from the street or over the fence. All streets of the Wamboin and Bywong area were driven and biodiversity values were recorded across the entire study area. A total of 33 lots within the study area were accessed by foot to undertake site based assessment of biodiversity values.

3.3 Limitations

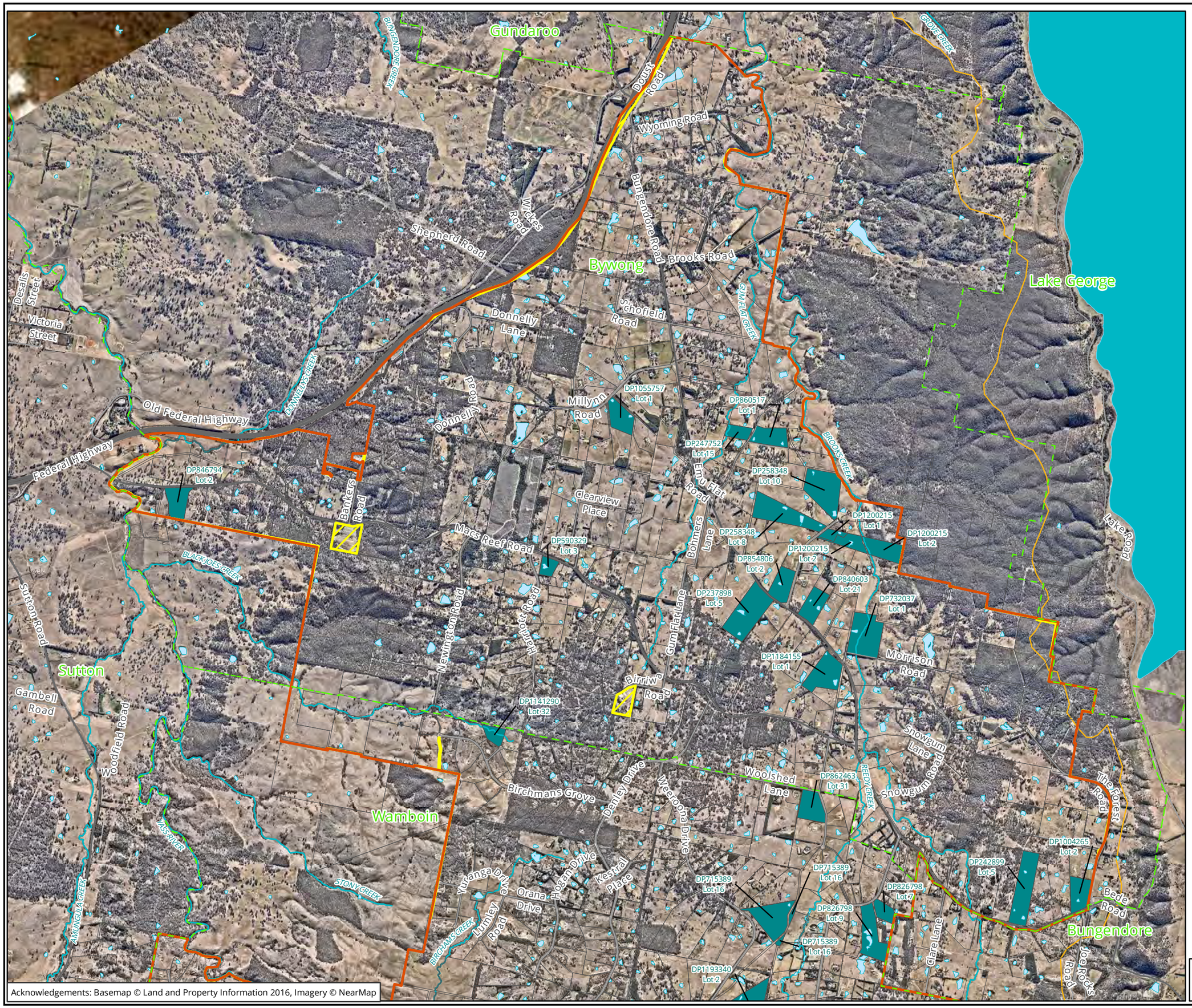
Biodiversity surveys provide a sampling of flora and fauna at a given time and season. There are a number of reasons why not all species will be detected during survey, such as species dormancy, seasonal conditions, ephemeral status of waterbodies, and migration and breeding behaviours of some fauna. In many cases these factors do not present a significant limitation to assessing the overall biodiversity values of a study area.

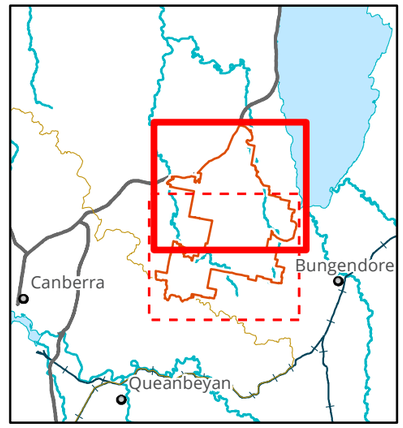
The current assessment was conducted in December 2018 after recent rain, but following on from a long and severe drought, and as such is not considered an optimal time for survey. As a result, the presence of many

drought sensitive flora and fauna species may not have been detectable at either the landscape or site based scales. At times broad assumptions on the occurrence of certain biodiversity values were made based on the species detectable at the time of survey, and the ecologists' knowledge of the local area. These assumptions were made to determine the character of the vegetation and habitats within the study area. Where clear consensus on the biodiversity values present could not be reached, a precautionary stance was taken when considering the value of a vegetation patch of other habitat feature with regards to its importance for supporting high value biodiversity items.

The largely landscape scale of the survey was designed to capture an overview of biodiversity values and create associated mapping of the study area as a whole rather than detail all flora and fauna present at a fine site based scale. As such the mapping provided should be considered at an appropriate scale and has not been intended to provide detailed information that can be used in impact assessments to support landuse changes for each property (or similar site based uses).

A number of biodiversity values potentially present within the study area require a higher level of site based assessment than was undertaken in the current investigation. Such biodiversity values include grasslands derived from threatened ecological communities that themselves meet the listing criteria under state of Commonwealth legislation, or fauna habitat for threatened species known to utilise exotic dominated pasture during their life-cycle. The presence of such biota was not able to be determined as part of the current assessment due to the scale of the survey work undertaken. Access was requested to about half the 1200+ lots in the study area via letters sent to property owners. Responses were received from over 150 properties granting access, of which Biosis were able to access 33 of these lots to undertake more detailed field validation of biodiversity values. To address this issue, areas of potential habitat have been determined based on existing knowledge, survey work completed, and the known ecological niches occupied by these threatened items. Further specific detail is provided in Section 4.5.





Legend

- Study area
- Sites visited
- Land excluded from assessment (not E4 zoned)

Figure 2.1: Assessment area

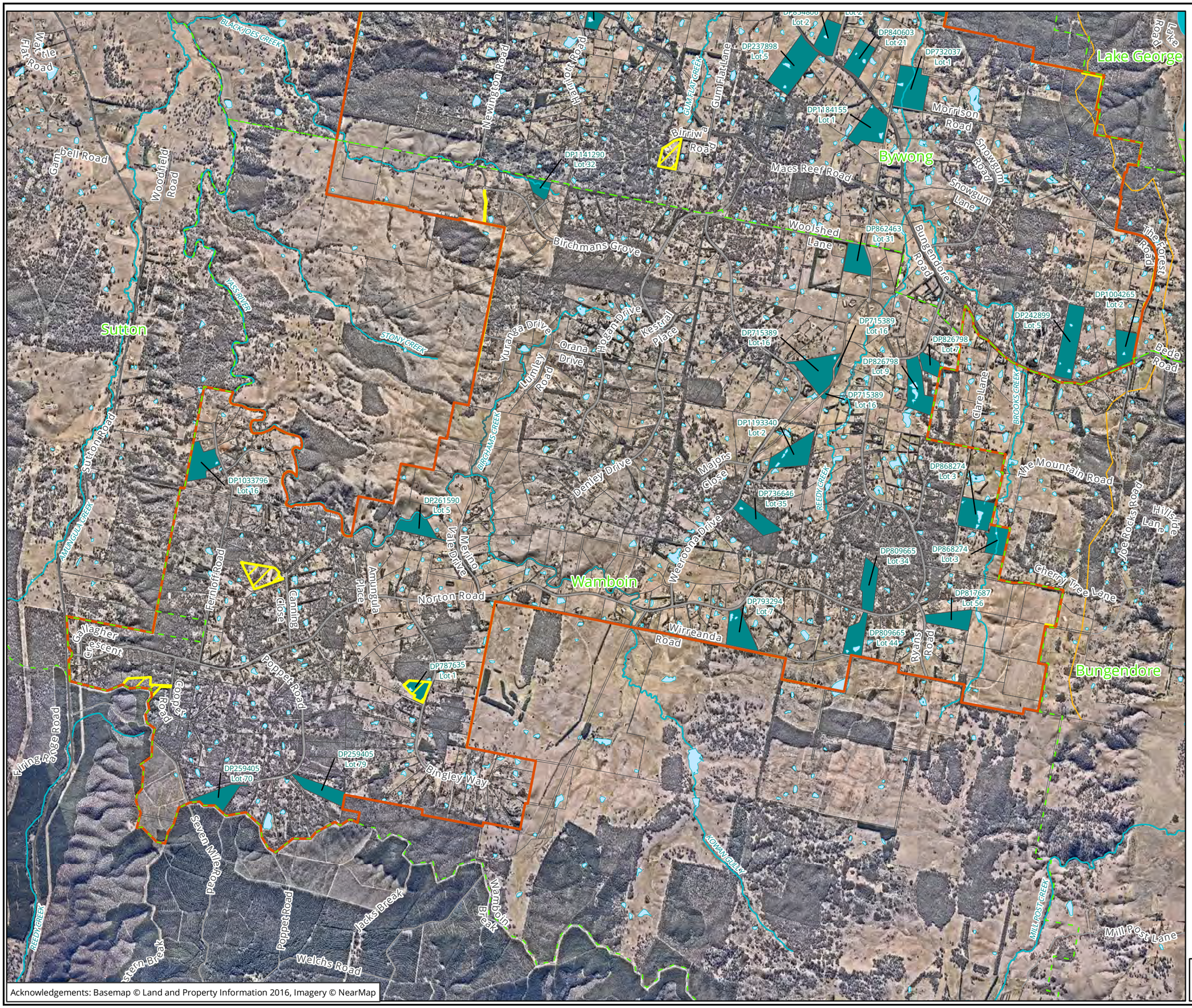
0 400 800 1,200 1,600 2,000

Metres
Scale: 1:40,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

Biosis Pty Ltd

Albury, Ballarat, Melbourne,
Newcastle, Sydney, Wangaratta & Wollongong

Matter: 28631
Date: 25 January 2019,
Checked by: KRA, Drawn by: AEDM, Last edited by: amurray
Location:P:\28600s\28631\Mapping
28631_F2_AssessmentArea



