

# PLANNING PROPOSAL

Proposed Rezoning of  
51 Winter Lane, Summer Hill Creek  
From RU1 Primary Production to R5 Large Lot Residential

Prepared for  
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Amended November 2022

Ref: PP – SFB21079

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## 1.0 INTRODUCTION

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### 1.1 OVERVIEW

This Planning Proposal describes a proposed amendment to the Cabonne Local Environmental Plan 2012 (the LEP). This Planning Proposal seeks to amend the land zoning map of the LEP to rezone Lot 6 DP 703806 being 51 Winter Lane, Summer Hill Creek from RU1 Primary Production to R5 Large Lot Residential. The proposal will also amend the Minimum Lot Size map for part of the subject land from 100 hectares to 2 hectares with the remaining land area to have a Minimum Lot Size of 25 hectares (refer Figure 8).

The proposed rezoning is in response to the adoption of the Cabonne Settlement Strategy 2021-2041 and the need to provide additional land for rural residential development in Summer Hill Creek.

As this Planning Proposal is consistent with the existing strategic planning framework, it is appropriate that this Proposal be categorised under the *Department of Planning and Environment's Local Environmental Plan Making Guideline (2021)* as a 'Standard' Planning Proposal and will be completed within the benchmark timeframe of 9 months.

The *Cabonne Settlement Strategy 2021-2041* (CSS) was prepared in 2021 to provide a strategic framework for future residential development within the Cabonne LGA for the next 20 years with the subject land identified in Strategy Growth Area 1 within the Summer Hill Creek and Spring Glen Strategy Area.

The subject land can be demonstrated to be suitable for future large lot residential development. This submission is supported by a conceptual lot layout to demonstrate how the proposal integrates and relates to the existing settlement pattern for the locality.

The Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 (the Act) and the Department of Planning's advisory document *A Guide to Preparing Planning Proposals*.

It represents the first step in the process of amending the LEP and the intent is to provide enough information to determine whether there is merit in the proposed amendment proceeding to the next stage of the plan-making process.

A Gateway determination under Section 3.34 of the Act is requested. It is acknowledged that the Gateway determination will confirm the information (which may include studies) and consultation required before the LEP can be finalised.

## **1.2 BASIS FOR THE PLANNING PROPOSAL**

This Planning Proposal has been prepared on the basis that the subject land is located within *Strategy (Growth) Area SG1* of the CSS. The CSS recognises that the subject land is suitable for rezoning to Large Lot Residential development. In this regard:

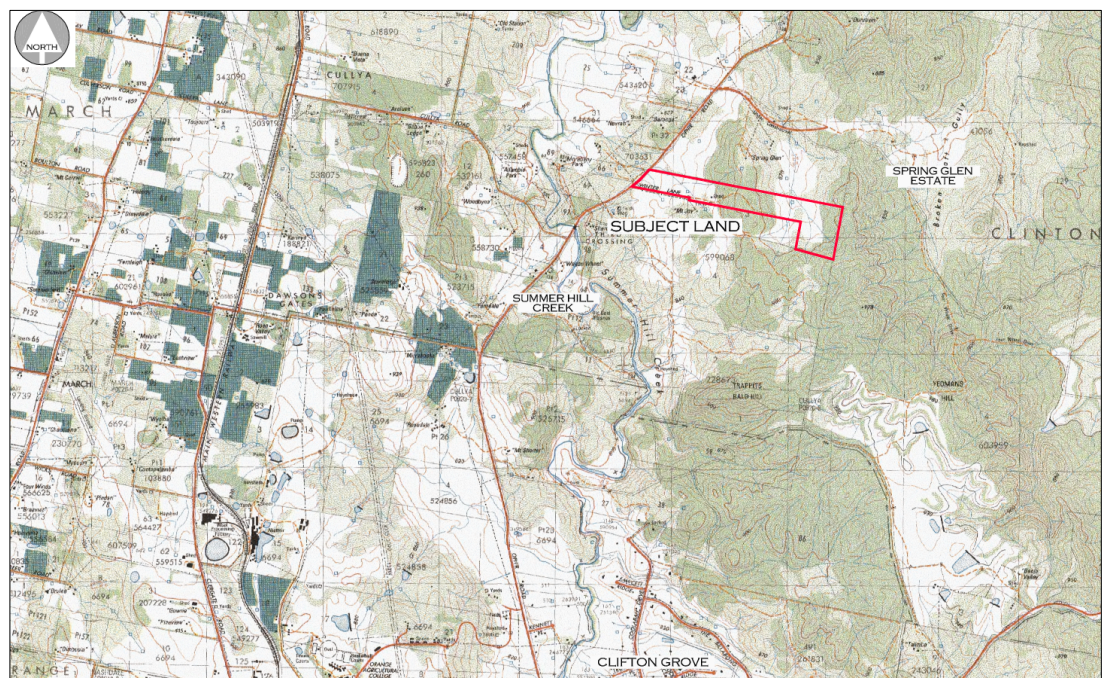
- The proposed rezoning would represent a logical expansion of the existing Spring Glen R5 zoning located immediately to the north of the subject land. It will also be compatible with the number of concessional allotments located to the south along Winter Lane.
- The agricultural value of the site is more or less non-existent due to the fragmented holding pattern and surrounding land uses. This is further supported by the NSW Land and Soils Capability Mapping which identifies the subject land as having very severe limitations with few management practices available to overcome these constraints (mapped as Class 6).
- The rezoning of the subject land to enable large lot residential growth would positively contribute to the supply of large lot residential land within the LGA. A range of allotments needs to be maintained to suit the different markets at any one time to maintain choice for the range of homebuyers in the LGA, and to plan and fund infrastructure.
- The subject land is not unreasonably constrained by any natural hazards or bushfire.
- The subject land is adequately separated from adjoining agricultural land so as to minimise the potential for land use conflict between the opposing interfaces.
- The strong consumption of rural residential lots within the Spring Glen and Summer Hill Creek estates is evidenced by the limited supply of lots available as well as the success and consumption of the existing R5 Large Lot Residential land in the locality.

## **1.3 SUBJECT LAND**

### **a) Location**

The subject land is located on the northern side of Winter Lane and to the east of Ophir Road (refer Figure 1 and the image below).





The subject land is described as Lot 6 DP 703806. The street address is 51 Winter Lane, Summer Hill Creek.

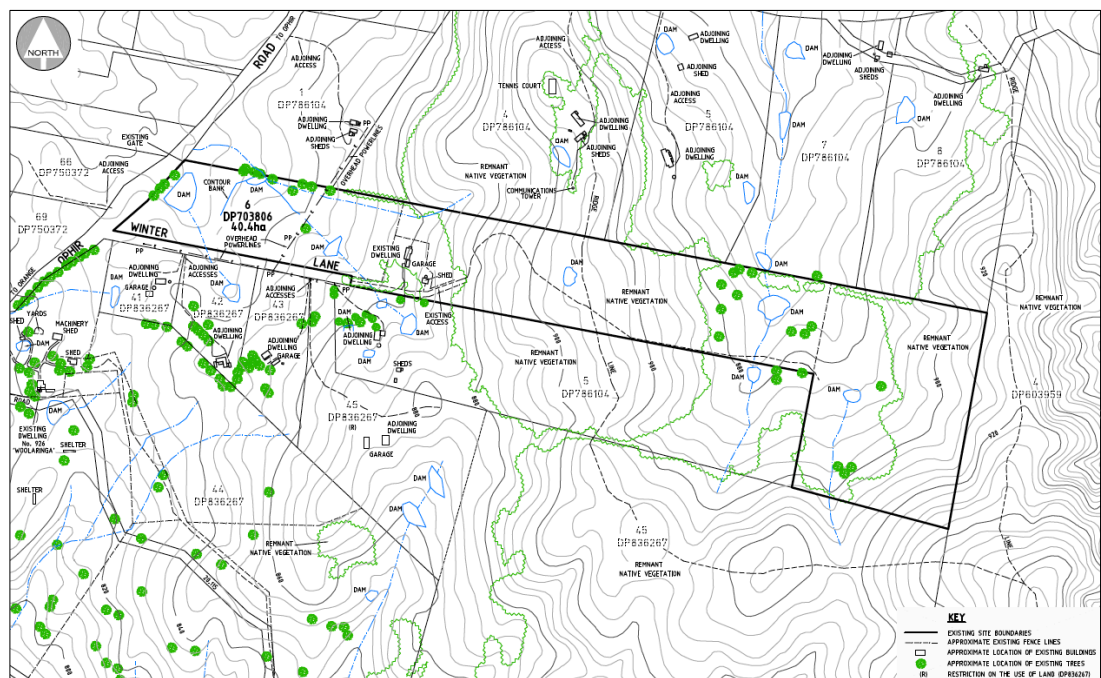
The subject land is currently zoned RU1 Primary Production under the provisions of the Cabonne Local Environmental Plan 2012. The surrounding development pattern consists of:

- Land zoned R5 Large Lot Residential immediately to the north and further to the north-east.
- Land zoned RU1 Primary Production is located to the south, east, and west.
- Several concessional allotments consisting of dwellings and ancillary improvements such as sheds is consistent within the development pattern occurring predominantly to the south west.

## b) Site Description

### *Overview*

The subject land is zoned RU1 Primary Production under the provisions of the Cabonne Local Environmental Plan 2012. It has an area of 40.4 hectares and contains an existing dwelling house; garage; and other ancillary farm buildings. It has direct frontage to Winter Lane which forms part of the southern boundary. Ophir Road forms the western boundary.



### ***Topography & Drainage***

The topography of the land is undulating. The elevation of the subject land ranges from 820mAH in the western side up to a peak elevation of approximately 940mAH in the eastern segment of the site.

The land is drained by a series of natural drainage depressions and non-perennial watercourses. Most of the land drains to the west towards the Summer Hill Creek which is located on the opposite side of Ophir Road, approximately 700 metres from the westernmost boundary.

Farm dams have been strategically positioned over the subject land for stock watering purposes.

### ***Natural Hazards***

The subject land is not identified as flood prone land.

The subject land is identified as bushfire prone land on Council's bushfire mapping due to the presence of grassy woodland and dry sclerophyll forest to the east of the site. However, due to the past agricultural and grazing activities of the site, the western section of the subject land consists predominantly of cleared grassland.

As discussed throughout this report, the bushfire hazard does not unreasonably constrain the future development of the site for rural residential purposes.

### ***Land Use***

The subject land has a history of small scale livestock grazing. Paddocks, a dam, water tanks, yards and farm buildings have been established to support this land use, along with the owner's residence.

### ***Biodiversity***

The eastern and western half of the subject land has been predominantly cleared for grazing with the exception of some remnant native vegetation interspersed along the property boundaries and within the paddocks. The vegetative cover of the site is typical of other rural properties that have been extensively cleared in the area.

Notwithstanding the above, the vegetation formation within the centre of the site (which will not be affected by the proposal) comprises dense grassy woodland and dry sclerophyll forest. This vegetation is identified on the Broad Scale Mapping as:

- Yellow Box - Blakelys Red Gum grassy woodland on the tablelands; South Eastern Highlands Bioregion (PCT 1330) which is listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016 and as Critically Endangered under the Environment Protection and Biodiversity Conservation Act. 1999, and
- Red Stringybark - Inland Scribbly Gum open forest on steep hills in the Mudgee - northern section of the NSW South Western Slopes Bioregion (PCT 323).

### ***Traffic and Access***

The principal access to the property is provided from Winter Lane which forms the southern boundary. Winter Lane is an unclassified bitumen sealed local road that provides for one lane of traffic in each direction. The speed limit for this road is unposted.

The western boundary of the subject land adjoins Ophir Road. Ophir Road a bitumen sealed road and is unclassified. It is regarded as a collector road and provides one lane of traffic in each direction. The posted speed limit for this section of Ophir Road is 80 km/h.

### ***Services***

In terms of servicing:

- There is no town water reticulation that services the land. Domestic water supply is provided via rainwater collection tanks.
- Wastewater disposal for the existing dwelling is conducted via on-site means utilising a septic tank and absorption trenches.
- There is no formal stormwater drainage system that services the land. Stormwater from the site is either captured on site for water supply purposes, or returned to the rural catchment via natural channels, roadside drainage lines and culverts.
- Electricity and telecommunications are connected to the existing dwelling.

