

Planning Proposal – Amend Greater Hume LEP 2012



**Nos.344, 375 and 387 Molkentin Road &
Nos.111 and 167 Funk Rd
JINDERA NSW**



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CONTENTS

1. INTRODUCTION	1
1.1 Basis of Proposal	1
1.2 Subject Land	3
2. PLANNING PROPOSAL	6
2.1 Part 1 – Objectives or Intended Outcomes	6
2.2 Part 2 – Explanation of Provisions	7
2.3 Part 3 – Justification of Strategic and Site-Specific Merit	8
SECTION A – NEED FOR THE PLANNING PROPOSAL	8
1. Is the planning proposal a result of any strategic study or report?	8
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	10
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK	11
3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?	11
4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?	12
5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?	13
6. Is the planning proposal consistent with applicable State Environmental Planning Policies?	13
7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?	15
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT	23
8. 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?	23
9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	25
10. Has the planning proposal adequately addressed any social and economic effects?	26
SECTION D – INFRASTRUCTURE (LOCAL, STATE AND COMMONWEALTH)	27
11. Is there adequate public infrastructure for the planning proposal?	27
SECTION E – STATE AND COMMONWEALTH INTERESTS	27
12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?	27
2.4 Part 4 – Maps	28
2.5 Part 5 – Community Consultation	38
2.6 Part 6 – Project Timeline	39
3. CONCLUDING COMMENTS	40

APPENDIX 1: Aboriginal Cultural Heritage – Due Diligence

APPENDIX 2: Biodiversity Assessment Report

APPENDIX 3: Council's response to the Department's RFI



1. INTRODUCTION

This planning proposal has been prepared on behalf of Mr Dallas Hurst (the “Proponent”) acting on behalf of landowners in the Molkentin Road and Funk Road locality Jindera. The proposal seeks support for an amendment to the Greater Hume Local Environmental Plan 2012 (the “GHLEP”) so as to change the Land Zoning Maps as they apply to Nos.344, 375 & 387 Molkentin Rd and Nos.111 & No.167 Funk Rd Jindera (the “subject land”) from RU4 Primary Production Small Lots to R5 Large Lot Residential. The Planning Proposal also seeks to amend the Minimum Lot Size Maps applicable to the subject land by reducing the minimum lot size from 8 hectares down to 2 hectares.

Consistent with the provisions of Section 3.33 (2) of the Environmental Planning and Assessment Act 1979 (the “EP&A Act”) this planning proposal includes the following components:

- Part 1 – A statement of the objectives and intended outcomes of the proposed instrument;
- Part 2 – An explanation of the provisions that are to be included in the proposed instrument;
- Part 3 – The justification for those objectives, outcomes and the process for their implementation;
- Part 4 – Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies;
- Part 5 – Details of the community consultation that is to be undertaken on the planning proposal; and
- Part 6 – Project timeline

In addition to the Act, this report has also had due regard to relevant matters as provided for within the NSW Department of Planning, Infrastructure & Environment *Local Environmental Plan Making Guideline (December 2021)* (the “Guide”).

1.1 Basis of Proposal

The Planning Proposal has been formulated on behalf of the Proponent in direct response to the *Jindera Residential Land Use Strategy (August 2021)* (the “JRLUS”). The JRLUS, as recently adopted by Greater Hume Council (the “Council”) on 1 December 2021, seeks to provide the strategic framework and vision to guide the future residential growth of Jindera. Specifically, the JRLUS identifies a number of areas, including the subject land, as the preferred areas to be rezoned from agriculture to rural residential in the Jindera locality.

The inclusion of the subject land within the JRLUS was justified in part of the basis that larger residential lots provide an important response to facilitating residential choice and reinvigorating a locality. Attracting new families to the Jindera area is seen as an opportunity to not only add to participation within local community groups but to also contribute to the local economy. Benefits from having sufficient market choice in demonstrated and sustained popular market sector such as large lot residential include regeneration of community and sporting groups, increased expenditure in local towns, additional skills and a sense of community and engagement with their neighbours.



The JRLUS concluded that the addition of the subject land into the overall strategy was appropriate so as to allow for further investigations for additional large lot residential subdivision in the Jindera locality to address the identified market shortfall (ie < 2.7 years supply) for such land. This outcome is supported by the proximity of the subject land to the Town Centre of Jindera.