Legend

- Study area
- Sites visited
- Land excluded from assessment (not E4 zoned)

Figure 2.2: Assessment area

0 400 800 1,200 1,600 2,000

Metres

Scale: 1:40,000 @ A3

Coordinate System: GDA 1994 MGA Zone 55

biosis

Biosis Pty Ltd

Albury, Ballarat, Melbourne,
Newcastle, Sydney, Wangaratta & Wollongong

Matter: 28631
Date: 25 January 2019,
Checked by: KRA, Drawn by: AEDM, Last edited by: amurray
Location:P:\28600s\28631\Mapping
28631_F2_AssessmentArea

4 Results

This section notes the results of the field investigation. The biodiversity values of the broader study area are described below and mapped in Figure 3.

4.1 Landscape context

The study area is a mix of native/exotic paddocks and pasture, and native vegetation in varying conditions. Most dominant land uses include small farms supporting cropping and/or livestock and residential living.

The dominant soil landscape in the study area is mapped as Dalton Hills which is described as linear ranges and undulating hills on steep dipping, folded Ordovician quartzose greywacke, slate, chert, phyllite. Dendritic to rectangular drainage network, with a general elevation 500 to 700 metres, and a local relief of less than 100 metres. Texture-contrast soils are dominant, with red on upper slopes grading to harsh yellow clay subsoils with hard setting A horizons on lower slopes. Characteristic vegetation within the soil landscape includes Yellow box *Eucalyptus melliodora*, White Box *Eucalyptus albens*, Grey Box *Eucalyptus microcarpa*, Red Stringybark *Eucalyptus macrorhyncha*, Inland Scribbly Gum *Eucalyptus rossii* and grassy woodlands originally dominated by Kangaroo Grass *Themeda triandra* now extensively modified by grazing and cultivation. River Oak *Casuarina cunninghamiana* occurs along most streams with River Red Gum *Eucalyptus camaldulensis* appearing in the north (Mitchell 2002).

Vegetation connectivity within the study area varies widely in relation to residential and agricultural practices. In most cases across Wamboin and Bywong, historical clearing and grazing are focused on the lower lying valleys between the residential areas where the soils are most fertile. Surrounding these areas is varying degrees of residential development where patches of intact/remnant native vegetation remain, these patches differing considerably in size. Vegetation connectivity is highly dependent on land use, in general, the southern area of Wamboin is relatively highly vegetated and is partially linked to the Kowen Escarpment Nature Reserve. Whereas the northern area of Bywong is relatively un-vegetated and remnant patches of native vegetation that remain are isolated from surrounding larger patches. Figure 3 shows the connectivity of the study area to larger vegetated areas.

4.2 Vegetation communities

Due to historical grazing and clearing for agricultural and residential purposes, the study area was a mix of native and exotic vegetation. A total of three vegetation communities was validated within the study area:

- *Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion*
- *Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest and Derived Native Grassland*
- Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land.

These Plant Community Types (PCTs) are described in the tables below. A number of additional PCTs are mapped by Umwelt (2015 [version updated 2018]) and/or SCIVI (Tozer et al 2010), which were not able to be validated during the field investigation, either due to access or a lack of detection where mapped.

In addition to the vegetation communities found to be present, the study area supports a range of biodiversity values including; scattered trees, grasslands, waterways, rocky outcrops. The biodiversity values recorded within the study area are further described below (Table 1).

Table 1 Vegetation communities of the study area.

Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion and derived grasslands	
Plant Community Type	*1330 Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion*
Description including fauna habitat	Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion occurs on loamy soils on undulating terrain between 500 and 900 metre on the south eastern tablelands. The vegetation community usually exists as an open woodland but can also exist as a derived native grassland (where the canopy species have been removed). When present, the canopy species are some of the most notable species of the community consisting of one or more of the following; Apple Box *Eucalyptus bridgesiana*, Yellow Box *Eucalyptus melliodora* and Blakely's Red Gum *Eucalyptus blakelyi*. The understory consists of a diverse range of native tussock grasses, herbs and scattered shrubs including; Kangaroo Grass *Themeda australis*, Poa Tussock *Poa sieberiana*, Wallaby grasses *Rytidosperma spp.*, Spear-grasses *Austrostipa spp*., Common Everlasting *Chrysocephalum apiculatum,* Scrambled Eggs *Goodenia pinnatifida*, Small St John's Wort *Hypericum gramineum*, Narrow-leafed New Holland Daisy *Vittadinia muelleri* and Blue-bells *Wahlenbergia spp*. This ecological community is most commonly associated with fertile soils in lower regions of the landscape. Within the study area, most remnants of this community were in close proximity to farmland where historical clearing/grazing were a common practice. As a result, most remnant patches consisted of scattered trees of the community type, with a heavily grazed understorey consisting of a native and exotic mix of species.
Condition	The community condition class varied across the landscape as a result of historic clearing and grazing and was generally found to be in a poor condition state. Patches that were identified to meet the minimum requirements for a listing under the EPBC Act and/or BC Act were identified as a high biodiversity values in Table 3. This included derived grasslands where confirmed present.
Associated soils, rainfall and landscape position	Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion is associated high fertility soils and rainfall values between 400 and 800 millimetres at an altitude 170 to 1200 metres (DECCW, 2010).
Threatened ecological community	**Commonwealth EPBC Act:** Listed as the Critically Endangered *White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland* **NSW BC Act:** Listed as the Endangered *White Box Yellow Box Blakely's Red Gum Woodland*
Threatened species habitat	This community has a potential to provide foraging and roosting habitat for a wide variety of fauna including; Golden Sun Moth *Synemon plana*, Pink-tailed Worm Lizard *Aprasia parapulchella*, Little Whip Snake *Suta flagellum*, Rosenberg's Goanna *Varanus rosenbergi* and Regent Honeyeater *Anthochaera Phrygia.* In addition to providing habitat for a number of threatened flora species including; Aromatic Peppercress *Lepidium hyssopifolium*, Hoary Sunray *Leucochrysum albicans* var. *tricolor*, Small Purple Pea *Swainsona recta* and *Swainsona sericea* Silky Swainson-pea (DECCW, 2010).

Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion and derived grasslands	
Picture: Yellow Box - Blakely's Red Gum grassy woodland on the tablelands, South Eastern Highlands Bioregion in low condition but meeting BC Act listing criteria	

Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest and derived grassland	
Plant Community Type	*1093 Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest of the tablelands, South Eastern Highlands Bioregion*
Description including fauna habitat	Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest of the tablelands, South Eastern Highlands Bioregion occurs on ridges Southern and Central Tablelands, between Wallerawang and Captains Flat. The vegetation community usually exists as an open forest but can also exist as a derived native grassland (where the canopy species have been removed). The dominant canopy species of this community include; Red Stringybark, Brittle Gum *Eucalyptus mannifera* and Inland Scribbly Gum. Co-dominant canopy species include; Broad-leaved Peppermint *Eucalyptus dives* and Long-leaved Box or Bundy *Eucalyptus goniocalyx*. The mid-storey and understory species consist of sclerophyll shrubs, and sparse ground layer of grasses and forbs including; *Hibbertia obtusifolia*, *Brachyloma daphnoides, Daviesia leptophylla, Gonocarpus tetragynus, Lomandra filiformis* subsp. *coriacea,* Snow Grass *Poa sieberiana* var. *sieberiana, Goodenia hederacea, Dianella revoluta* var. *revoluta,* Redanther Wallaby Grass *Rytidosperma pallida* and *Hovea linearis*. This ecological community is most commonly associated with low fertility soils in higher regions of the landscape. Within the study area, a number of large, intact patches were present as the soils where this community exist are not preferred for agricultural purposes. Clearing of this community was more commonly associated with residential activity.
Condition	The community's condition class varied across the landscape as a result of historic clearing and grazing. Patches that were considered as intact and represented the community in all its structural layers were identified as a high biodiversity values and areas that did not meet these requirements, such as native grasslands derived from the historical clearing of this vegetation type, were re-evaluated in Table 3.

Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest and derived grassland	
Associated soils, rainfall and landscape position	Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest and Derived Native Grassland is associated low fertility soils at an altitude 550 and 1150 metres.
Threatened ecological community	**Commonwealth EPBC Act:** Not Listed **NSW BC Act:** Not Listed
Threatened species habitat	This community has a potential to provide foraging and roosting habitat for a wide variety of fauna including; Golden Sun Moth, Pink-tailed Worm Lizard, Little Whip Snake, Rosenberg's Goanna and Regent Honeyeater. In addition to providing habitat for a number of threatened flora species including; Hoary Sunray.
Picture: Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest in high condition	

Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land	
Plant Community Type	Not associated with a PCT.
Description including fauna habitat	This vegetation was found to cover large portions of the study area where native vegetation had been historically cleared for farming or other agricultural processes. Generally this vegetation consists of mixed native and exotic pasture which has been historically "improved" through the addition of fertiliser to promote grass growth for livestock grazing. Exotic trees occur throughout the landscape as planted windrows or self-seeded individuals. Scattered native trees also occur where they have been retained also as windbreaks or to provide shade to livestock. Weeds are common in the for o exotic pasture and tussock grasses and well and herbaceous annuals such as thistles, mustards and other disturbance tolerant species. Fauna habitat is limited to that provided by the scattered native and exotic trees, grass tussocks, surface rock within grassy areas and woody debris.

Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land	
Condition	The vegetation occurs in low ecological condition, however there is still the potential for high value biodiversity items to be supported by the limited habitats provided. See Section 4.5 for further details.
Associated soils, rainfall and landscape position	This vegetation is not associated with any particular soil landscape or rainfall.
Threatened ecological community	**Commonwealth EPBC Act:** Not listed **NSW BC Act:** Not listed
Threatened species habitat	This community has a potential to provide habitat for Golden Sun Moth and potentially other threatened species on a transient basis.
Picture: Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land	

4.3 Threatened biota

Threatened biota includes all flora and fauna species, populations and ecological communities listed under the EPBC Act, BC Act and FM Act. The threatened species considered most likely to occur within the study area are detailed in Table 2 below.

Table 2 Threatened biota likely to occur within the study area

Species name	EPBC status	BC / FM status	Relevance to study area.
Ecological communities			
White Box Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland	Critically Endangered	Endangered	During the field investigation, areas of vegetation scattered throughout the landscape met the listing requirement for this community and were mapped accordingly as a high biodiversity values.
Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory	Critically Endangered	Not listed	One patch of Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory is mapped by Umwelt (Umwelt 2015 [version updated 2018]) within the study area. However, this vegetation was not able to be confirmed during the assessment due to access constraints. The surrounding vegetation was found to be low condition grasslands with a high abundance of exotic species.
Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland in the South Eastern Highlands, Sydney Basin, South East Corner and NSW South Western Slopes Bioregions	Not listed	Endangered	A number of patches of vegetation listed as Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland in the South Eastern Highlands, Sydney Basin, South East Corner and NSW South Western Slopes Bioregions are mapped by Umwelt (Umwelt 2015 [version updated 2018]) within the study area. However, the current investigation did not confirm the presence of this TEC. Where mapped areas could be assessed from roadside, no characteristic tree species were recorded, with a lack of access preventing other areas from being assessed.
Flora			
Aromatic Peppercress ***Lepidium hyssopifolium***	Endangered	Endangered	Aromatic Peppercress is directly related to the study area as the vegetation communities, part of broader vegetation classes such as Temperate Montane Grasslands, Southern Tableland Grassy Woodlands have the potential to provide habitat for the species. Aromatic Peppercress has also been recorded within the study area.
Hoary Sunray ***Leucochrysum albicans*** **var.** ***tricolor***	Not listed	Endangered	Hoary Sunray is directly related to the study area as the vegetation communities, part of broader vegetation classes such as Southern Tableland Grassy Woodlands have the potential to provide habitat for the species. Hoary Sunray grows in disturbed areas and inter-tussock spaces in

Species name	EPBC status	BC / FM status	Relevance to study area.
			grasslands, woodlands and forests. Hoary Sunray has also been recorded within the study area.
Small Purple Pea ***Swainsona recta***	Endangered	Endangered	Small Purple Pea is directly related to the study area as the vegetation communities are part of broader vegetation classes such as Temperate Montane Grasslands and Southern Tableland Grassy Woodlands have the potential to provide habitat for the species. Small Purple Pea grows on stony hill sides and in grassy understories in grasslands and woodlands. The Small Purple Pea has also been recorded within 5 kilometres of the study area.
Silky Swainson-pea ***Swainsona sericea***	Vulnerable	Not listed	Silky Swainson-pea is directly related to the study area as the vegetation communities, or broader vegetation classes, such as Natural Temperate Grasslands, Box gum woodland Southern Tableland Grassy Woodlands and Snow Gum Woodland have the potential to provide habitat for the species. The Small Purple Pea has also been recorded within 5 kilometre of the study area.
Fauna			
Golden Sun Moth ***Synemon plana***	Critically Endangered	Endangered	The Golden Sun Moth is directly related to the study area as all of the vegetation communities have the potential to provide habitat for the species. The Golden Sun Moth relies on areas of grassland that are dominated by wallaby grasses *Austrodanthonia* spp. with the correct structural 'tussock' characteristics.
Pink-tailed Worm Lizard ***Aprasia parapulchella***	Vulnerable	Vulnerable	The Pink-tailed Worm Lizard is directly related to the study area as much of the landscape can provide potential habitat for the species in the form of sloping rocky outcrops where Kangaroo Grass is the dominant grass species.
Little Whip Snake ***Suta flagellum***	Not listed	Vulnerable	The Little Whip Snake is directly related to the study area as much of the vegetation and landscape form potential habitat for the species. Well drained grassy hillsides and grassy woodlands, with scattered loose rocks were present across the study area and mapped accordingly.
Rosenberg's Goanna ***Varanus rosenbergi***	Not listed	Vulnerable	Rosenberg's Goanna is found in a variety of vegetation types (open woodlands and forests) in this area. Specifically, the species relies on the presence of termite mounds for breeding purposes. Throughout the landscape these habitat features were identified in well intact areas of vegetation.

4.4 Aquatic habitats

Aquatic habitats within the study area are considered to be in very poor condition (DPI 2018), however they do present habitat for aquatic species. Watercourses throughout the study area flow through agricultural

landscapes, with most waterways having multiple inline water storages resulting in numerous barriers to fish movement. This is considered to be the greatest contributing factor to the poor condition of aquatic habitats, in addition to higher nutrient inputs associated with agricultural uses. No threatened species or ecological communities listed under the FM Act are considered likely to occur within the study area.

4.5 Biodiversity values and biodiversity classes

Biodiversity values recorded within the study area include items such State and Commonwealth listed TECs, non-threatened native vegetation and flora and fauna habitats. These biodiversity values as have been grouped into classes based on a set of criteria including conservation significance (State and Commonwealth listing status), vegetation condition, habitat type and suitability, and landscape connectivity. Biodiversity values and classes are detailed in Table 3, and have been categorised as follows:

- Class 1 – High biodiversity values.
  - TECs listed under BC Act or EPBC Act.
  - High condition threatened species habitat listed under BC Act or EPBC Act.
  - Non-threatened vegetation in good condition.
  - High value biodiversity connectivity corridors.
- Class 2 – Moderate biodiversity values.
  - Moderate to low condition habitat for threatened species under BC Act or EPBC Act.
  - Non-threatened native vegetation in moderate to poor condition.
  - Moderate value biodiversity connectivity corridors.
- Class 3 – Low biodiversity values.
  - Non-threatened native derived grassland vegetation.
  - Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land.
  - Low value biodiversity connectivity corridors.

Biodiversity values have been grouped as such to provide context to the biodiversity present within the study area at the landscape scale, to account for variation in specific PCTs and potential TECs present that require more detailed assessment to differentiate, and to allow future planning decision to be made at a more strategic level.

Where certain biodiversity values were not able to be determined at the scale of the current assessment, i.e. detailed site based and/or seasonal surveys are required to determine presence/absence, an additional category 'Class X' has been mapped and intended for use as an overlay to provide details on areas of potential high biodiversity values. Class X mapping should either be included in an updated Terrestrial Biodiversity layer in the Palerang LEP, or applied in similar manner. Overlap exists between the mapped Class X biodiversity values and the Terrestrial Biodiversity LEP layer, which is expected, and it is intended that areas mapped as Class X should consider potential impacts to biodiversity values at the re-zoning or DA stages. These Class X biodiversity values are further detailed in Table 3.

Recommendations are provided Section 5 relating to potential future zoning, landuse and development assessment requirements. Biodiversity classes mapped across the study area as illustrated in Figure 4.