### ***Constraints and Opportunities***

The constraints and opportunities of the site are summarised as follows:

- The land is situated within a highly fragmented land use pattern where only small-scale primary industry activities occur. The prevailing land use consists mainly of lifestyle/hobby lots. It is therefore reasonable to suggest that the limited grazing activities that occur on the site and adjoining lands, the subject land's contribution to agriculture is severely constrained.
- The subject land is identified as a growth area for future large lot residential development where the rezoning of the subject land represents a logical expansion of the existing Summer Hill Creek and Spring Glen R5 zone.
- The proposal would increase the variety of housing types in the LGA as encouraged by the Cabonne Local Environmental Plan 2012.
- The subject land has been mapped by NSW Agriculture as being of Class 6 Agricultural Suitability. In this regard, the land has very severe limitations for a wide range of land uses due to the presence of moderately steep slopes and shallow rocky soils.
- The terrain does not pose a constraint to rural residential development. In fact, the gradual slope provides advantageous building opportunities across most of the site.
- The location of the subject land does not pose a constraint to the proposal. It is spatially contiguous with the Spring Glen, Summer Hill Creek and Clifton Grove rural residential areas.

- The rezoning of the subject land as an area of future large lot residential growth would therefore positively contribute to the supply of large lot residential land within the LGA. A range of allotments needs to be maintained to suit the different markets at any one time to maintain choice for the range of homebuyers and to plan and fund infrastructure.
- The rezoning of the subject land will integrate with the planned residential land use pattern for the area and would thus allow for the orderly growth of land uses while minimising conflict between land uses within any beyond the zone.
- The bushfire hazard does not constrain the future development of the site. The future subdivision of the site would require a Bushfire Safety Authority (BFSA) to be issued under Section 100B of the Rural Fires Act 1997.
- The principal access to the site can be obtained from Winter Lane which is bitumen sealed road without the need to provide an additional access to Ophir Road.
- Due to the constraints of the central and eastern sections of the subject land, it is proposed that these areas adopt a 25hectare Minimum Lot Size (MLS) with the remaining land area adopting a 2 hectare MLS. The 25 hectare MLS will allow for the creation of the residual lot and prevent the further subdivision of this lot.
- The proposed subdivision pattern is influenced in part by the surrounding development pattern and the need to tie into the approved subdivisions that relate to the land within the broader subdivision pattern.
- Indicative future dwelling sites have been defined for each lot which demonstrate a future dwelling can be erected within each lot having regard to topography, watercourses, and the other physical constraints of the site.

#### ***Current LEP Provisions***

The site is subject to certain provisions of the Cabonne Local Environmental Plan 2012 which are relevant to this Planning Proposal and are outlined below. The subject land is identified on Map 004D in the following manner:

LEP Matter	Comment
Land Zoning Map	Zoned RU1 Primary Production

LEP Matter	Comment
Lot Size Map	MLS 100 hectares
Heritage Map	Not within a Conservation Area. No heritage items in vicinity of development.
Natural Resource - Karst Map	No karst identified within subject land
Terrestrial Biodiversity Map	Biodiversity sensitivity identified within subject land
Drinking Water Catchment Map	Not located in a drinking water catchment
Riparian Lands and Watercourses Map Groundwater Vulnerability Map	Groundwater vulnerable. No watercourses or riparian land identified in the subject land.
Flood Planning Map	Not within a flood planning area

### ***Zone objectives and land use table***

The objectives and the land use table of the RU1 Primary Production zone is provided below.

#### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

- To enable function centres, restaurants or cafes and appropriate forms of tourist and visitor accommodation to be developed in conjunction with agricultural uses.

## 2 Permitted without consent

Building identification signs; Environmental protection works; Extensive agriculture; Home occupations; Viticulture

## 3 Permitted with consent

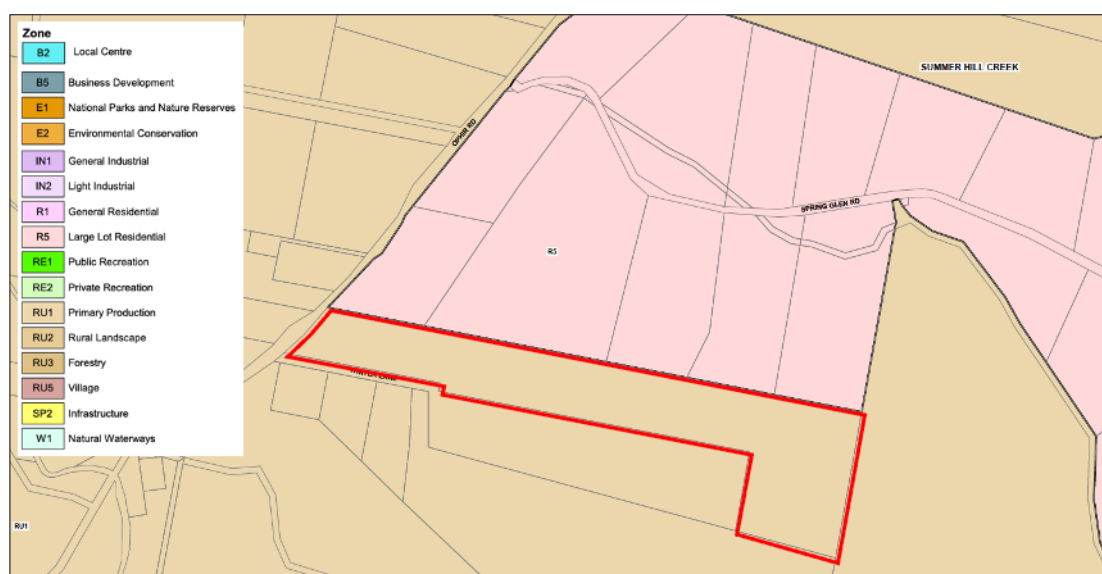
Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Business identification signs; Camping grounds; Cellar door premises; Cemeteries; Community facilities; Correctional centres; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Helipads; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Jetties; Landscaping material supplies; Moorings; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Truck depots; Veterinary hospitals; Water recreation structures; Water storage facilities

## 4 Prohibited

Stock and sale yards; Any other development not specified in item 2 or 3

### Land zoning map

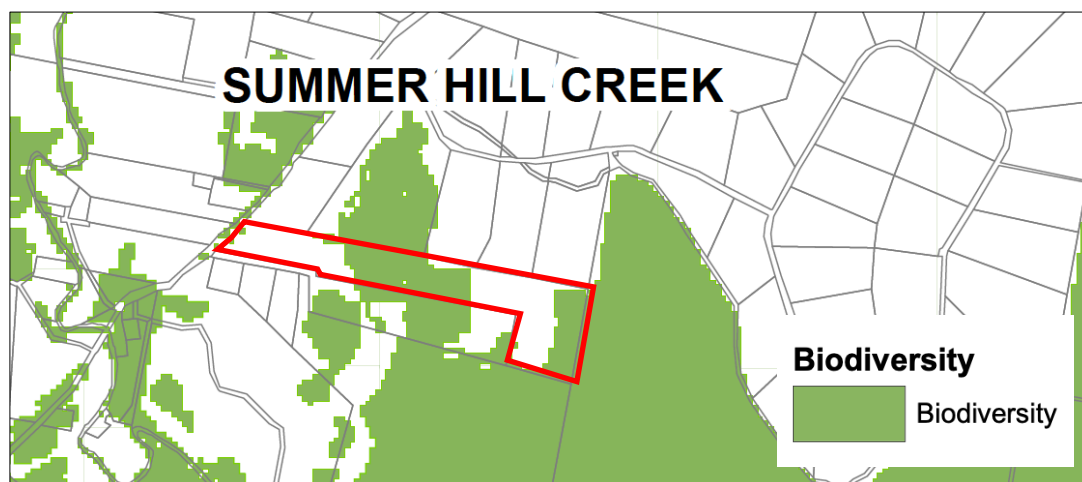
The land (outlined in red in the LEP map extract below) is zoned RU1 Primary Production.





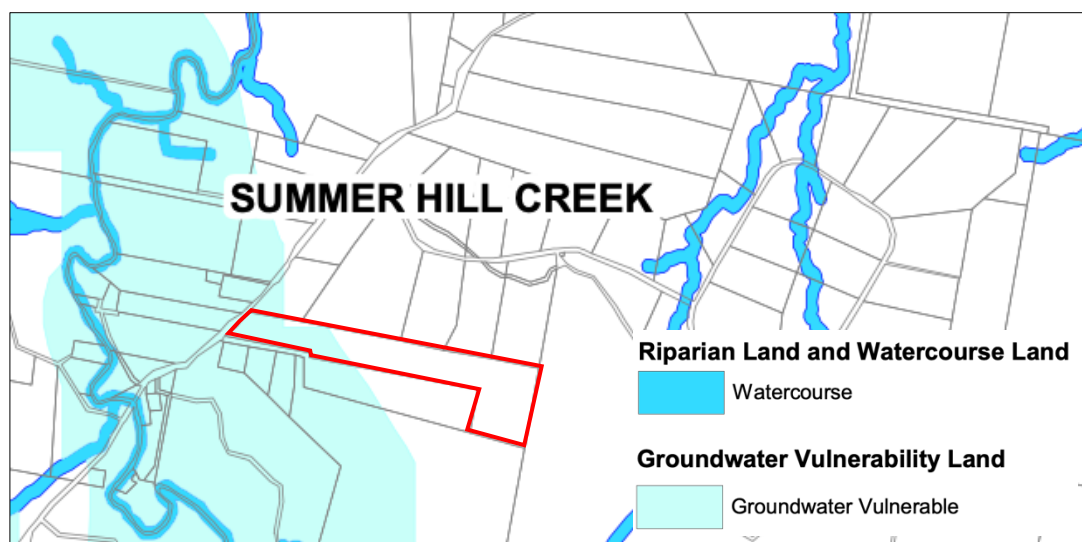
### ***Terrestrial Biodiversity Map***

Part of the subject land is identified on the LEP map extract below as having terrestrial biodiversity.



### ***Riparian Land and Watercourses and Groundwater Vulnerability Map***

Part of the subject land, as identified on the LEP map extract below, is defined as having groundwater vulnerability.



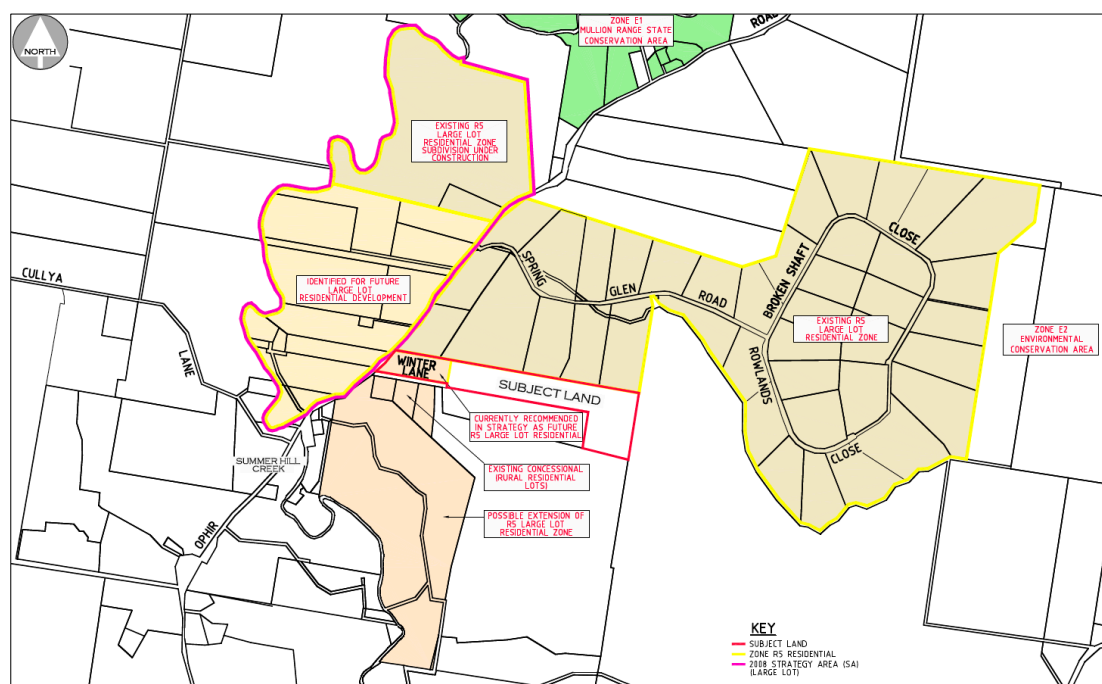
### **c) Surrounding Development**

Generally, the surrounding development pattern is characterised as a rural lifestyle area which includes:

- Large lot rural residential land immediately to the north which forms part of the Summer Hill Creek and Spring Glen Large Lot Residential Estates.