This notwithstanding, the subject land is necessarily situated in an area that is beyond the existing urban boundary. Despite potential concerns regarding issues of “leap-frogging” these concerns can be readily addressed by a number of supporting factors including:

- The area immediately to the east of the Jindera Township is significantly constrained by the fragmented ownership pattern. The direct consequence of dealing with a multitude of landowners is that almost certainly a situation would result where this land cannot be relied upon to seriously satisfy demand for R5 zoned land, even in the long term.

Factors that can come into play when trying to deal with fragmented land and the resultant underdevelopment despite rezoning include but are not limited to:

- Landowners who reside on land who will only contemplate subdivision as part of possible future property succession planning.
- Existing landowners who do not want close neighbours.
- Land included with the zone which a land holder has no intention of ever subdividing.
- Existing landholders acquiring neighbouring properties when they come on the market to either prevent future subdivision or alternatively to enlarge their own holdings further.
- The significant costs associated with the subdivision process.
- Difficulties in securing finance.
- Retirement planning issues including Age Pension assets test rules.
- The fact also that such rezoning invariably includes land that can't be subdivided either because of minimum lot size provisions, property specific land constraints and/or existing land use arrangements.

In respect of this last issue as can be noted within Section 4 of the JRLUS, including the Combined Constraints and Opportunities Map that the area immediately to the east of the Jindera Township is heavily constrained by a range of issues including flood, bushfire, biodiversity considerations and agricultural land capability. This reduces the likelihood of this eastern area ever being feasibly subdivided for R5 purposes in a realistic time frame, despite its location relative to the township area.

- Given an understanding that subdivision is often constrained by a range of factors that might otherwise act contrary to market forces and against objectives for a sequenced supply of R5 lots being released into the market place, the JRLUS has considered land beyond the urban boundary. In this context the subject land is seen as increasing opportunity to try and counteract what will in all likelihood be the high



risk of a very slow response to developing newly rezoned R5 land in the two western locations identified by the study.

- Being relatively unconstrained land that is situated in an area where existing rural living and small-scale farming operations already predominate, the subject land becomes a strong candidate for rezoning to R5. That is, when one actually considers the actual land in question factoring in issues such as:
 - i. topography, native vegetation, drainage lines and waterways;
 - ii. the layout of the existing cadastre;
 - iii. development costs associated with road construction and connection of relevant reticulated services; and
 - iv. the layout and pattern of existing development, including dwelling houses.;

issues that might be normally associated with “leap-frogging” are obviated. Instead, the development of the subject land will facilitate an outcome that:

- minimizes any potential effects of ‘leapfrog development’ including infrastructure cost/pressures and duplication of facilities and services. This outcome is as evidenced by other existing land zoned R5 within interface locations around the Jindera urban area;
- ensures a relatively high degree of connectivity between the developable area of the subject land and the existing Jindera township. This conclusion is supported in part by the fact that the intersection of Molkentin Road and Funk Road is only 2km from the 50km/hr speed limited of the township;
- results in a reduced potential for any land use conflict with existing agricultural enterprises in the locality. The subject land is surrounded by land zoned RU4 which reflects the high degree of fragmentation and the predominantly rural living / small scale agricultural landuse across the eastern area between Jindera and the Albury LGA boundary.

In summary the subject land is seen as an appropriate candidate for R5 zoning offering an excellent lifestyle choice for people and a place of residence within a semi - rural setting, without compromising the landscape and environmental values of the locality. Significantly also the developable area of the subject land is also owned by willing owners ready to respond in the short term to opportunities that would be offered by a rezoning of the land for large lot residential purposes. This is significant given that as identified by the JRLUS there is an identified demand for approximately 430 lots zoned R5 to service forecast population growth across this established market sector.

1.2 Subject Land

The subject land comprises five (5) properties situated approximately 3.5km to the east-and south east of the Jindera Post Office (Figure 1). The land is currently zoned RU4 - Primary Production Small Lots under the provisions of the GHLEP. The minimum lot size for subdivision across the subject land is currently 8ha.