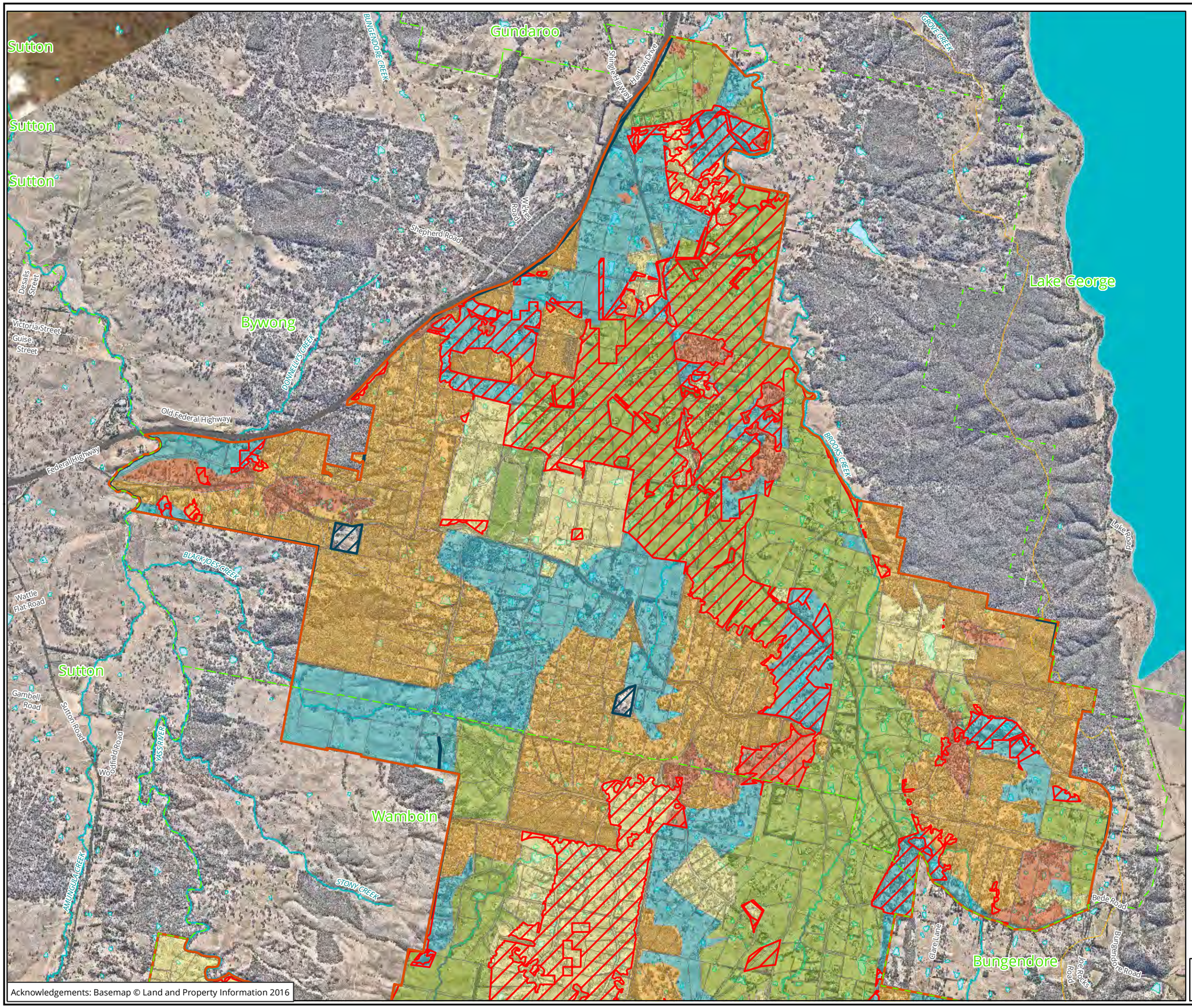
Table 3 Biodiversty values and biodiversity classes within the study area

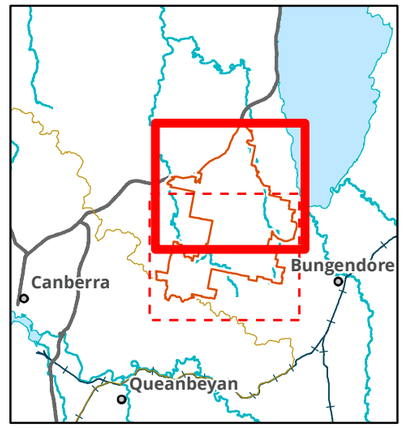
Class	Value	Description	Justification
1	Threatened ecological communities listed under BC Act or EPBC Act	*White box Yellow box Blakely's Red Gum Grassy Woodland and Derived Native Grassland* (Box-Gum Woodland) occurs across the western slopes tablelands of the Great Dividing Range from southern Queensland through NSW and the ACT to Victoria. Box-Gum Woodland) is an open woodland with intact sites containing a high diversity of plant species, including the main tree species (Table 1), additional tree species, some shrub species, several climbing plant species, many grasses and a very high diversity of herbs. The community also includes a range of mammal, bird, reptile, frog and invertebrate fauna species. Intact stands that contain diverse upper and mid-storeys and ground layers are rare. Modified sites include: • Areas where the main tree species are present ranging from an open woodland formation to a forest structure, and the groundlayer is predominantly composed of exotic species; and • Sites where the trees have been removed and only the grassy groundlayer and some herbs remain. The Commonwealth listing is slightly different to the NSW listing. Areas that are part of the Commonwealth listed ecological community must have either: • An intact tree layer and predominately native ground layer; or • An intact native ground layer with a high diversity of native plant species but no remaining tree layer. (OEH 2018). As outlined above, the BC Act TEC Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland in the South Eastern Highlands, Sydney Basin, South East Corner and NSW South Western Slopes Bioregions (Snow Gum Grassy Woodland) is mapped by Umwelt (2015 [version updated 2018]) as occurring as small patches across the study area. The presence of the TEC was discounted in a number of mapped locations based on dominant species found to be present in the vegetation, however where access prevented closer inspection and the presence/absence of the TEC could not be confirm, the vegetation was mapped as the TEC as a precaution.	Box-Gum Woodland has been subject to a number of threats historically including clearing, fragmentation and agricultural activities. As a result, the community is listed as an endangered ecological community (EEC) under the NSW BC Act and a critically endangered ecological community (CEEC) under the Commonwealth EPBC Act. Snow Gum Grassy Woodland has also undergone significant historical reduction in extent and is listed as an EEC under the BC Act. Retention and protection of existing remnant patches of Box-Gum Woodland and Snow Gum Grassy Woodland vegetation is therefore the highest priority for consideration in current and future landuse decisions. Detailed biodiversity impact assessments, and resultant in-perpetuity offsets are likely to be required, for direct and indirect impacts to the threatened community. The ecological community can also provide breeding, foraging and roosting habitat for a wide variety of fauna including state and Commonwealth listed threatened species, as well as supporting threatened flora species, as outlined in Table 1.
	High condition threatened flora species habitat listed under BC Act or EPBC Act	High condition habitat for threatened flora species was identified as areas of the landscape supporting intact native vegetation likely to meet key habitat requirements for threatened flora species know to occur in the locality. Some examples of key habitat requirements within the study area include; areas of bare rocky ground grassy woodlands and dry open forests with the potential to provide habitat for the EPBC Act listed Hoary Sunray and grassy woodlands which support potential habitat for the endangered EPBC Act and BC Act listed Aromatic Peppercress.	A number of flora and fauna species listed under the BC Act and EPBC Act have previously been recorded within the study area and have potential habitat within the existing higher quality vegetation remnants. This habitat is crucial to support the populations of these species within the local area and impacts to these areas may be detrimental to the survival of the local populations. High quality habitat also provides opportunities for colonisation by threatened species, and their degradation would likely be detrimental to the potential recovery of threatened flora and fauna populations in the local area.

Class	Value	Description	Justification
	High condition threatened fauna species habitat listed under BC Act or EPBC Act	High condition habitat for threatened fauna species was identified as; areas of the landscape where habitat values were present and could in turn support a wide range of threatened fauna species, or areas of the landscape that meet key habitat requirements for specific threatened fauna species. Some examples of habitat values identified within the study area include large patches of intact native vegetation, hollow bearing trees, rocky outcrops, creek lines and riparian areas. These values provide habitat for a wide variety of threatened fauna species identified to potentially occur within the study area. Some of the key habitat components present within the study area include areas of grassland dominated by wallaby grasses *Austrodanthonia spp.* with the structural characteristics that provide habitat for the critically endangered Golden Sun Moth, sloping rocky areas of that were dominated by Kangaroo Grass providing habitat for Pink-tailed Legless Lizard and areas of woodland/open forest with an abundance of termite mounds suitable for Rosenberg's Goanna.	Retention and protection of vegetation considered likely to support high quality threatened species habitat is a high priority for consideration in current and future landuse decisions. Detailed biodiversity impact assessments, and resultant in-perpetuity offsets are likely to be required, for direct and indirect impacts to the threatened species and/or their habitats.
	Non-threatened vegetation in high condition	High quality intact native vegetation across the study area is dominated by *Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest* which is associated with lower fertility soils (Robertson, G. 2013) and is generally found on slopes and higher ground. This community was identified as good condition where the community was well represented by characteristic native species in all its structural layers (overstorey, midstorey and understorey).	Good condition non-threatened vegetation can provide important habitat for threatened fauna and flora, as well as a suit of non-threatened biota. Specifically, the Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest community can provide habitat for a number of threatened species including; Pink-tailed Worm Lizard, Little Whip Snake, Rosenberg's Goanna, Regent Honeyeater, Aromatic Peppercress, Hoary Sunray, Small Purple Pea and Round-leafed Wilson (Commonwealth of Australia 2010) Conservation of these areas of higher quality native vegetation is crucial for maintenance of biodiversity within the local area, as well as the preservation of the aesthetic value and natural character of the study area. Retention of native vegetation is a high priority for consideration in current and future landuse decisions. Detailed biodiversity impact assessments are likely to be required, for direct and indirect impacts to the native vegetation and the habitat it supports.
	High value biodiversity connectivity corridors	High value biodiversity connectivity corridors were identified as large patches of contiguous intact vegetation that provide opportunities for movement and genetic exchange of native species within and outside of the study area.	In addition to facilitating movement of threatened and non-threatened species throughout the landscape, these corridors can provide a refuge opportunities for a variety of threatened fauna, provide high quality habitats, promote genetic exchange between individuals / populations / sub-populations, and their fragmentation would increase isolation of populations and within an already fragmented landscape and result in additional survival pressure. Retention and protections of high quality movement corridors is crucial within the existing fragmented landscape of the study area and should be high priority in current and future landuse decisions. Detailed biodiversity impact assessments are likely to be required, for direct and indirect impacts to the native vegetation that supports these high value biodiversity corridors.
2	Moderate to low condition habitat for threatened species under BC Act or EPBC Act	Moderate to low condition habitat for threatened species was identified as areas of the landscape where habitat values were partially present and could in turn potentially support some threatened species, or areas of the landscape that partially met key habitat requirements for specific threatened species.	A number of species listed under the BC Act and EPBC Act have potential habitat within the study area. This habitat type has the potential to be important to populations within the local area and impacts to these areas may place further pressures on local populations placing them a higher risk of population decline. Conservation of areas of potential habitat provides increased opportunities for threatened species populations to recover. Retention and protection of vegetation considered likely to support potential threatened species habitat should be considered in current and future landuse decisions. Biodiversity impact assessments are likely to be required, for direct and indirect impacts to potential threatened species habitat.