- Small-scale grazing pursuits to the south and west. Some of these lots contain a dwelling house and associated farm infrastructure.
- A series of concessional lots with frontage to Winter Lane and Ophir Road are located to the south of the subject land.
- Some 2 kilometres north of the subject land is the Mullion Range State Conservation Area.



## 1.4 DEVELOPMENT CONCEPT

### 1.4.1 Overview

It is proposed to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential to enable the subject land to be developed to provide living opportunities within a rural setting.

The future development of the site would involve:

- The creation of four Torrens Title lots (i.e., 3 vacant lots, plus 1 lot to excise the existing dwelling).
- Identification of a dwelling envelope within the vacant lots based on the most appropriate dwelling sites; boundary setbacks; and suitability for on-site effluent disposal.

- Fencing of all lots.
- On-site effluent disposal.
- Water supply via rainwater collection tanks.

A concept subdivision plan has been prepared as a general indication of how the site could be developed in the future. It is important to note that:

- The concept plan is indicative only at this stage for the high-level purpose of a Planning Proposal.
- The concept plan in no way guarantees that the land will be limited to or used only for the purposes depicted.
- The final development option will be subject to analysis, design, assessment, and the approvals process under Part 4 of the Environmental Planning and Assessment Act, 1979.

#### **1.4.2 Potential subdivision**

Facilitation of the Planning Proposal would enable a 4 Lot Torrens Title subdivision to occur as indicated in Figure 5 to create:

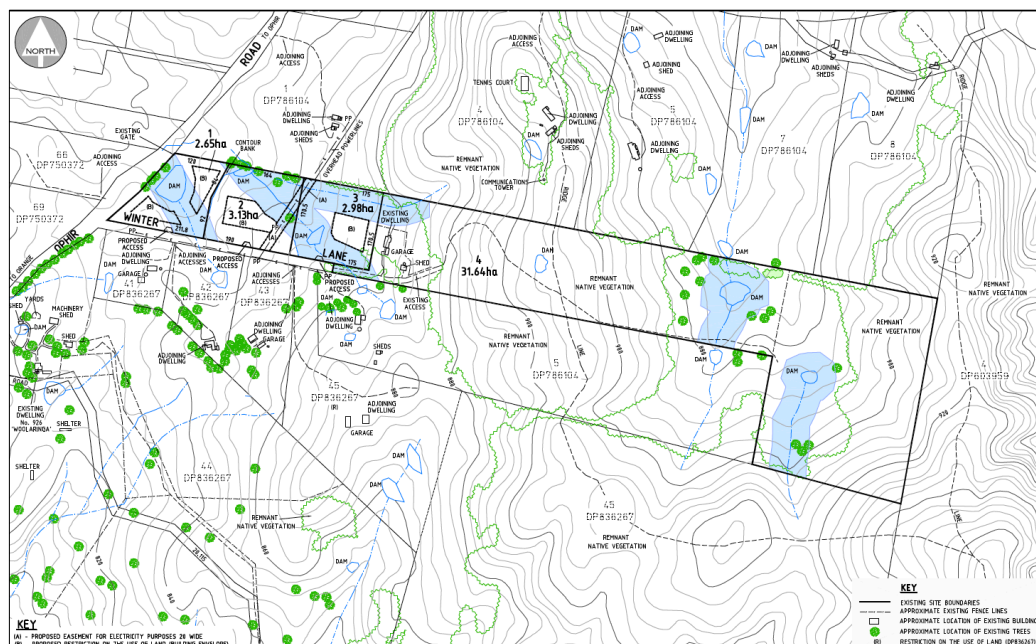
<b>Lot</b>	<b>Area</b>	<b>Proposed Use</b>
1	2.55 hectares	Vacant and intended for Large Lot Residential Development
2	3.23 hectares	Vacant and intended for Large Lot Residential Development
3	2.98 hectares	Vacant and intended for Large Lot Residential Development
4	31.64 hectares	Existing dwelling house and associated infrastructure

Proposed Lots 1-3 will be created as vacant rural residential parcels.

The submitted plans show each of the proposed lots with an indicative building envelope to ensure an adequate buffer is provided between future residential development and the 1<sup>st</sup> and 2<sup>nd</sup> order streams within the property boundaries.

Proposed Lot 4 would excise the existing dwelling and its support areas. The curtilage outside of the existing dwelling is considered to be too constrained to enable a greater lot yield.

Each lot is of regular configuration and would provide future dwellings with reasonable opportunity for solar access.



#### 1.4.3 Dwelling Envelopes

Dwelling envelopes have been defined for each vacant lot having regard to the topography of the land, bushfire hazard, and other physical constraints. The envelopes provide dwelling sites that are reasonably setback from property boundaries; are elevated; and well drained.

The configuration of each building envelope is such that it enables a future dwelling to be orientated and designed without constraint to maximise solar penetration to internal and external living areas.

#### 1.4.4 Servicing

The proposed development would be serviced as follows:

##### **Sewer**

Domestic wastewater for future dwellings would be disposed of via on-site means and in accordance with *On-site Sewage Management for Single Households* (which is an all of government approach to on site effluent disposal); and *AS/NZS 1547:2000 On-site Domestic Wastewater Management*. Annexure B provides a detailed assessment for the dwelling envelope within each proposed vacant lot.

### ***Water***

Water supply for future dwelling will be provided via rainwater collection tanks and where applicable, supplemented by dams or bores.

### ***Stormwater***

Stormwater drainage, other than that captured on site for water supply purposes (dams, tanks, etc.) will be returned to the rural catchment. Flows will be kept to a non-erosive velocity by the implementation of appropriate erosion and sediment control structures.

### ***Electricity and Telecommunications***

Electricity and telecommunications will be provided to the proposed vacant lots in accordance with the requirements of the relevant supply authority.

#### **1.4.5 Roads and Access**

The location of new accesses will be determined at the time of future development within each lot. As such they would not be provided as part of the subdivision.

## 2.0 OBJECTIVES OR INTENDED OUTCOMES

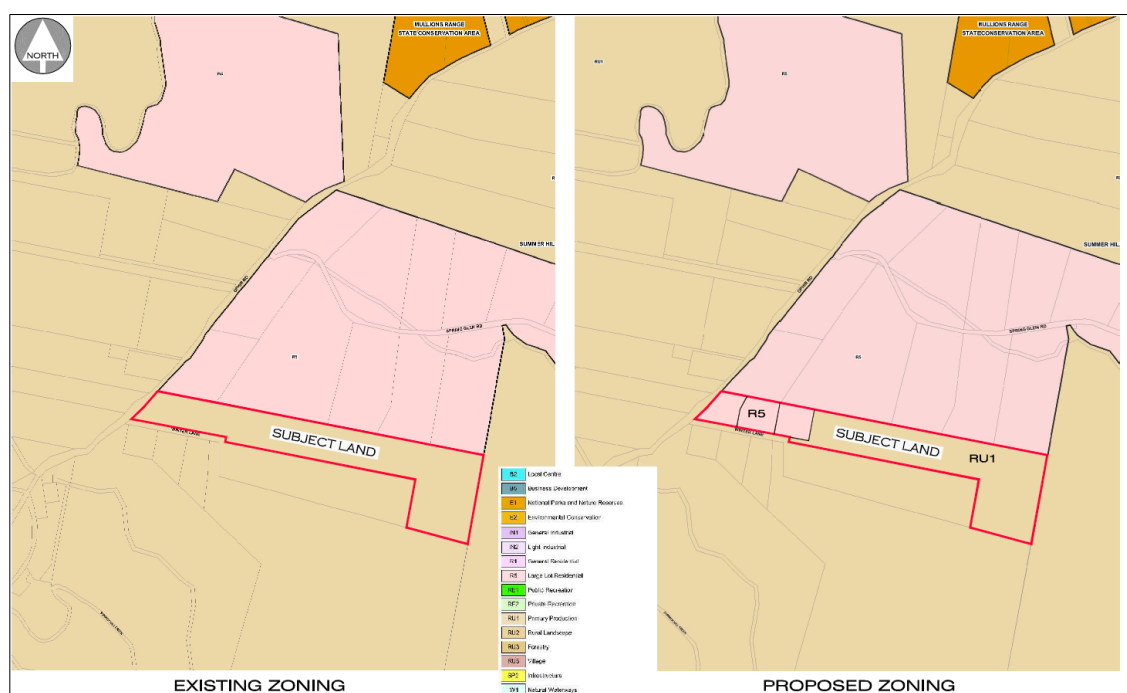
### 2.1 PLANNING PROPOSAL OBJECTIVES

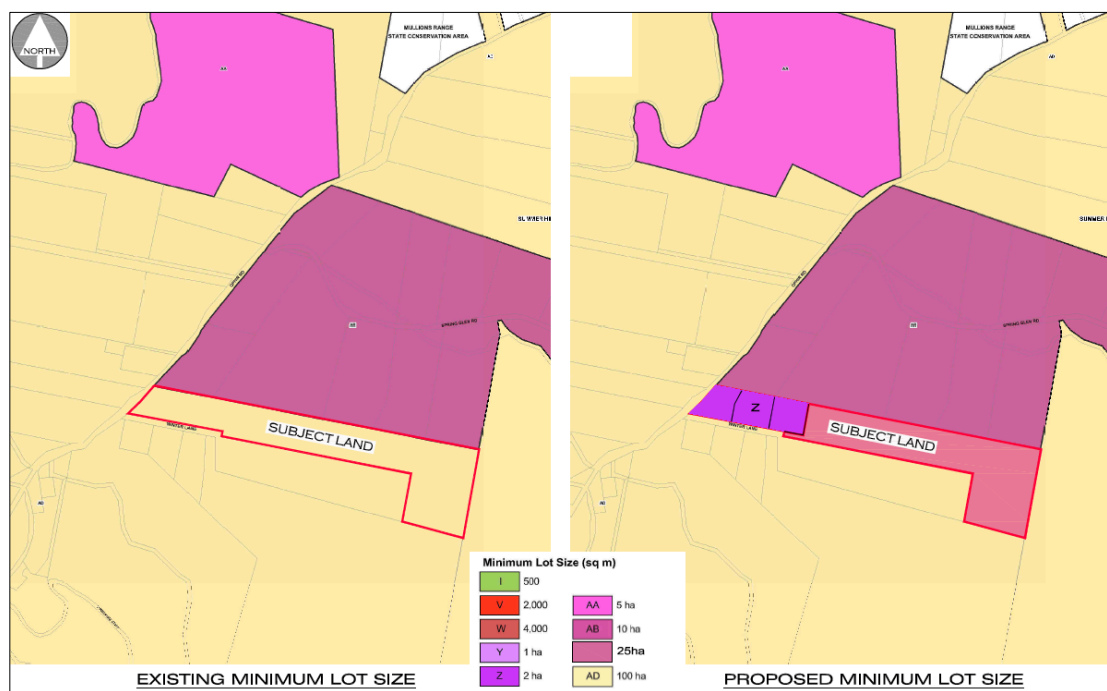
The objectives of this Planning Proposal are:

- To enable the rezoning of the subject land from RU1 Primary Production to R5 Large Lot Residential to enable further subdivision of the site (refer Figure 7).
- To amend the Minimum Lot Size Map for part of the subject land from 100 hectares to 2 hectares with the remaining land area adopting a 25 hectare Minimum Lot Size (refer Figure 8).
- To satisfy the relevant aims and objectives of Cabonne Local Environmental Plan 2012.
- Complete this Planning Proposal within the benchmark timeframe of 9 months.

### 2.2 PLANNING PROPOSAL OUTCOMES

The intended outcome of the Planning Proposal is to amend the Cabonne Local Environmental Plan 2012 to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential with a MLS of 2 hectares for the western part of the site, with the remaining land area adopting a 25 hectare MLS (refer Figure 8). This will facilitate the future large lot rural residential subdivision of the site whilst preventing the further subdivision of the residual parcel.