Class	Value	Description	Justification
3	Non-threatened native vegetation in moderate to poor condition	Red Stringybark - Brittle Gum - Inland Scribbly Gum dry open forest present across the study area where one or more structural layers was reduced of absent through vectors such as previous clearing, under-scrubbing, grazing, firewood removal or weed invasion. Such areas occur as smaller more isolated patches of vegetation across the landscape and support a lower abundance of biodiversity.	Moderate to poor condition non-threatened native vegetation can provide potential habitat for threatened fauna and flora, as well a suite on non-threatened native biota. However, the habitats supported in these areas are less valuable to species with highly specific habitat requirements due to a lack of diversity in habitat types present, negative pressures such as edge effects and the overabundance of cosmopolitan (and usually aggressive) native and non-native species. As such the protection of such areas is considered to be of a lower priority, than more intact and/or large vegetation patches, however the biodiversity values they support do contribute to the aesthetic value and natural character of the study area. Retention and protection of moderate to poor quality native vegetation should be considered in current and future landuse decisions. Biodiversity impact assessments are likely to be required, for direct impacts.
	Moderate value biodiversity connectivity corridor	Moderate value biodiversity connectivity corridors were identified as partially fragmented patches of intact vegetation providing some connectivity for more mobile species through the landscape within and outside of the study area.	These corridors facilitate the movement of more highly mobile native species throughout the landscape, and provide a refuge opportunities and a range of natural habitats. Further degradation and fragmentation of these corridors would increase isolation of individuals / populations / sub-populations, and increase the associated negative pressures on the local biodiversity values. Retention and protection of moderate value biodiversity connectivity corridors should be considered in current and future landuse decisions. Biodiversity impact assessments are likely to be required, for direct impacts.
	Non-threatened native derived grassland vegetation	Grassland that predominantly consist of native species and exist as a result of historical vegetation removal. These areas are generally used for livestock grazing and are made up of a range of less palatable native grass and ground cover species following a long history of grazing. Such areas are also likely to have had a long history of fertiliser inputs and other agricultural processes.	These areas support low levels of biodiversity and generally provide little value in terms of threatened species habitat as a result of a long history of rural / agricultural activities. The conservation of biodiversity values is generally not a priority in these areas with the exception of the potential occurrence of Golden Sun Moth and BC Act or EPBC Act listed Box-Gum Woodland derived native grassland which should be considered in landuse / planning decisions (further details below).
	Exotic grassland or cropping/agricultural areas that do represent any community of native vegetation	Areas of exotic (or exotic dominated) vegetation such as pasture improved paddocks, pine plantations and orchids.	
X	Potential habitat for Golden Sun Moth present in otherwise low biodiversity value grassland vegetation	Golden Sun Moth larvae and mature individuals can occur in highly disturbed and degraded grasslands which have been subject to grazing practices. The larvae of the species is known to feed on the highly invasive grass Chilean Needle Grass *Nassella neesiana* (Braby & Dunford 2006) and anecdotal evidence exists the species also feeds on the related invasive species Serrated Tussock *Nassella trichotoma*, which is common throughout the study area.	Golden Sun Moth is known to occur across the broader landscape in highly degraded grassland vegetation. Seasonal, site-based surveys are required to establish the presence of the species which were not undertaken as part of the current investigation. As such, the Class X overlay should be used in future landuse and planning decisions to determine the presence of Golden Sun Moth habitat to ensure any proposed landuse changes and/or development activities fully consider the requirements of the BC Act and EPBC Act.

Class	Value	Description	Justification
	State or Commonwealth listed Box-Gum Woodland derived grassland and Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory	Floristically diverse derived native grasslands on soils and in landscape positions characteristic of Box-Gum Woodland vegetation potentially present in areas of historical agricultural, particularly livestock grazing. Areas of natural grasslands that retain the characteristic native grass and herb/forb species at an abundance and diversity high enough to meet the Commonwealth listing criteria for the TEC.	Under the BC Act, Box-Gum Woodland EEC is described as occurring, in some locations, where the tree overstorey is absent as a result of past clearing or thinning, and only an understorey remains present (NSWSC 2002). Under the EPBC Act, patches of vegetation that are part of the Commonwealth listed ecological community may have an intact native ground layer with a high diversity of native plant species but no remaining tree layer (OEH 2018). As such the potential occurs for diverse patches of native grasses and groundcovers on soils and in landscape positions characteristic of Box-Gum Woodland vegetation to conform to one or both of the state and Commonwealth listing criteria. Under the BC Act listing grasslands must be dominated by native grasses and other native groundcover species at a level of cover and abundance sufficient to be considered the TEC. This threshold, whilst high, could still be met in less grazed and pasture improved paddocks or portions of paddocks. However as stated in the Commonwealth Listing Advice for the ecological community there are only a small number of areas remaining that retain a highly diverse understorey dominated by native, perennial tussock grasses. These areas are extremely rare, and usually quite small in size (Prober & Thiele 1995). They have often been cleared of trees and may no longer possess an overstorey. However, these remnants can be relatively intact despite the absence of trees. Generally an intact native understorey can resist large-scale weed invasion (Commonwealth of Australia 2006). EPBC Act listed Natural Temperate Grasslands occur as areas not resulting from the historical removal of the tree and shrub layer, which within the study area is not considered common. To be listed under the EPBC Act these areas of natural grassland are generally dominated by grazing sensitive species, and or hold significant diversity of native grass/groundcover species. This is again considered likely to be rare within the study area based on historical landuse practices. These areas could not be fully described and assessed at the scale of the current investigation and site based detailed floristic surveys are required to confirm or deny the presence of listed grasslands. As such, the Class X overlay should be used in future landuse and planning decisions to determine the presence of listed derived grasslands to ensure any proposed landuse changes and/or development activities fully consider the requirements of the BC Act and EPBC Act.





Legend

- Study area
- Land excluded from assessment (not E4 zoning)

Biodiversity value

- Threatened ecological communities listed under the BC Act or EPBC Act
- Non threatened vegetation in good condition
- Non-threatened native vegetation in moderate to poor condition
- Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land
- Non-threatened native derived grassland vegetation
- Potentially occuring State or Commonwealth listed grasslands

Figure 3.1: Flora biodiversity values

0 400 800 1,200 1,600 2,000

Metres
Scale: 1:40,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

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Matter: 28631
Date: 25 January 2019,
Checked by: KRA, Drawn by: AEDM, Last edited by: amurray
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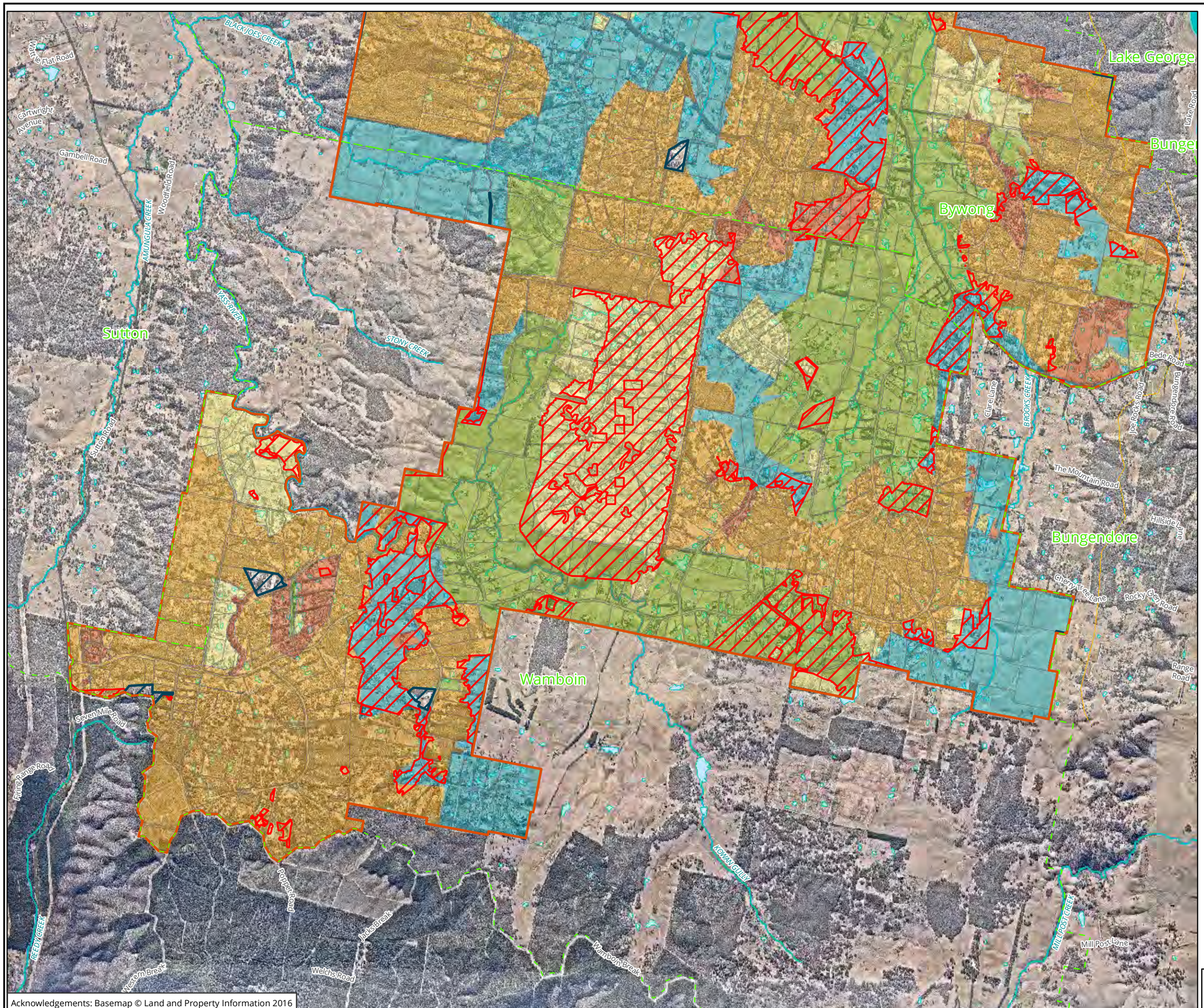

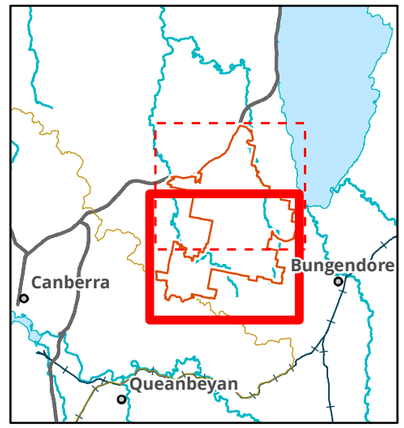

Legend

- Study area
- Land excluded from assessment (not E4 zoning)

Biodiversity value

- Threatened ecological communities listed under the BC Act or EPBC Act
- Non threatened vegetation in good condition
- Non-threatened native vegetation in moderate to poor condition
- Exotic/non-indigenous vegetation including scattered trees, grassland or cropping/agricultural land
- Non-threatened native derived grassland vegetation
- Potentially occuring State or Commonwealth listed grasslands

Figure 3.2: Flora biodiversity values

0 400 800 1,200 1,600 2,000

Metres
Scale: 1:40,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

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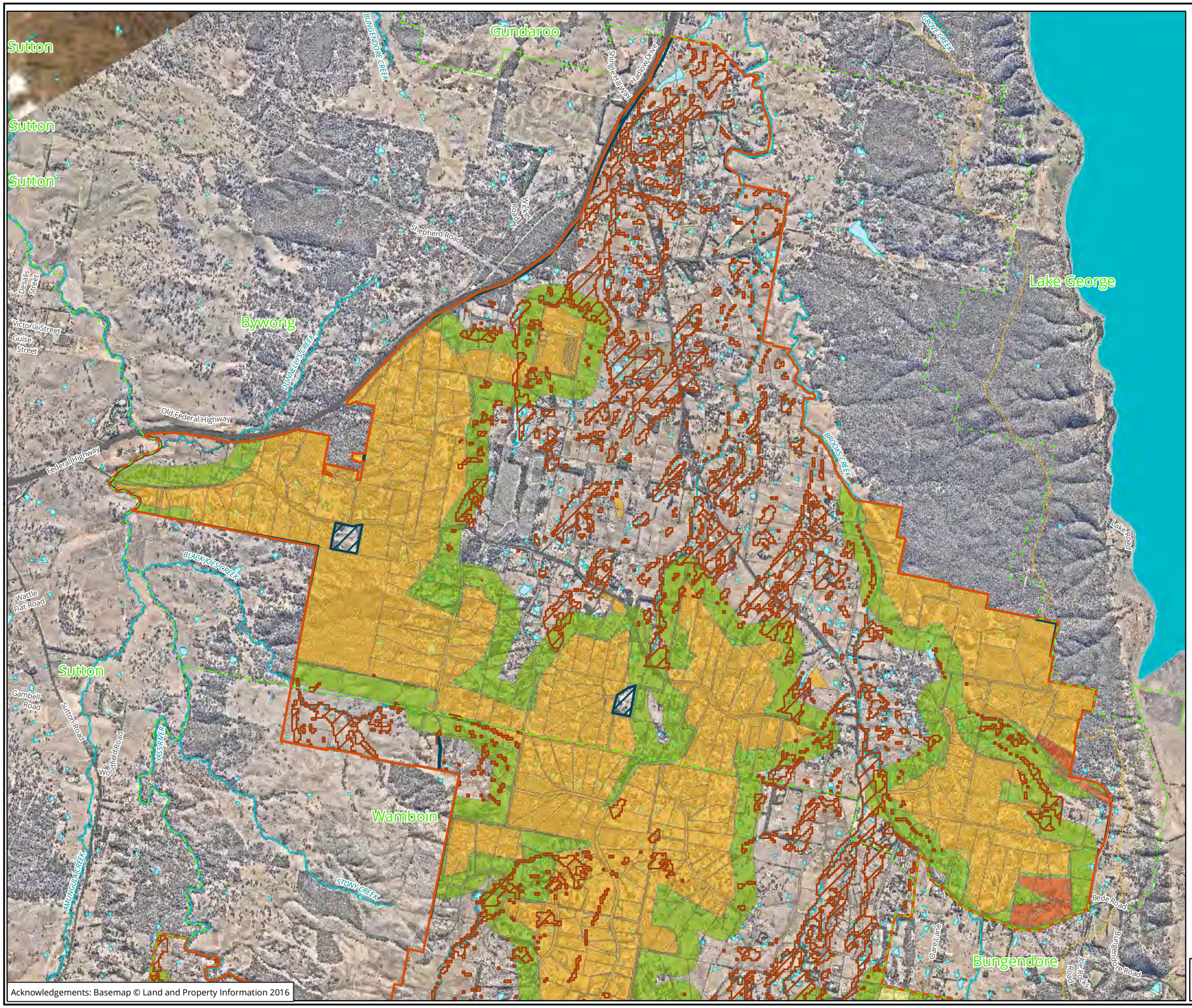
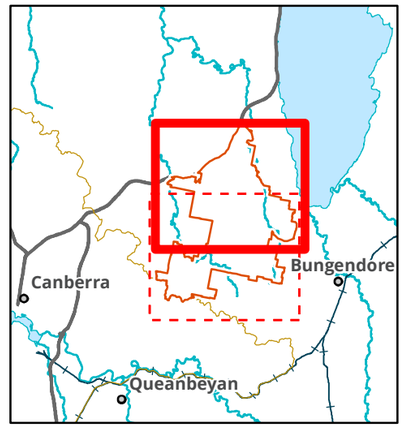
Acknowledgements: Basemap © Land and Property Information 2016





Legend

- Study area
- Land excluded from assessment (not E4 zoning)

BiodiversityValue

- High condition threatened species habitat listed under BC Act, EPBC Act or high value biodiversity corridor
- Moderate to low habitat condition for threatened species under BC Act or EPBC Act
- Moderate value biodiversity connectivity corridors
- Low value biodiversity connectivity corridors
- Potential habitat for Golden Sun Moth

Figure 3.3: Fauna biodiversity values

0 400 800 1,200 1,600 2,000

Metres
Scale: 1:40,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

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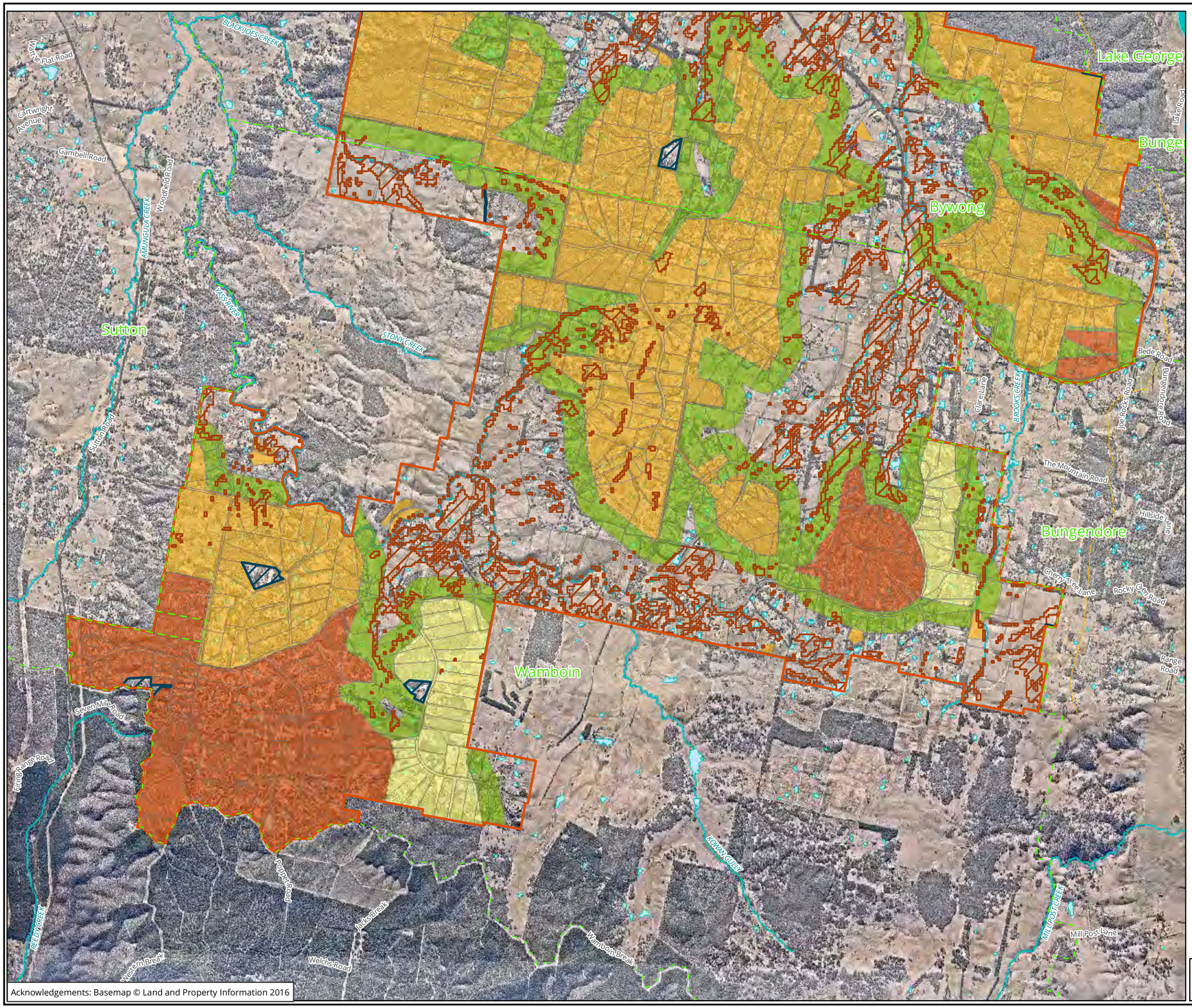