### 3.0 EXPLANATION OF PROVISIONS

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The objectives and intended outcomes of this Planning Proposal would be achieved as follows:

- Amend the land zoning map of the Cabonne Local Environmental Plan 2012 to rezone part of the subject land from RU1 Primary Production to R5 Large Lot Residential as indicated in Figure 7.
- Amend the Cabonne Local Environmental Plan 2012 Minimum Lot Size Map so that the minimum subdivision lot size applying to the western part of subject land is 2 hectares and the eastern section to 25 hectares as indicated in Figure 8.
- There are no other changes to the text of the LEP on the basis that the objectives of the zone and land use table in relation to the R5 Large Lot Residential zone remains unchanged.

## 4.0 JUSTIFICATION

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### 4.1 NEED FOR THE PLANNING PROPOSAL

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

The *Cabonne Settlement Strategy 2021-2041* was adopted by Council in May 2021. The purpose of the strategy is to provide clear direction for long-term growth and development within Council's local government area. The CSS focuses on providing sustainable growth within the existing towns and villages.

This Planning Proposal is supported by the *Cabonne Settlement Strategy 2021-2041*. The aim of the CSS is to identify up to 20 years' supply of urban and large lot residential land for each settlement within the Cabonne Local Government Area and to ensure that the planning decisions do not constrain future growth or increase land use conflict.

The subject land is located within Strategy Growth Area SG1 of the CSS. In this regard, the 2021 CSS identifies that the development of the subject land for rural residential purposes would supplement the existing supply. The CSS made the following comments in respect of the subject land:

- *This lot is ~40 ha in area but the centre & eastern end of the lot are covered by significant vegetation & bushfire prone land. Therefore, the land for consideration is only the western 8-9ha with the existing dwelling on the lot likely to be retained on the residue 31-32ha.*
- *SG1 is unique in that Winter Lane is a sealed local road running along the southern edge of this development area (servicing the concessional lots to the south) providing ease of access & subdivision & avoiding the need for a new access to Ophir Road.*
- *The agricultural potential of this ~40 ha is very low as up to 1/3<sup>rd</sup> of the lot is heavily vegetated & is surrounded by small residential lots. Therefore, it forms a logical extension of the existing Zone R5 area with limited additional land use conflict with agriculture.*
- *The weighted soft constraints analysis in the 2008 Subregional Strategy gives this western development area Constraint Level 2 that is consistent with most of Spring Glen Zone R5 & Strategy Area SA4 so it has similar merit, but will be much easier to develop.*



- *The development area is mapped as Category 2 bushfire prone land though there is very limited vegetation (mostly around the perimeter) & is cleared for grazing purposes with limited biodiversity potential.*
- *There are a number 1<sup>st</sup> & 2<sup>nd</sup> order watercourses running through SG1 resulting in poorly drained land to the north, though it is likely that dwelling envelopes closer to Winter Lane could provide a suitable buffer.*

The rezoning and subsequent reduction in the MLS of the subject land is therefore to be as a result of a strategic study. As such, this Planning Proposal is not inconsistent with the guiding land use principles of the CSS as it would facilitate the sustainable and progressive release of the rural residential land.

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

Yes. In order to facilitate the future large lot residential development of the subject land, this Planning Proposal is considered to be an appropriate mechanism to achieve the objectives and intended outcomes. In this regard:

- The current zoning provisions and minimum lot size requirements of the subject land would preclude effective rural residential release.
- The Cabonne Settlement Strategy is a strategic land use planning policy which provides a clear strategic direction for sustainable residential growth and development within the Cabonne LGA. The subject land is identified in the Strategy a growth area for future Large Lot Residential Development.
- The provisions of the Cabonne LEP 2012 and Development Control Plan No.6 Rural Small Holdings would ultimately control and regulate the proper and orderly development of the subject land.
- The proposed 25 hectare MLS will enable the residual land not identified for rezoning to be excised for the land to be rezoned R5 Large Lot Residential pursuant to Clause 4.1 of the Cabonne LEP 2012.

Therefore, an amendment to Zoning Map and Minimum Lot Size Map of the Cabonne Local Environmental Plan 2012 is considered to be the best means of achieving the desired outcome.

**c) Is there a net community benefit?**

The following information is provided to assist with the assessment of net community benefit. The information is based on the Evaluation Criteria (p.25) provided in the NSW Department of Planning *Draft Centres Policy, Planning for Retail and Commercial Development*.

***Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transport node)?***

There are no State or regional strategies of this type applicable to the proposal.

***Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?***

No.

***Is the LEP likely to create a precedent or change expectations of the landowner or other landholders?***

It is submitted that the rezoning of the subject land and subsequent development of the site would not create a precedent or change expectations of the landowner as the subject land is identified in the *Cabonne Settlement Strategy 2021-2041*.

Accordingly, the Planning Proposal is unlikely to create a precedent or change expectations due to the following:

- The proposal will result in an increase in the number of rural residential lots within an appropriately zoned area. As such it will enhance the supply and diversity of such land.
- The rezoning of the subject land will reinforce and complement the existing settlement pattern of lifestyle/hobby lots and does not introduce a new land use zone within the immediate area.
- The provision of services and infrastructure to serve the development will be borne by the developer and without additional costs or burden upon the community.
- The proposal is unlikely to impact upon travel distances given that it will integrate to an acceptable level with the existing transport routes that serve the area.

- There are no known significant government infrastructure investments in the immediate area that would be affected by this proposal.

***Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?***

We are not aware of other spot rezoning's in the locality.

***Will the LEP facilitate permanent employment generating activity or result in a loss of employment lands?***

Yes. The proposal has the potential to facilitate indirect economic benefit by providing for additional permanent population in close proximity to Orange which, as a major regional centre, offers employment opportunities.

The Planning Proposal will not impact upon the supply of employment lands within the Cabonne LGA.

***Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?***

This Planning Proposal would involve a slight increase in the range and supply of rural residential land that is available in the locality that would positively contribute to housing supply and affordability.

***Is the existing public infrastructure (roads, rail, utilities) capable of serving the proposed site? Is there good pedestrian and cycling access? Is public transport available or is there infrastructure capacity to support future public transport?***

The existing development in the Spring Glen and Summer Hill Creek localities are not connected to a reticulated sewer or water supply. In this regard:

- Domestic wastewater for future dwellings would be disposed of via on-site means and in accordance with *On-site Sewage Management for Single Households* (which is an all of government approach to on site effluent disposal); and *AS/NZS 1547:2000 On-site Domestic Wastewater Management*. Annexure B provides a detailed assessment for the dwelling envelope within each proposed vacant lot.
- Water supply for future dwelling will be provided via rainwater collection tanks and where applicable, supplemented by dams or bores.

- Electricity, communications and fixed wireless NBN is available in the area and can be provided to the subject land.

Proper utilisation of public infrastructure is considered to be for the public benefit. In this regard, the ability to create the full number of lots depicted in the development concept will result in a more efficient use of future roads and utility services that are required to serve the development. In this regard:

- The subject land has direct frontage to Winter Lane which is a two lane bitumen sealed road. Winter Lane intersects with Ophir Road which is also a two lane bitumen sealed road. The existing road network is considered to be satisfactory to provide an effective route between the subject land and the nearby regional centre of Orange.
- Pedestrian access is not ideal, but this is largely due to the fact that the purpose of the R5 Large Lot Residential zoning is to provide living opportunities within a rural setting. The provision of footpaths and cycleways within this zoning would be uncharacteristic. Notwithstanding, it is recognised within the CSS that the *Cabonne Pedestrian and Access Management Plan (PAMP)* requires review to improve connections within the settlement.

***Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?***

Due to its established location and integration with the local road network, the proposal will not result in changes to the car distances travelled by customers, employees and suppliers.

Traffic related impacts of the Planning Proposal are discussed in further in *Section 4.3b* of this submission.

***Are there significant Government investments in infrastructure or services in the area whose patronage would be affected by the proposal? If so what is the expected impact.***

There are no significant Government investments in infrastructure or services whose patronage would be affected by the proposal.

***Will the proposal impact on land that the Government has identified a need to protect (e.g., land with high biodiversity values) or have other environmental impacts? Is the land constrained by factors such as flooding?***

The proposal will not impact on land that the Government has identified a need to protect.

The area of the proposed R5 zone and indicative location of future lots are generally cleared of native vegetation except for the light scattering of native trees interspersed along the property boundaries.

The ecological impacts of the Planning Proposal are considered in greater detail in *Section 4.3b*.

Although identified as bushfire prone land, the site is not significantly constrained by the natural hazard and can be demonstrated to comply with the provisions of Planning for Bushfire Protection 2019 as considered in *Section 4.3b*.

***Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?***

Yes. The proposal is compatible/complementary to surrounding land uses. The proximity of the subject land does not pose a constraint to the proposal; it is contiguous with the settlement pattern and represents a logical extension of the existing R5 zoning located immediately to the north of the subject land

*Section 4.3* of this report considers the key relevant issues and demonstrates that the proposal will not adversely affect the amenity of the location; the public domain; and wider community.

***Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?***

No. The proposal does not increase retail or commercial function other than those uses permitted in the R5 Large Lot Residential zone.

***If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?***

No

***What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?***

In terms of the public interest, facilitation of the proposal would provide additional rural residential land that is not unduly constrained by natural or physical attributes.

The provision of additional rural residential land would positively contribute to the rural residential land supply that would supply some of the projected demand of the market. To this end, facilitation of the Planning Proposal would:

- Use the subject land as efficiently as possible.
- Responds to the demand of the market.
- Reduce travel times and fuel consumption.
- Increases permanent population in the Summer Hill Creek/Spring Glen area.

To not proceed would result in a lost opportunity and perhaps a loss of potential social and economic benefits.

#### **4.2 RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

**a) Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?**

The *Central West and Orana Regional Plan 2036* guides the NSW Government's land use planning priorities and decisions in the Central West and Orana Region up to 2036. The Regional Plan provides an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions and is supported by an implementation plan. The goals of the Regional Plan are:

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

The CWORP identifies the following priorities for the Cabonne LGA.

- Maintain and enhance the economic diversity of Cabonne’s towns, villages and commercial centres.
- Support villages to attract appropriate development.
- Support the mining and agribusiness sectors and associated businesses through land use planning policies.
- Support the connectivity of the local, regional, and state transport network.
- Leverage opportunities from the Local Government Area’s rural character to diversify the economy in areas such as tourism.

As discussed in Section 5.10 of this report, the proposal is considered to be consistent with the directions and priorities of the Central West and Orana Regional Plan 2036.

**b) Is the planning proposal consistent with the local Council’s Community Strategic Plan or other local strategic plan?**

***Cabonne Community Strategic Plan 2025***

The Community Strategy Plan describes the community’s vision and aspirations for a period of ten or more years. The Future Directions outlined in the CSP relevant to this Planning Proposal are detailed below.

- Future Direction 1: Connect Cabonne to each other and the world
  - 1.1 A safe efficient and quality urban and rural transport system for vehicles and pedestrians on Council’s local, regional, and state road network.
  - 1.2 Everywhere in Cabonne has access to contemporary information and communication technology.

The Planning Proposal is consistent with above direction as follows:

- The traffic impacts of the proposed rezoning and subsequent subdivision of the site are discussed in *Section 4.3b*.

- Future subdivision of the subject land would involve the extension of telecommunication, electricity and NBN technology to service each new lot.

- Future Direction 4: Grow Cabonne’s Culture and Community
  - 4.1 A successful balance of village and rural living.

The Planning Proposal is entirely consistent with this Direction as it provides living opportunities within a rural setting.

### ***Cabonne Council Local Strategic Planning Statement***

Council’s *Local Strategic Planning Statement* sets the framework for Cabonne’s economic, social, and environmental land use needs over the next 20 years. It outlines clear planning priorities describing what will be needed, where these are located, and when they will be delivered. The LSPS sets short, medium, and long-term actions to deliver priorities that align with Council’s broader Community Strategic Plan.

Those Planning Priorities relevant to the Planning Proposal are outlined below.