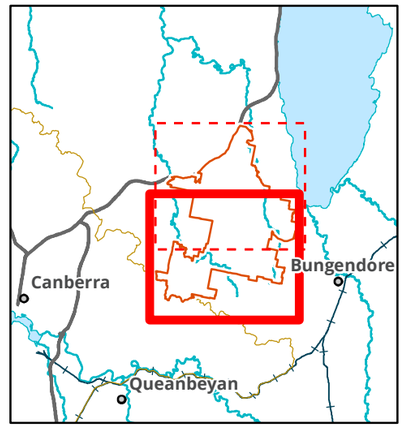

Legend

- Study area
- Land excluded from assessment (not E4 zoning)

BiodiversityValue

- High condition threatened species habitat listed under BC Act, EPBC Act or high value biodiversity corridor
- Moderate to low habitat condition for threatened species under BC Act or EPBC Act
- Moderate value biodiversity connectivity corridors
- Low value biodiversity connectivity corridors
- Potential habitat for Golden Sun Moth

Figure 3.4: Fauna biodiversity values

0 400 800 1,200 1,600 2,000

Metres

Scale: 1:40,000 @ A3

Coordinate System: GDA 1994 MGA Zone 55

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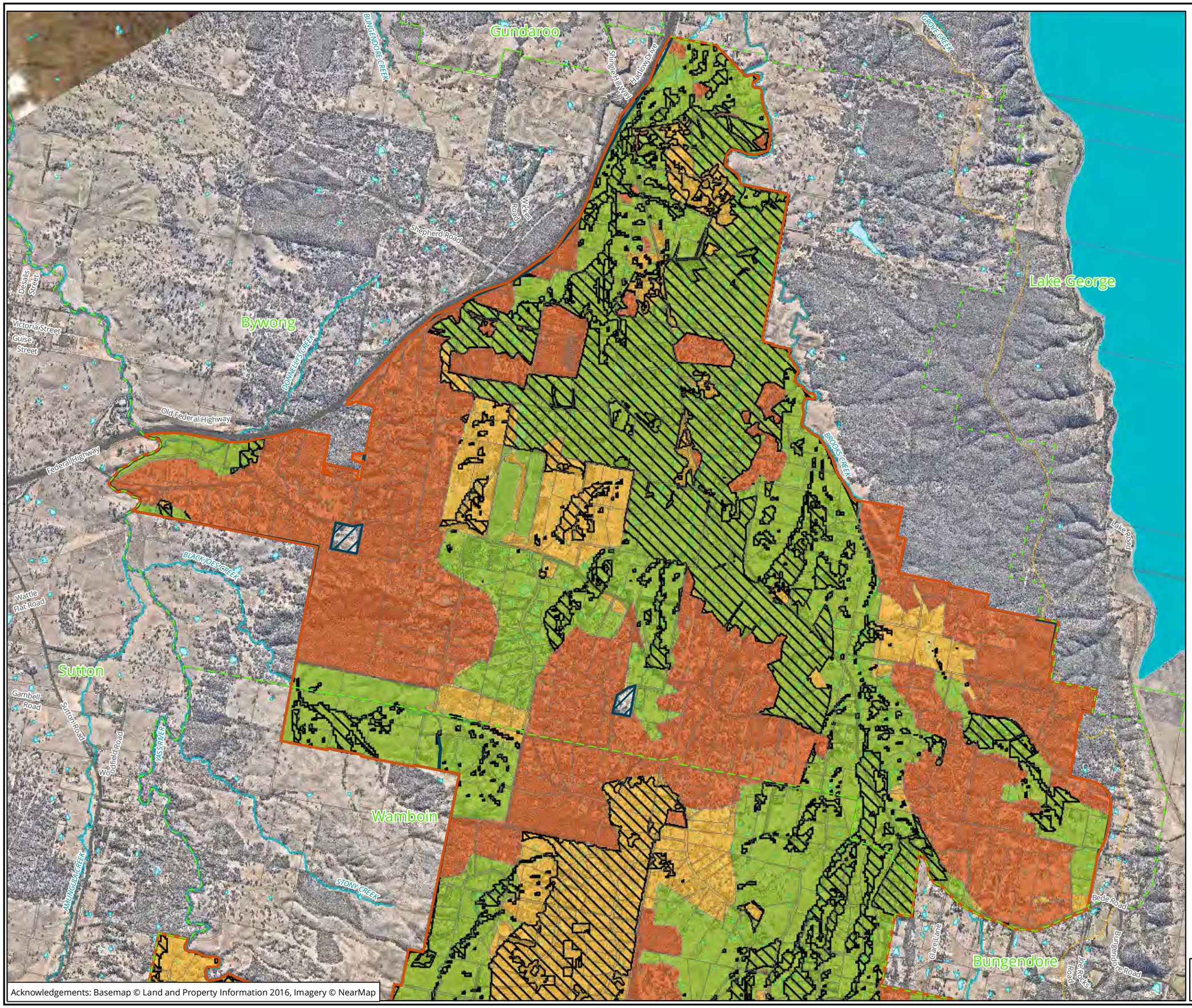

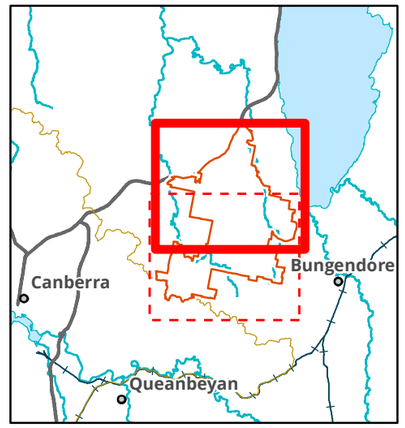

Legend

- Study area
- Land excluded from assessment (not E4 zoning)

Biodiversity class

- Class 1
- Class 2
- Class 3
- Class X

Figure 4.1: Biodiversity classes

0 400 800 1,200 1,600 2,000

Metres
Scale: 1:40,000 @ A3
Coordinate System: GDA 1994 MGA Zone 55

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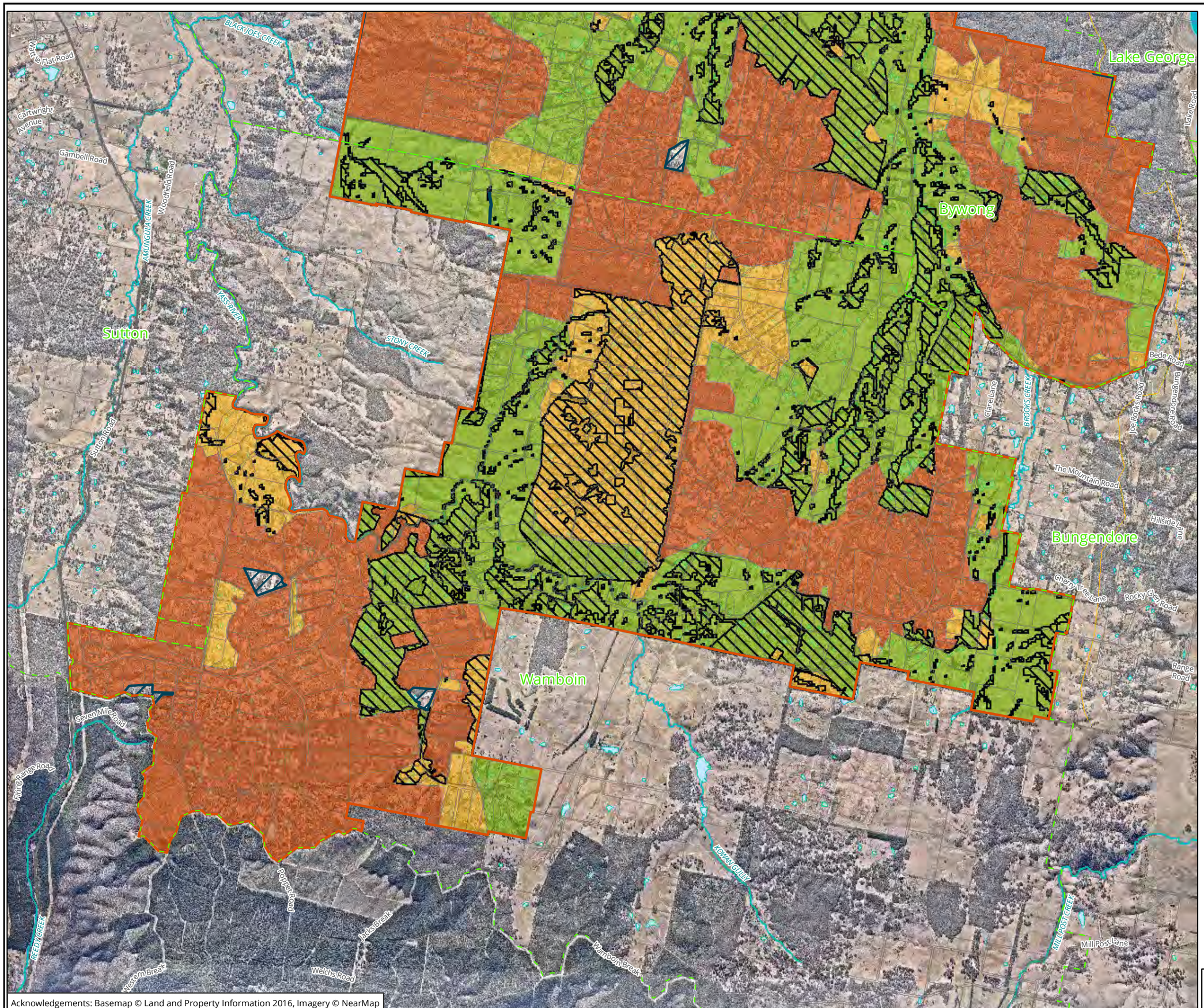

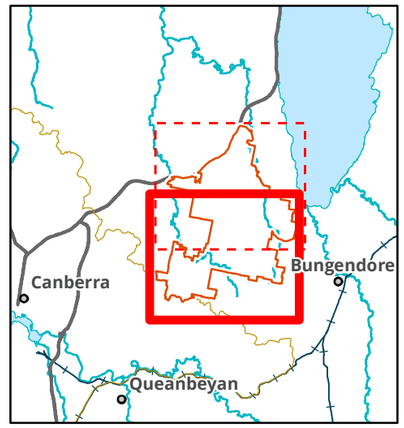

Legend

- Study area
- Land excluded from assessment (not E4 zoning)

Biodiversity class

- Class 1
- Class 2
- Class 3
- Class X

Figure 4.2: Biodiversity classes

0 400 800 1,200 1,600 2,000

Metres

Scale: 1:40,000 @ A3

Coordinate System: GDA 1994 MGA Zone 55

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5 Recommendations and conclusion

Following the biodiversity assessment undertaken across the study area, a range of biodiversity values were recorded, ranging from highly threatened, and as such high conservation value, vegetation and habitats to areas of exotic vegetation and exotic dominated pasture. As such a range of recommendations have been developed with regard to the suitability of the current E4 zoning and the potential for certain areas, supporting lower levels of biodiversity, to be rezoned more appropriately for the current landuse practices based on the biodiversity assessment.

Table 4 provides a list of recommendations with regards to the potential future zoning and how these relate to the biodiversity values recorded within the study area. Generally those areas mapped as supporting Class 1 and Class 2 biodiversity values, have been assessed as most suitable to remain E4, whereas those areas mapped as Class 3 could be considered suitable for a change in zoning based on the biodiversity value.

Areas mapped as Class X are considered to have the potential to support biodiversity values of high conservation priority, which require detailed site-based and/or seasonal assessments to determine presence/absence. This level of investigation was not undertaken as part of the current scope of the assessment, where access was available to 33 of the total 1200+ lots within the study area. Re-zoning recommendations for areas where Class X biodiversity values have been mapped are based on the broader scale biodiversity values that were able to be confirmed as part of the current assessment. It is recommended the Class X mapping is used as a trigger for detailed site-based biodiversity assessment during future DAs or broader planning considerations.

The focus of this study has mainly been on terrestrial biodiversity values, and as noted in Section 4.4 aquatic habitats are generally in poor condition, however the protection of existing waterways is an important consideration in future landuse decisions. Waterways within the study area are typically first, second or third order waterways and as such, in accordance with the objectives of the WM Act, activities are to be restricted when occurring within proximity to the riparian corridor of these waterways. Works within 40 metres of any waterway will be subject to controlled activity approval (public authorities such as Council are exempt) from a Controlled Activity Approval, with each application to be assessed on a case by case basis. Any subsequent subdivision or planning application will require the decommissioning of online water storages or water harvesting access licences will apply to the landholder. Although Council is exempt from a controlled activity approval, any proposed rezoning should consider the objectives of the Act as well as subsequent development applications.

The recommendations in Table 4 below should be considered if and when Council decide to rezone parts of the study area, and it is recommended that the development of biodiversity overlays be considered for protection of high level biodiversity values present in areas where the surrounding landuse is of an agricultural nature. This will allow flexibility for community members to continue to use and manage their land in the manner they wish, and allow for the protection of State and Commonwealth listed vegetation and habitats where they occur across the fragmented landscape.

As detailed in correspondence received from the NSW Department of Planning and Environment, the South East and Tablelands Regional Plan 2036 provides a 20 year framework to guide development in the region. The project is generally in accordance with the plan, although a more detailed assessment is recommended at the rezoning stage. This study has identified areas suitable for rezoning based on low ecological constraints, and has therefore recommended rezoning which will not reduce the environmental protection of the land. A site-by-site assessment and justification for rezoning is recommended as part of the rezoning

proposal. It is also recommended that Council liaise with OEH to establish any requirements regarding the proposed rezoning.

Table 4 Biodiversity classes within the study area

Class	Value	Justification	Recommendations
1	• Threatened ecological communities listed under BC Act or EPBC Act. • High condition threatened species habitat listed under BC Act or EPBC Act. • Non threatened vegetation in good condition. • High value biodiversity connectivity corridors.	• High conservation significance and legislatively protected vegetation communities listed under BC Act and EPBC Act. • Potential roosting and foraging habitat for threatened fauna species (e.g. hollow bearing trees). • Potential habitat for threatened flora species. • Vegetation communities in high / benchmark condition and are represented in all their structural layers. • Larger patches of native vegetation considered to form movement corridors for native species through the landscape.	• Retain as E4 zoning where landuse is primarily low-impact residential. • Consider RU4 zoning (or similar) where Class 1 biodiversity values only cover a small portion of a property where historical and current landuse is primarily agricultural. o In this circumstance, consider use of positive covenants (i.e. s88b instruments under the *Conveyancing Act 1919*) or "High Biodiversity Values" mapping overlay to protect the areas of high biodiversity values within a property. • Consider E2 or E3 zoning where landuse is neither residential nor rural. • Detailed biodiversity assessments required for future landuse changes / development activities in accordance with State and Commonwealth legislation.
2	• Moderate to low condition habitat for threatened species under BC Act or EPBC Act. • Non-threatened native vegetation in moderate to poor condition. • Moderate value biodiversity connectivity corridors.	• Potential marginal quality habitat for threatened fauna and flora species. • Vegetation not listed at State or Commonwealth level, or locally significant, and occurs in lower ecological condition (i.e. heavily weed infested, thinned / under-scrubbed etc.) • Partially fragmented patches of native vegetation providing some connectivity through the landscape.	• Retain as E4 zoning where: o landuse is primarily low-impact residential, o Class 2 biodiversity values occur across the majority of the property, or o surrounding landscape supports largely Class 1 or Class 2 biodiversity values. • Rezone as RU4 (or similar) where historical and current landuse is primarily agricultural and the surrounding landscape does not largely support Class 1 or Class 2 biodiversity values.

Class	Value	Justification	Recommendations
			• Consider R5 zoning where landuse is not primarily agricultural and the surrounding landscape does not largely support Class 1 or Class 2 biodiversity values. • Detailed biodiversity assessments required for future landuse changes / development activities in accordance with state and Commonwealth legislation.
3	• Non-threatened native derived grassland vegetation. • Exotic /non-indigenous vegetation including scattered trees, grassland or cropping \ agricultural land. • Low value biodiversity connectivity corridors.	• Grasslands derived from historical clearing of native vegetation and does not form part of a threatened ecological community. • Little to no potential habitat for threatened flora or fauna. • Fragmented vegetation patches providing limited connectivity through the landscape. • Non-native vegetation.	• Suitable for rezoning based on presence of low biodiversity values. • Rezone to RU4 (or similar) where landuse is primarily agricultural. • Rezone to R5 where landuse is neither low-impact residential or agricultural. • Retain as E4 zoning where landuse is primarily low-impact residential. • Biodiversity values considered in applications for future landuse changes / development activities in accordance with State and Commonwealth legislation.
X	• Potential habitat for Golden Sun Moth present in otherwise low biodiversity value grassland vegetation. • State or Commonwealth listed native grasslands potentially present in areas of historical agriculture, particularly livestock grazing.	• Golden Sun Moth is known to occur across the broader landscape in highly degraded grassland vegetation. Seasonal, site-based surveys are required to establish the presence of the species. • Areas of native grassland supporting higher diversity may occur in patches where grazing history may have been less intense or other abiotic factors have a stronger influence. These areas may conform to State or Commonwealth listing criteria and site based (and often	• Apply above recommendations with regard to the overall biodiversity values of the land and potential future zoning and planning considerations. • Apply Class X mapping as a biodiversity overlay for planning purposes (combine with the Terrestrial Biodiversity layer or similar) and ensure future landuse changes and/or development application consider and assess potential impacts to State and Commonwealth listed biota. • Biodiversity Class X mapping should not impact upon continuation of any existing landuse practices. Where existing land management practices have allowed

Class	Value	Justification	Recommendations
		seasonal) assessment is required to determine presence.	these cryptic or sensitive biodiversity values to be maintained until the present time, it can be assumed that continuation of those processes will not increase negative pressures likely to result in the degradation of those biodiversity values. As such, 'maintaining the status quo' should not be considered a negative impact to biodiversity with regard to areas mapped under the Class X overlay. • Where Golden Sun Moth habitat or listed derived grasslands are found to occur appropriate measure to avoid, minimise and offset impact will be required, such measure could include siting development in areas not directly impacting upon the listed biota or habitats, replanting of appropriate native grass species as habitat, and offsetting in accordance with the NSW Biodiversity Offsets Scheme of any unavoidable impacts. • Undertake further detailed site based assessment to determine the presence of Golden Sun Moth habitat or listed grasslands as part of future a planning proposal. Assessments should target those areas considered suitable for rezoning, based all factors, to determine the actual site-scale level of biodiversity constraint.

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