- Planning Priority 1: Support the diversification in agriculture and protect agricultural land from urban encroachment.
- Planning Priority 4: Support and promote sustainable development within our villages and celebrate our history.
- Planning Priority 5: Provide opportunities to ensure a variety of housing types are available across our shire.
- Planning Priority 6: Ensure that infrastructure and facilities cater for the changing needs of our community.
- Planning Priority 7: Protect and enhance our landscape, biodiversity and waterways.
- Planning Priority 8: Manage natural hazards to mitigate their impacts on our communities.
- Planning Priority 9: Mitigate and adapt to climate change



As demonstrated throughout this report, the proposal is considered to be entirely consistent with the above Planning Priorities. In this regard:

- With regard to Planning Priority 1, the subject land is identified within the CSS as a growth area that is suitable for large lot residential development. The diminishing agricultural value of the subject land is recognised via its inclusion in the CSS and the surrounding land uses and fragmented holding pattern. The NSW Land and Soils Capability Mapping further reinforces the fact that the subject land has very severe limitations in terms of agricultural output due to the steeply sloping land and low fertility of the soils. The poorly draining areas of the subject land further reduce the capability of the land to be used properly for agriculture. As outlined throughout this submission, the management of land use conflicts with the rural interface can be appropriately managed.
- With regard to Planning Priority 4, the rezoning of the subject land is consistent with Council's strategic land use planning framework which aims to guide sustainable urban development.
- With regard to Planning Priority 5, the facilitation of this Planning Proposal will contribute to the variety of housing types and densities available in the LGA.
- With regard to Planning Priority 6, the provision of services and infrastructure to support the future development of the land will be borne by the developer without additional costs or burden upon the community.
- With regard to Planning Priority 7, the development concept for the site has been designed so as to minimise the impacts upon the biodiversity structure of the site and the 1<sup>st</sup> and 2<sup>nd</sup> order streams that traverse the site.
- With regard to Planning Priority 8, as discussed in *Section 4.3b*, the bushfire hazard does not preclude the rural residential development of the subject land. The bushfire safety measures required by PBP 2019 will provide an adequate level of bushfire protection.
- With regard to Planning Priority 9, future development within the subject land will be required to comply with the requirements of BASIX which aims to make dwellings more efficient in regard to thermal comfort and water saving measures.

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

The consistency of the proposal in relation to the applicable State Environmental Planning Policies is indicated in the table below.

<b>State Environmental Planning Policies – Schedule of Consideration</b>	
<b>SEPP</b>	<b>Relevance/Comment</b>
State Environmental Planning Policy (Planning Systems) 2021	Not applicable
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Consistent as outlined in Section 4.3
State Environmental Planning Policy (Resilience and Hazards) 2021	Consistent as outlined in Section 4.3
State Environmental Planning Policy (Transport and Infrastructure) 2021	Consistent as outlined in Section 4.3
State Environmental Planning Policy (Industry and Employment) 2021	Not applicable
State Environmental Planning Policy (Resources and Energy)	Not applicable
State Environmental Planning Policy (Primary Production) 2021	Consistent as outlined in Section 4.3
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	Not applicable
State Environmental Planning Policy (Precincts – Central River City) 2021	Not applicable
State Environmental Planning Policy (Precincts – Western Parkland City) 2021	Not applicable
State Environmental Planning Policy (Precincts – Regional) 2021	Not applicable

**d) Is the planning proposal consistent with applicable Ministerial Directions?**

Section 117 of the Environmental Planning and Assessment Act, 1979 allows the Minister to give directions to Councils regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of draft Local Environmental Plans.

A Planning Proposal needs to be consistent with the requirements of the Direction but can be inconsistent if justified using the criteria stipulated. The consistency or otherwise of the planning proposal with the Ministerial Directions is indicated below.

## FOCUS AREA 1: PLANNING SYSTEMS

### *Implementation of Minister's Planning Principles*

The objectives of this direction are to give legal effect to the Minister's Planning Principles and ensure the document, including the concept of sustainable development, is given regard in the assessment of planning proposals; and support improved outcomes through consideration of planning principles that are relevant to the particular planning proposal.

The Minister's Planning Principles were revoked on 14 March 2022.

### *Implementation of Regional Plans*

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. Consideration of the Planning Proposal against the Central West and Orana Regional Plan is provided below.

Central West and Orana Regional Plan 2036	
DIRECTION	COMMENT
1. Protect the region's diverse and productive agricultural land	Consistent as discussed throughout this submission.
2. Grow the agribusiness sector and supply chains	Not relevant
3. Develop advanced manufacturing and food processing sectors	Not relevant
4. Promote and diversify regional tourism markets	Not relevant
5. Improve access to health and aged care services	Not relevant
6. Expand education and training opportunities	Not relevant
7. Enhance the economic self-determination of Aboriginal communities	Not relevant
8. Sustainably manage mineral resources	Consistent as discussed throughout this submission.

Central West and Orana Regional Plan 2036	
DIRECTION	COMMENT
9. Increase renewable energy generation	Not relevant
10. Promote business and industrial activities in employment lands	Not relevant
11. Sustainably manage water resources for economic opportunities	Not relevant
12. Plan for greater land use compatibility	Consistent as discussed throughout this submission.  There are no aspects of the proposal that would increase the potential for land use conflict in the area.
13. Protect and manage environmental assets	Consistent as discussed throughout this submission.
14. Manage and conserve water resources for the environment	Consistent as discussed throughout this submission.
15. Increase resilience to natural hazards and climate change	Consistent as discussed throughout this submission.
16. Respect and protect Aboriginal heritage assets	Not relevant
17. Conserve and adaptively re-use heritage assets	Not relevant
18. Improve freight connections to markets and global gateway	Not relevant
19. Enhance road and rail freight links	The Planning Proposal is consistent with this Direction.
20. Enhance access to air travel and public transport	Not relevant
21. Coordinate utility infrastructure investment	Not relevant
22. Manage growth and change in regional cities and strategic and local centres	Not relevant
23. Build the resilience of towns and villages	Consistent as discussed throughout this submission.
24. Collaborate and partner with Aboriginal communities	Consistent. It is understood that the Local Aboriginal Lands Council will be notified of this Planning Proposal.

Central West and Orana Regional Plan 2036	
DIRECTION	COMMENT
25. Increase housing diversity and choice	Consistent as discussed throughout this submission.
26. Increase housing choice for seniors	Not relevant
27. Deliver a range of accommodation options for seasonal, itinerant and mining workforces	Not relevant
28. Manage rural residential development	Consistent as discussed throughout this submission.
29. Deliver healthy built environments and better urban design	Consistent as discussed throughout this submission.

### ***Development of Aboriginal Land Council land***

This Direction is not relevant to this Planning Proposal.

### ***Approval and Referral Requirements***

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

(1) A planning proposal to which this direction applies must:

- (a) Minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister of public authority, and
- (b) Not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:
  - i. The appropriate Minister of public authority, and
  - ii. The Planning Secretary (or an office of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act, and

(c) Not identify development as designated development unless the relevant planning authority:

- i. Can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and
- ii. Has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.

The Planning Proposal is not adverse to this Direction as it not Designated Development. The subdivision will, however, be Integrated Development and will require the concurrence of the Rural Fire Service as the land is bushfire prone.

### ***Site Specific Provisions***

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

(1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

(2) A planning proposal must not contain or refer to drawings that show details of the proposed development

In consideration of the above:

- The Planning Proposal is consistent with this Direction as it proposes to rezone the subject land to a zone that already exists in the Cabonne Local Environmental Plan 2012 without imposing any additional development standards or requirements that are not already contained within that zone.
- In consideration of (2), although this proposal is supported by a development concept, it is important to note that this has only been prepared to demonstrate the suitability of the site for the proposed zoning and is only a concept.

***Parramatta Road Corridor Urban Transformation Strategy***

This Direction is not relevant to the Planning Proposal.

***Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan***

This Direction is not relevant to the Planning Proposal.

***Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan***

This Direction is not relevant to the Planning Proposal.

***Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan***

This Direction is not relevant to the Planning Proposal

***Implementation of the Glenfield to Macarthur Urban Renewal Corridor***

This Direction is not relevant to the Planning Proposal

***Implementation of the Western Sydney Aerotropolis Plan***

This Direction is not relevant to the Planning Proposal.

***Implementation of the Bayside West Precincts 2036 Plan***

This Direction is not relevant to the Planning Proposal.

***Implementation of Planning Principles for the Cooks Cove Precinct***

This Direction is not relevant to the Planning Proposal.

***Implementation of the St Leonards and Crows Nest 2036 Plan***

This Direction is not relevant to the Planning Proposal.

***Implementation of Greater Macarthur 2040***

This Direction is not relevant to the Planning Proposal.

***Implementation of the Pyrmont Peninsular Place Strategy***

This Direction is not relevant to the Planning Proposal.

***North West Rail Link Corridor Strategy***

This Direction is not relevant to the Planning Proposal.

**FOCUS AREA 2: DESIGN AND PLACE**

At the time of preparing this Planning Proposal, this section did not contain any Ministerial Directions.

**FOCUS AREA 3: BIODIVERSITY AND CONSERVATION**

***Conservation Zones***

Consistent. As the subject land does not contain an *environmentally sensitive area* and is not within an environment conservation/protection zone.

***Heritage Conservation***

The objective of this direction is conserve items, areas, objects and places of environmental significance and indigenous heritage significance.

Consistent. The subject land is not identified in Schedule 5 of the Cabonne Local Environmental Plan 2012 as containing and Item of Environmental Heritage and is not within a Heritage Conservation Area.



A search of the Aboriginal Heritage Information Management System does not reveal any recorded Aboriginal sites or places within or adjoining the subject land (refer *Annexure C*).

### ***Sydney Drinking Water Catchments***

This Direction is not relevant to the Planning Proposal.

### ***Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs***

This Direction is not relevant to the Planning Proposal.

### ***Recreation Vehicle Areas***

This Direction is not relevant to the Planning Proposal.

## **FOCUS AREA 4: RESILIENCE AND HAZARDS**

### ***Flooding***

This Direction is not relevant to the Planning Proposal as the subject land is not located within a flood planning area.

### ***Coastal Management***

This Direction is not relevant to the Planning Proposal.

### ***Planning for Bushfire Protection***

The objectives of this direction are to protect life, property and the environment from bush fire hazard, by discouraging the establishment of incompatible land uses in bushfire prone area; and encourage sound management of bush fire prone areas.

As discussed in Section 4.3b of this submission, the indicative development concept for the site demonstrates that the future development of the site can comply with the relevant provisions of Planning for Bushfire Protection 2019.

### ***Remediation of Land***

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

Consistent. A preliminary contamination investigation based on previous land use has been undertaken (refer *Annexure D*). The investigation found that in the areas that were sampled, the site appears suitable for residential land use.

### ***Acid Sulfate Soils***

This direction is not relevant to the Planning Proposal as the subject land is not identified within an area as containing Acid Sulfate Soils.

### ***Mine Subsidence and Unstable Land***

This direction is not relevant to the Planning Proposal as the subject land is not located within a declared mine subsidence district in the *Coal Mine Subsidence Compensation Regulation 2017*, or has been identified as unstable in a study, strategy, or other assessment undertaken on or behalf of Council.

## **FOCUS AREA 5: TRANSPORT AND INFRASTRUCTURE**

### ***Integrating Land Use Transport***

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (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 by 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 efficient movement of freight

The potential impacts associated with the Planning Proposal on the capacity and function of the road network and associated infrastructure are considered in Section 4.3b.

There are no aspects of the proposal that are inconsistent with the objectives of this Direction, particularly as:

- The existing and planned road system would be of an adequate standard to cater for the additional traffic that would be generated by this proposal.
- The proposal will not result in changes to the distance travelled by cars.
- The development concept interconnects with pedestrians and cyclists with the existing and planned public transport network; open space; and arterial and collector roads thereby creating greater transport choice for residents.

The potential traffic impacts associated with the proposal are discussed further in Section 4.3b.

***Reserving Land for Public Purposes***

This direction is not relevant to the Planning Proposal.

***Development Near Regulated Airports and Defence Airfields***

This direction is not relevant to the Planning Proposal.

***Shooting Ranges***

This direction is not relevant to the Planning Proposal.

**FOCUS AREA 6: HOUSING**

***Residential Zones***

The objectives of the direction are to:

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

- (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) Minimise the impact on residential development on the environment and resource lands

As discussed in the foregoing sections of this submission, the proposed rezoning of the subject land is not adverse to this direction. In this regard:

- The change in zoning will broaden the choice of building types and locations within the local market.
- The rezoning of the subject land is supported by the Cabonne Settlement Strategy 2021-2041 which identifies the subject land as a suitable site for future large lot residential development.
- The rezoning of the subject land will reduce the consumption of land for housing and associated development on the urban fringe of the nearby regional centre of Orange.
- As supported by the CSS, the proposed rezoning represents a more efficient use of the subject land without adversely affecting the provision of services. It is submitted that an increased density results in a more efficient use of services and infrastructure.

### ***Caravan Parks and Manufactured Home Estates***

The objectives of this direction are to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.

Although this Planning Proposal will remove the permissibility of caravan parks and manufactured home estates within the subject land, the inconsistency is justified on the basis that the subject land is identified as a candidate site for large lot residential development in the CSS.

## **FOCUS AREA 7: INDUSTRY AND EMPLOYMENT**

### ***Business and Industrial Zones***

This direction is not relevant to this Planning Proposal as it will not affect land within an existing or proposed business or industrial zone.

***Reduction in non-hosted short term rental accommodation period***

This direction is not relevant to the Planning Proposal as it only applies to the Byron Shire Council.

***Commercial and Retail Development along the Pacific Highway, North Coast***

This direction is not relevant to the Planning Proposal.

**FOCUS AREA 8: RESOURCES AND ENERGY**

***Mining, Petroleum Production and Extractive Industries***

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development

This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:

- (a) Prohibiting the mining of coal or other materials, production of petroleum, or winning or obtaining of extractive materials, or
- (b) Restricting the potential development of resources of coal, other materials, 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.
- (1) In the preparation of a planning proposal affected by this direction, the relevant planning authority must:
  - (a) Consult the Secretary of the Department of Primary Industries (DPI) to identify any:
    - i. Any resources of coal, other minerals, petroleum or extractive material that are of other State or regional significance.
    - ii. Existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal.
  - (b) Seek advice from the Secretary of DPI on the development potential of the resources identified under (1)(a)(i), and

- (c) Identify and take into consideration issues likely to lead to land use conflict between other land uses and:
- i. Development of resources identified under (1)(a)(i), or
  - ii. Existing development identified under 1(a)(ii)
- (2) Where a planning proposal prohibits or restricts development of resources identified under (1)(a)(i) or proposes land uses that may create land use conflicts identified under (1)(c), the relevant planning authority must:
- (a) Provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions,
  - (b) Allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and
  - (c) Include a copy of any objection and supporting information received from the Secretary of DPI with the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary before undertaking community consultation in satisfaction of Schedule 1 to the Act).

The proposal is inconsistent with this direction as the rezoning of the subject land would remove the permissibility of mining, petroleum production and extractive industries from the subject land. However, the inconsistency with this direction is justified on the basis that the subject land is:

- Identified in the Cabonne Settlement Strategy 2021-2041 as a suitable area for future large lot residential development; and
- Not identified in the 2012 Mineral Resource Audit for the Cabonne LGA.
- Located in an area that is highly fragmented by lifestyle lots. As such, due to the existing settlement pattern in and around the subject land, the exploration of minerals in and around the subject land is unlikely.

#### **FOCUS AREA 9: PRIMARY PRODUCTION**

##### ***Rural Lands***

The objective of this direction is to protect agricultural production value of rural land.

As allowed by subclause (a), of this direction, a planning proposal may be inconsistent with the terms of the direction only if the Council can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:

- (a) Justified by a strategy approved by the Planning Secretary which:
  - i. Gives consideration to the objectives 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), 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 District Plan prepared by the Department of Planning, Industry and Environment which gives consideration to the objective of this direction, or
- (d) Is of minor significance.

In response to the requirements of this Direction, this proposal is demonstrated as satisfactory as Council has recently adopted the Cabonne Settlement Strategy 2021-2041 that guides the provision of rural residential land in the LGA. Of note, is the fact that the subject land is supported for rezoning by the CSS.

### ***Oyster Aquaculture***

This direction is not relevant to the Planning Proposal as the subject land is not located in a 'Priority Oyster Aquaculture Area'.

### ***Farmland of State and Regional Significance on the NSW Far North Coast***

This direction is not relevant to the Planning Proposal.

## **4.3. ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT**

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

No.

The potential impacts of the proposal on critical habitat, threatened species, population, ecological communities and their habitats is discussed in *Section 4.3(b)* of this proposal.

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

The potential impacts of the Planning Proposal are considered below.

***Biodiversity***

Part of the subject land is identified on the LEP maps as having terrestrial biodiversity.



The eastern and western half of the subject land has been predominantly cleared for grazing with the exception of some remnant native vegetation interspersed along the property boundaries and within the paddocks.

Notwithstanding the above, the vegetation formation within the centre of the site comprises dense grassy woodland and dry sclerophyll forest. This vegetation is identified on the Broad Scale Mapping as:

- Yellow Box - Blakelys Red Gum grassy woodland on the tablelands; South Eastern Highlands Bioregion (PCT 1330) which is listed as a Critically Endangered Ecological Community under the Biodiversity Conservation Act 2016 and as Critically Endangered under the Environment Protection and Biodiversity Conservation Act. 1999, and



- Red Stringybark - Inland Scribbly Gum open forest on steep hills in the Mudgee - northern section of the NSW South Western Slopes Bioregion (PCT 323).

The future development of the site is unlikely to significantly affect a threatened species or their habitats, nor is it likely to adversely impact upon any endangered or ecological communities for the following reasons:

- The subject land is not identified on the Biodiversity Values Map published under clause 7.3 of the *Biodiversity Conservation Regulation 2017*.
- The native vegetation within the subject land is fragmented due to the past and current use of the site and surrounding residential land use pattern.
- As demonstrated in the development concept, the building envelopes for the site can be positioned so as to not disturb or to disrupt the biodiversity structure.
- The ecological attributes of the site do not overly constrain the site.
- There are no known recordings of threatened species within to the subject land or within a 500 metre radius of the site.
- The surrounding vegetation pattern is highly disturbed and fragmented with the land being surrounding by rural lifestyle/hobby lots that have been moderately cleared due to past agricultural practices.
- The land is not identified as having high biodiversity value as defined by Clause 7.3(3) of the Biodiversity Conservation Regulation 2017.
- The surrounding rural residential land use pattern within the vicinity and specifically to the north of the development site poses a risk to the biodiversity from the introduction of exotic species and domestic pets.
- As depicted in the concept subdivision layout, the majority of the trees are retained, and the clearing associated with the future development of the land would unlikely trigger the clearing threshold prescribed by the *Biodiversity Conservation Act 2016*.

The inception of the Biodiversity Conservation Act 2016 means that any development that would involve the clearing of native vegetation must consider whether a Biodiversity Development Assessment Report (BDAR) is required.

There are four matters that may trigger the Biodiversity Offset Scheme to determine whether or not a BDAR is required.

- Whether the development occurs on land identified on the OEH Biodiversity Values Map
- Whether the amount of native vegetation being cleared exceeds the threshold area based on the minimum lot size associated with the property.
- Whether the development or activity is “likely to significantly affect threatened species”
- Whether the development or activity will be carried out in a declared area of outstanding biodiversity value.

If the future subdivision of the subject land triggers any of the above thresholds, a BDAR is required. An assessment of whether the future development of the site will trigger the BOS will be undertaken as part of the development application process.

### ***Traffic and Access***

It is submitted that the Planning Proposal can be supported in regard to access, traffic, and transport considerations. This is further reinforced through the CSS which recognises that the subject land is *‘unique in that Winter Lane is a sealed local road running along the southern edge of this development area (servicing the concessional lots to the south) providing ease of access & subdivision & avoiding the need for a new access to Ophir Road’*.

A formal traffic survey has not been undertaken and is unwarranted due to the scale of the proposal and the fact that the potential yield of the site would only generate a minor increase in traffic levels that would not cause unacceptable traffic impacts during peak periods.

According to the *RTA Guide to Traffic Generating Development Updated Traffic Surveys*, a standard urban residential allotment in a regional city may generate 7.4 daily vehicle trips and 0.71 to 0.78 weekday peak hour vehicle trips.

Based on the development concept of 3 additional lots (as one lot is already developed), the future development of the site has the potential to generate 2.13 to 2.34 weekday peak hour vehicle trips.

The estimated total daily traffic generated would not be concentrated and outside of the peak periods, other vehicle trips are estimated to be distributed over the remainder of the day. When daily traffic volumes are distributed over the 24 hour period (excluding 1 hour morning peak and 1 hour evening peak), the impact on local traffic levels is considered to be reasonable.

Due to the nature of the proposal and the surrounding rural residential land use pattern, typical traffic is expected to consist predominantly of cars or light commercial vehicles. Table 4.6 (below) of the RTA Guide sets out recommended Environmental Capacity performance standards for streets with direct access to residential properties.

Table 4.6 Environmental capacity performance standards on residential streets			
Road class	Road type	Maximum Speed (km/hr)	Maximum peak hour volume (veh/hr)
Local	Access way	25	100
	Street	40	200 environmental goal 300 maximum
Collector	Street	50	300 environmental goal
			500 maximum

Winter Lane is regarded as a Local street and Ophir Road is regarded as a Collector road. Whilst formal traffic counts have not been undertaken, it is unlikely that the future development of the site, in conjunction with the existing traffic, would generate peak hour volumes along either of these roads that would exceed the environmental goals for both road types (i.e., peak hour maximum of 300 per hour for a Local road and 500 per hour for a Collector).

It is also submitted that the predicted total traffic generation would integrate satisfactorily with the existing traffic levels and capacity of Ophir Road.

On the basis of the above it is submitted that the potential traffic generation as a result of the development is expected to integrate with the existing road network without unreasonable impact.

### **Access**

The subject land has direct frontage to Winter Lane which forms the southern boundary of the subject land. Winter Lane is a sealed road with a formed width of 6 metres and provides one lane of traffic in each direction. The speed limit for this road is unposted.

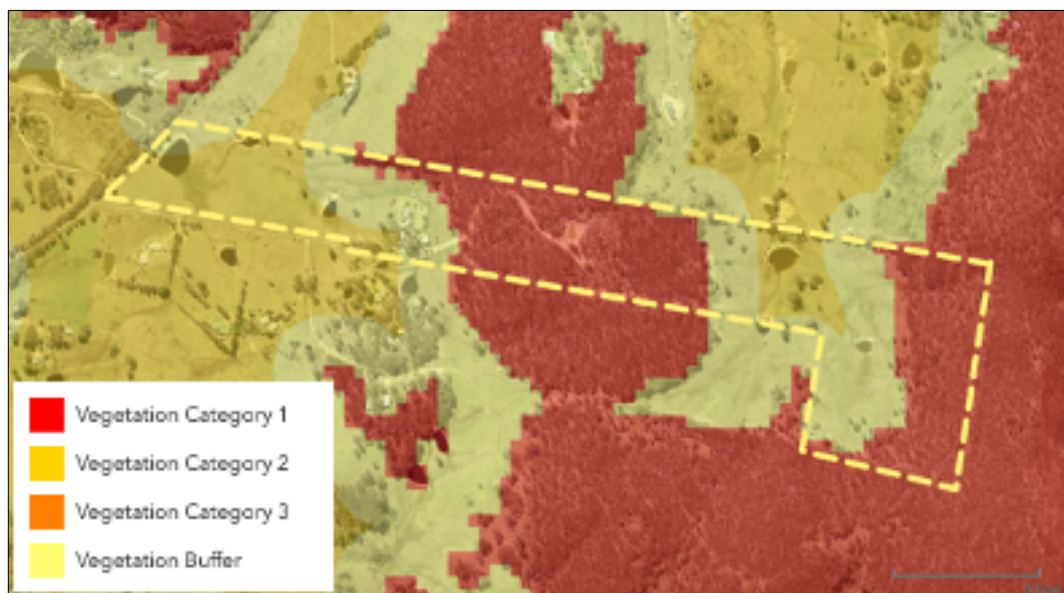
Winter Lane intersects with Ophir Road which is a sealed road that provides one lane of traffic in each direction. The posted speed limit for Ophir Road is 100 km/h. The intersection of Winter Lane and Ophir Road appears to operate satisfactorily as follows:

- The frontage to Winter Lane (which forms the southern boundary), eliminates the need to create an additional access onto Ophir Road.
- The majority of turns at the intersection are expected to be left from Winter Lane on to Ophir Road. And turning right from Ophir Road on to Winter Lane when approaching from Orange. It is therefore expected that the turning movements to and from the site are predicted to be very low and infrequent.
- The potential lot yield of the site does not represent traffic generating development pursuant to Clause 2.121 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.
- As demonstrated in the concept layout, the size and arrangement of the lots are suitable to allow for vehicles to enter and exit the site in a forward direction without the need for reverse exit onto Winter Lane.
- The modest increase in traffic levels generated as a result of the future development of the site would integrate reasonably with established traffic levels along Winter Lane and Ophir Road. The expected increase is not to the extent that it would place undue pressure upon the site access points or nearby intersections.
- Carriageway widths, trafficable lanes, and intersection controls appear satisfactory to accommodate current traffic levels.
- It must also be acknowledged that the existing residential development along Winter Lane and Ophir Road suggest that the intersection arrangements do not adversely affect vehicle movements or traffic flow.

Based on the above, it is submitted that the existing road network can accommodate the predicated traffic volumes associated with the future development of the site.

### ***Bushfire***

The subject land is identified as being bushfire prone land according to the NSW Rural Fire Service bushfire prone land mapping. Possible future dwelling sites have been defined for each proposed lot having regard to topography, bushfire hazard, and other physical constraints.



The possible sites have only been nominated for the purposes of a bushfire assessment to support the Planning Proposal. Other potential dwelling sites exist within the proposed lots.

Future development within the proposed lots will be subject to separate application and bushfire assessment at the time that future development within the lots is proposed.

An assessment has been undertaken for the indicative dwelling sites in accordance with *Planning for Bushfire Protection 2019* (PBP).

The specific objectives for rural residential subdivision under PBP are to:

- Minimise perimeters of the subdivision exposed to the bushfire hazard (hourglass shapes, which maximise perimeters and create bottlenecks should be avoided);
- Minimise vegetated corridors that permit the passage of bushfire towards buildings;
- Provide for the siting of future dwellings away from ridge-tops and steep slopes, within saddles and narrow ridge crests;
- Ensure that APZ's between a bushfire hazard and future dwellings are effectively designed to address the relevant bushfire attack mechanisms.
- Ensure the ongoing maintenance of APZs;

- Provide adequate access from all properties to the wider road network for residents and emergency services;
- Provide access to hazard vegetation to facilitate bushfire mitigation works and fire suppression; and
- Ensure the provision of an adequate supply of water and other services to facilitate effective firefighting.

## VEGETATION

All of the subject land is mapped as bushfire prone.

The eastern section of the subject land is identified as Category 2 vegetation with the central and western sections of the land consisting of Category 1 and buffer vegetation.

Category 1 vegetation is considered to be the highest risk for bushfire. It is represented as red on the bushfire prone land map and is surrounded by a 100 metre buffer. This category of vegetation has the highest combustibility and likelihood of forming fully developed fires including heavy ember production. This category of vegetation consists of forests, woodlands, heaths, forested wetlands and timber plantation.

Category 2 vegetation is considered to be a lower bushfire risk than Category 1 vegetation. This vegetation is recognised as having lower combustibility and limited potential fire size due to the vegetation area shape and size; land geography; and management practices and as such, is surrounded by a 30 metre buffer. This category consist of grasslands, freshwater wetlands, semi-arid woodlands, alpine complex and arid shrublands.

The central and part of the eastern section of the site consists of a dense eucalypt plantation with an open canopy (all mapped as Category 1 vegetation).

The remaining land and specifically around the indicative lots, has been historically used for small-scale grazing and is cleared. The predominant vegetation class in these areas is grassland.

### SLOPE & APZ

The subject land is within the FFDI 80 Area. With reference to Table A1.12.3 of Planning for Bushfire Protection 2019 (PBP) and based on the below information relating to slope and vegetation.

The APZ required to achieve BAL-29 (<29kW/m<sup>2</sup>) for each lot is depicted in the tables below:

#### ***Proposed Lot 1***

	North	South	East	West
<b>Fire Danger Index</b>	80	80	80	80
<b>Vegetation</b>	Grassland	Grassland	Grassland	Grassland
<b>Effective Slope</b>	0-5° downslope	0-5° upslope	0-5° upslope	5-10° downslope
<b>Required APZ to achieve BAL-29</b>	11 m	10 m	10 m	12 m

#### ***Proposed Lot 2***

	North	South	East	West
<b>Fire Danger Index</b>	80	80	80	80
<b>Vegetation</b>	Grassland	Grassland	Grassland	Grassland
<b>Effective Slope</b>	0-5° downslope	0-5° upslope	0-5° upslope	5-10° downslope
<b>Required APZ to achieve BAL-29</b>	11 m	10 m	10 m	12 m

#### ***Proposed Lot 3***

	North	South	East	West
<b>Fire Danger Index</b>	80	80	80	80
<b>Vegetation</b>	Grassland	Grassland	Grassland	Grassland
<b>Effective Slope</b>	0-5° downslope	0-5° upslope	0-5° upslope	5-10° downslope
<b>Required APZ to achieve BAL-29</b>	11 m	10 m	10 m	12 m

### ***Proposed Lot 4***

Proposed Lot 4 will consist of the residual parcel with an existing dwelling house, garage and shed. Planning for Bushfire Protection 2019 requires that where practicable, the existing dwelling is to be upgraded with bushfire protection measures such as ember proofing.

It is submitted that the future subdivision of the subject land would be able to comply with the requirements of Table 5.3a of PBP (as demonstrated below) as the required APZ for each lot can be maintained within each respective lot and within the nominated building envelope.

<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Complies</b>
Potential building footprints must not be exposed to radiant heat levels exceeding 29 kW/m <sup>2</sup> on each proposed lot.	APZs are provided in accordance with Tables A1.12.2 and A1.12.3 based on the FFDI	Yes, can comply.
APZs are managed and maintained to prevent the spread of a fire towards the building.	APZs are managed in accordance with the requirements of Appendix 4	Yes, can comply.
The APZs is provided in perpetuity.	APZs are wholly within the boundaries of the development site	Yes, can comply.
APZ maintenance is practical, soil stability is not compromised and the potential for crown fires is minimised.	APZs are located on lands with a slope less than 18 degrees	Yes, can comply.
Landscaping is designed and managed to minimise flame contact and radiant heat to buildings, and the potential for wind-driven embers to cause ignition.	Landscaping is in accordance with Appendix 4;  Fencing is constructed in accordance section 7.6	Yes, can comply.

In accordance with the above compliance with the provisions in Appendix 4 of PBP can be readily achieved by adopting the requirements for trees, shrubs and grass within the Inner Protection Area and the Outer Protection Area of the APZ.



## ACCESS

Section 5.3.2 of PBP requires the provision of safe operation access to structures and water supply for emergency services, while residents are seeking to evacuate the area.

As demonstrated in the table below, the future subdivision of the land can comply with the acceptable solutions prescribed by Table 5.3b.

Performance Criteria	Acceptable Solutions
Firefighting vehicles are provided with safe, all weather access to structures	<p>Property access roads are two-wheel drive, all-weather roads;</p> <p>Perimeter roads are provided for residential subdivisions of three or more allotments;</p> <p>Subdivisions of three or more allotments have more than one access in and out of the development;</p> <p>Traffic management devices are constructed to not prohibit access by emergency service vehicles;</p> <p>Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;</p> <p>All roads are through roads;</p> <p>Dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metre outer radius turning circle, and are clearly sign posted as a dead end;</p> <p>Where kerb and guttering is provided on perimeter roads, roll top kerbing</p>

Performance Criteria	Acceptable Solutions
	<p>should be used to the hazard side of the road;</p> <p>Where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access shall be provided to an alternate point on the existing public road system; and</p> <p>One way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.</p>
The capacity of access roads is adequate for firefighting vehicles	The capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating.
There is appropriate access to water supply	<p>Hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;</p> <p>Hydrants are provided in accordance with the relevant clauses of AS 2419:1:2005 – Fire Hydrant Installations System design, installation and commissioning; and</p> <p>There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.</p>
Access roads are designed to allow safe access and egress for firefighting vehicles while residents are evacuating as well as providing a safe operational environment for emergency	<p>Are two way sealed roads;</p> <p>Minimum 8m carriageway width kerb to kerb;</p>

Performance Criteria	Acceptable Solutions
service personnel during firefighting and emergency management on the interface	<p>Parking is provided outside of the carriageway width;</p> <p>Hydrants are located clear of parking areas;</p> <p>Are through roads, and these are linked to the internal road system at an interval of no greater than 500m;</p> <p>Curves of roads have a minimum inner radius of 6m;</p> <p>The maximum grade road is 15 degrees and average grade of not more than 10 degrees;</p> <p>The road crossfall does not exceed 3 degrees; and</p> <p>A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.</p>
(Non perimeter roads) Access roads are designed to allow safe access and egress for firefighting vehicles while residents are evacuating	<p>Minimum 5.5m carriageway width kerb to kerb;</p> <p>Parking is provided outside of the carriageway width;</p> <p>Hydrants are located clear of parking areas;</p> <p>Roads are through roads, and these are linked to the internal road system at an interval of no greater than 500m;</p> <p>Curves of roads have a minimum inner radius of 6m;</p> <p>The road crossfall does not exceed 3 degrees; and</p>

Performance Criteria	Acceptable Solutions
	A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.
Firefighting vehicles can access the dwelling and exit the property safely	<p>There are no specific access requirements in urban area where an unobstructed path (no greater than 70m) is provided between the most distant external part of the proposed dwelling and the nearest part of the public access road (where the road speed limit is not greater than 70kmph) that supports the operational use of emergency firefighting vehicles.</p> <p>In circumstances where this cannot occur, the following requirements apply:</p> <p>Minimum 4m carriageway width; In forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;</p> <p>A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;</p> <p>Provide a suitable turning area in accordance with appendix 3;</p> <p>Curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;</p> <p>The minimum distance between inner and outer curves is 6m;</p> <p>The crossfall is not more than 10 degrees;</p>

Performance Criteria	Acceptable Solutions
	<p>Maximum grades for sealed roads do not exceed 15 degrees for unsealed roads; and</p> <p>A development comprising more than three dwellings has access by dedication of a road and not by right of way.</p>

In accordance with the above, compliance with the provisions in Table 5.3b of PBP can be achieved as follows:

- Firefighting vehicles are to be provided with safe all weather access standard.
- The fire hazard does not warrant a perimeter road.
- The fire hazard does not warrant an alternate egress route. Egress from the subject land and along the road network is in a direction that leads away from the hazard.
- The grade of Winter Lane does not exceed 15°.
- Winter Lane exceeds 200 metres in length; however, a reduction in length is not warranted as the egress is away from the Category 1 vegetation.
- The width of Winter Lane is sufficient to allow vehicles to pass in a two-way traffic situation.
- The capacity of the existing road network and the connecting road are considered to be of sufficient standard and capability to accommodate increased traffic movements in the event of a bushfire. In this regard:
  - Winter Lane has a sealed width of 6 metres which is greater than the 5.5 metre requirement for non-perimeter roads.
  - Parking can be excluded from the carriageway width.
  - Although not a through road, the new access road will allow two way passing of vehicles and provide a cul-de-sac turning circle with a 12 metre outer radius.

- Winter Lane has been constructed and designed so that the maximum grade does not exceed 15<sup>0</sup> and the average grade does not exceed 10<sup>0</sup>.
- The road is not subject to any significant overhanging obstructions. The existing roadside vegetation can be maintained so as to provide 4 metres of vertical clearance.

### SERVICES – WATER, ELECTRICITY AND GAS

Section 5.3.3 of PBP requires the provision of adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as to not contribute to the risk of fire to a building.

As demonstrated in the table below, the future subdivision of the land can comply with the acceptable solutions prescribed by Table 5.3c.

Performance Criteria	Acceptable Solutions
Adequate water supplies are provided for firefighting purposes.	<p>Reticulated water is to be provided to the development where available;</p> <p>A static water and hydrant supply is provided for non-reticulated developments or where reticulated water supply cannot be guaranteed; and</p> <p>Static water supplies shall comply with Table 5.3d.</p>
<p>Water supplies are located at regular intervals; and</p> <p>The water supply is accessible and reliable for firefighting operations</p>	<p>Fire hydrant, spacing, design and sizing complies with the relevant clauses of AS 2419:1:2005</p> <p>Hydrants are not located within any road carriageway;</p> <p>Reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter.</p>
Flows and pressure are appropriate	Fire hydrant flows and pressures comply with the relevant clauses of AS 2419:1:2005
The integrity of the water supply is maintained	All above ground water service pipes are metal, including up to any taps;

	Above-ground water storage tanks shall be of concrete or metal
Location of electricity services limits the possibility of ignition of surrounding bushland or the fabric of buildings	<p>Where practicable, electrical transmissions lines are underground;</p> <p>Where overhead, electrical transmission lines are proposed as follows:</p> <ol style="list-style-type: none"> <li>Lines are installed with short pole space of 30 metres, unless crossing gullies, gorges or riparian areas;</li> <li>No part of a tree is closer to a power line than the distance set out in ISSC3 Guideline for Managing Vegetation Near Powerlines</li> </ol>
Location and design of gas services will not lead to ignition of surrounding bushland or the fabric of buildings	<p>Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 – The Storage and Handling of LP Gas, the requirements of relevant authorities, and metal piping is used;</p> <p>All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;</p> <p>Connections to and from gas cylinders are metal;</p> <p>Polymers sheathed flexible gas supply lines are not used;</p> <p>Above ground gas service pipes are metal, including and up to any outlets.</p>

The minimum dedicated supply is to be a minimum of 20,000 litres per dwelling/lot. The tanks are to be separate and in addition to the 90,000-litre minimum required by Cabonne Council for domestic use. Further, and to meet the requirements of Planning for Bushfire Protection:

- Suitable connection for firefighting purposes is to be provided and located within the IPA, away from the structure.

- Provide a 65mm Storz outlet with a gate or ball valve.
- Gate or ball valve and pipes to be metal and adequate for water flow.
- Underground tanks to have an access hole of 200mm to allow tankers to refill direct from tank. Hardened ground surface to be provided within 4 metres of tank to facilitate truck access.
- Above ground tanks to be of metal or concrete. Stands on raised tanks are to be protected. Tanks on the hazard side of building are to be shielded to protect fire fighters.
- All above ground pipes and taps external to the building are to be metal. Pumps are to be shielded.

If all the recommendations listed in the foregoing report are adopted in terms of bushfire safety, it is submitted that the future subdivision of the subject land is likely to meet the requirements for Planning for Bushfire Protection 2019.

### ***Contamination***

A preliminary contamination investigation based on previous land use has been undertaken within the identified building envelopes (refer *Annexure D*). The investigation found that in the areas that were sampled, the site appears suitable for residential land use. In summary:

- *A review of site history indicated that historical land-use over the area was agricultural comprising grazing.*
- *Vegetation cover was generally 100%.*
- *One area of disturbed soil was identified. No contamination was identified. The area was potentially disturbed due to being used as a stock camp. No visible signs of contamination such as discolouration or staining was identified on the surface of the site.*
- *No signs of settlement or subsidence was identified on the site.*
- *No cement sheeting was observed during the site inspection.*
- *Levels of heavy metals near environmental background levels and less than adopted thresholds for human health and environment were detected.*



- *Levels of hydrocarbons in the sample from the disturbed soil were below the laboratory detection limits and thresholds adopted.*

On the basis of this preliminary information, it is requested that soil testing or further investigation not be required.

### ***Resource Management***

The proposal will not generate adverse impacts in regard to vegetation, timber production, land capability (soil resources and stability) or water resources, due to the following:

- The future development of the land would not require the removal of native timber.
- The subject land does not represent a source of timber production.
- There are no aspects of the proposal that would impact upon soil resources and stability.

### ***Water Quality***

The Cabonne LEP 2012 identifies the subject land as having groundwater vulnerability. Whilst the potential impacts on water quality would become more apparent at the DA stage, the following principles should apply:

- Erosion and sediment controls are to be implemented and maintained as required to ensure that water quality is not affected as a result of construction or operational activities.
- Immediately after construction works have been completed, the exposed areas should be stabilised and re-sown with appropriate species. The erosion and sediment control devices installed at the construction phase should remain in place until revegetation of the disturbed areas has occurred.

An increase in impervious surfaces as a result of buildings and roadways will increase the volume and velocity of run-off from the site and have the potential for erosion and sedimentation downstream. Concerns in this regard may be addressed as follows:

- The stormwater drainage system is to return stormwater to the rural catchment in a manner that limits the discharge at a non-erosive velocity.

- Roof water should be collected in rainwater tanks for water supply which will provide an on-site water supply to satisfy BASIX requirements as well as reduce the peak run-off from the site.
- Provide appropriate drains from roads, driveway and paved areas with adequate scour protection measures as required.

As demonstrated on the development concept, a rural residential subdivision with a modest yield can occur with appropriate buffer distances incorporated into the design so as to mitigate any potential impacts on the non-perennial watercourses within the property. In this regard:

- The protection of the identified watercourses is reinforced by the low-density development pattern and the location of future dwellings outside of the riparian buffer.
- Any works within 40 metres of the identified watercourses will be subject to a Controlled Activity Approval under the Water Management Act 2000.

### **Groundwater**

Potential impacts on the functioning of key groundwater systems will be addressed as part of any future development application that is lodged as a result of this Planning Proposal. Having regard to the objectives of the Planning Proposal, it is considered that the by its very nature, future residential development of the site is unlikely to detrimentally affect groundwater resources for the following reasons:

- Domestic wastewater for future dwellings would be disposed of via on-site means and in accordance with *On-site Sewage Management for Single Households* (which is an all of government approach to on site effluent disposal); and *AS/NZS 1547:2000 On-site Domestic Wastewater Management*. Annexure B provides a detailed assessment for the dwelling envelope within each proposed vacant lot.
- The residential use of land does not normally involve the storage or disposal of large quantities of liquid waste or chemicals.
- The proposal does not involve the extraction of groundwater and therefore does not contribute to groundwater depletion.

### ***Cultural Values***

The value of the subject land in terms of Aboriginal archaeology is considered minimal due to the fact that it has been highly modified for several years from its original state due to previous farming practices.

A Preliminary Aboriginal archaeology site investigation has been undertaken and is provided in *Annexure C*. The report is summarised below:

*The AHIMS database was searched for Aboriginal sites in or near the investigation area. The AHIMS search was undertaken on Lot 6 DP 703806, 51 Winter lane, Summer Hill Creek NSW, with a buffer of 50 metres.*

*The search of the AHIMS database did not identify any recorded aboriginal sites or declared aboriginal places in or near the search location.*

*No aboriginal sites or places were identified on Lot 6 DP 703806, 51 Winter Lane, Summer Hill Creek NSW.*

If Aboriginal objects, relics or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease and the NSW OEH and representatives from the Orange LALC shall be notified. Further archaeological investigation shall be undertaken where required. Development works in the area of the find(s) may recommence only when cleared to do so by OEH, which may require a permit to destroy the artefact under Section 90 of the National Parks and Wildlife Act 1974.

The European Heritage of Cabonne is recognised in Schedule 5 of the Cabonne Local Environmental Plan 2012 which lists items of environmental heritage that are to be protected and conserved in accordance with the relevant provisions of the LEP. With reference to Schedule 5 and the LEP mapping, there are no identified items within proximity to the site.

### ***Agriculture***

The subject land has been mapped by NSW Agriculture as being of Class 6 Agricultural Suitability. In this regard, the land is classified as having very severe limitations with few management practices available to overcome these constraints.

The Planning Proposal is considered not to adversely impact the agricultural value of the site or nearby lands for the following reasons:

- The subject land has been recommended for rezoning in both the now superseded Cabonne Settlement Strategy 2012 and the current Cabonne Settlement Strategy 2021-2041 as being suitable for rural residential purposes. It is therefore acknowledged that the eventual use of the site would be for rural residential purposes.
- The land is situated within a highly fragmented land use pattern where only small-scale primary industry activities occur. The prevailing land use consists mainly of lifestyle/hobby lots with small scale grazing opportunities being undertaken on the surrounding land.
- The proximity to adjoining rural residential land will likely see the land continue to be subject to development pressures associated with the take-up of the nearby estates including Clifton Grove, Summer Hill Creek and Spring Glen.
- The land is not identified as Biophysical Strategic Agricultural Land.

**c) How has the planning proposal adequately addressed any social and economic effects?**

The Planning Proposal is likely to have a positive impact on employment opportunities.

The social and economic benefits of the Planning Proposal are considered to be positive.

The proposal has the potential to facilitate indirect economic benefit by providing for additional permanent population in the LGA that is also in close proximity to Orange as a major regional centre.

Facilitation of this Planning Proposal will provide a modest increase in the range and supply of rural residential land available in the locality. The proposed rezoning will positively contribute to housing supply and affordability.

The provision of residential land in a suitable location is considered to be in the public interest. The proposal would increase the number of lots and choice in an area whilst offering a high residential amenity.

Considering the significant cost in housing in Orange, there is likely to be flow-on effects for people seeking more affordable housing options which this Planning Proposal will facilitate.

#### **4.4 STATE AND COMMONWEALTH INTERESTS**

**a) Is there adequate public infrastructure for the Planning Proposal?**

Yes. As demonstrated in the foregoing submission, the subject land can be serviced and within the capacity of the existing network.

Electricity and telecommunications services are available and would be extended as required to service future development.

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

The view of State and Commonwealth public authorities are not required on the Planning Proposal until after the Gateway determination.

## 5.0 COMMUNITY CONSULTATION

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The Planning Proposal will be subject to public exhibition and agency consultation as part of the Gateway process. The Gateway determination will specify the community consultation that must be undertaken on the Planning Proposal.

This Planning Proposal is considered to be a minor proposal for the following reasons:

- This Planning Proposal provides information to demonstrate that it is not adverse to the relevant strategic planning framework and that the potential impacts are not unreasonable.
- Issues pertaining to infrastructure servicing are not significant and can be adequately addressed.
- The Planning Proposal is not for a principal LEP.
- The Planning Proposal does not seek to reclassify public land.

Community consultation would involve:

- An exhibition period of 28 days.
- The community is to be notified of the commencement of the exhibition period via a notice in the local newspaper and on Council's website. The notice will:
  - Give a brief description of the objectives or intended outcomes of the planning proposal;
  - Indicate the land affected by the planning proposal;
  - State where and when the planning proposal can be inspected;
  - Provide the name and address for the receipt of submissions; and
  - Indicate the closing date for submissions.
- Written notification to adjoining and surrounding landowners.

During the exhibition period, it is expected that Council would make the following material available for inspection:

- The Planning Proposal in the form approved for community consultation by the Director General of Planning;
- Any studies (if required) relied upon by the planning proposal.

Electronic copies of relevant exhibition documentation to be made available to the community free of charge.

At the conclusion of the notification and public exhibition period Council staff will consider submissions made in respect of the Planning Proposal and prepare a report to Council.

## 6.0 CONCLUSION

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This Planning Proposal warrants support due to the following:

- This Planning Proposal is consistent with the Cabonne Settlement Strategy 2021-2041 and is identified within the Strategy as being suitable for rural residential development.
- The subject land provides an opportunity to meet the shortfall in large lot rural residential land.
- The agricultural value of the subject land and its surrounds has been significantly diminished by the existing fragmented development pattern and surrounding land uses.
- The rezoning of the subject land represents a logical extension of the existing Spring Glen rural residential estate to the north.
- The subject land is not unduly constrained by bushfire or ecological value.
- The proposal is not unreasonably constrained by the physical characteristics of the subject land.
- The proposal has the potential to generate positive social and economic impacts for the benefit of the community.
- The potential impacts of the proposal have been foreshadowed and there are no significant issues identified that would prevent the LEP amendment proceeding to the next step of the plan-making process. In any event, there is opportunity under the Gateway determination for more detailed information to be provided, where relevant, before the LEP is finalised.

Yours faithfully

***Peter Basha Planning & Development***



Per:

**SAM BASHA**



Annexure A

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*Land Plans and Development Concept*

Annexure B

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*Onsite Effluent Management Study*

Annexure C

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*AHIMS Search*

Annexure D

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*Preliminary Contamination Investigations*