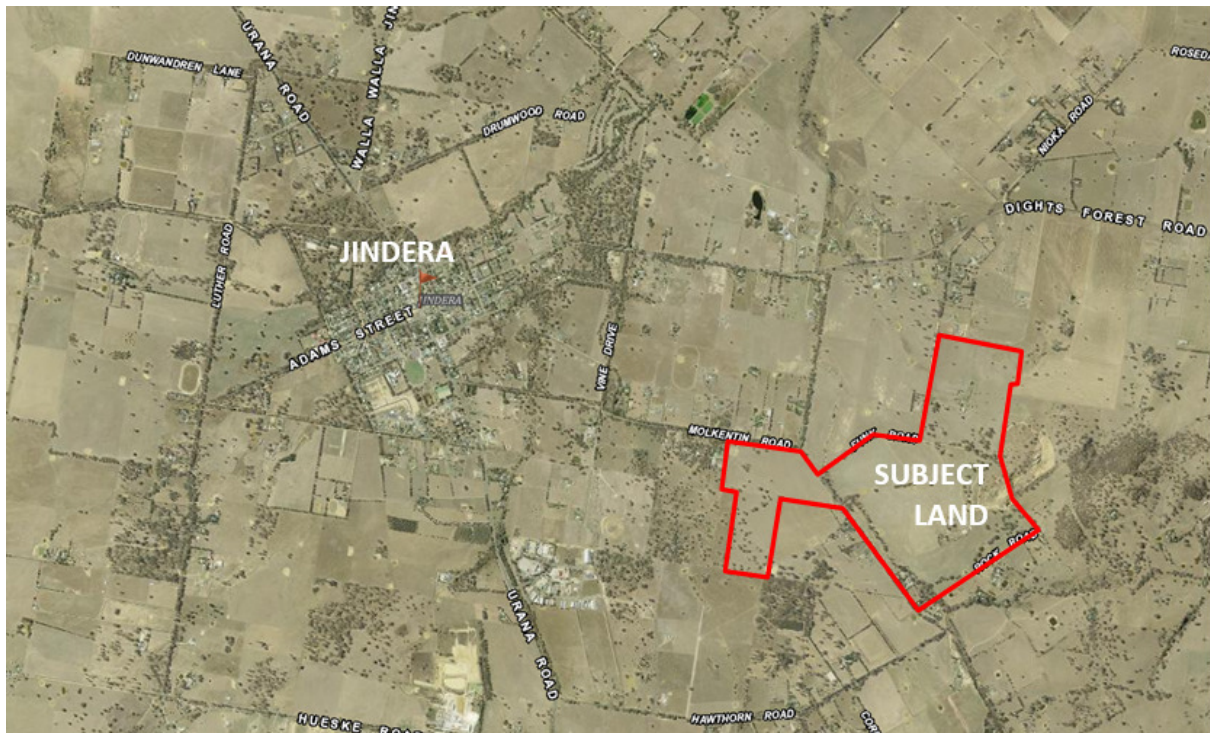


Figure 1 –Subject land situated to east of Jindera Town Centre. (Source: SIXview)

These properties are identified as follows:

- No.344 Molkentin Rd, Jindera – described as Lot 5 DP260275 (40.47ha)
- No.375 Molkentin Road – described as Lot 21 DP635058 (1.603ha)
- No.387 Molkentin Road – described as Lot 1 DP917118 (3.61ha)
- No.111 Funk Rd Jindera – described as Lot 1 DP 785168 (44 ha)
- No.167 Funk Rd, Jindera comprising:
 - Lot 22 DP 635058 (19.02ha)
 - Lot 121 DP753345 (16.15ha)
 - Lot 122 DP753345 (24.32ha)
 - Lot 153 DP753345 (43.15ha)

Apart from Nos. 375 & 387 Molkentin Road which are both existing rural residential lots, the subject land comprises largely cleared rural land used predominantly for grazing purposes. There are a number of scattered paddock trees across the area. The land to the south of Molkentin Road (Lot 5 DP260275) and to the north of Red Hill Road (Lot 1 DP 785168) is relatively flat while the central area rises gently from the Molkentin Road frontage towards the north (Red Hill Road) and north east (Rock Road). An unnamed waterway drains north easterly through property running roughly parallel with Molkentin Road.

As noted at Figure 1 the subject land is well placed with respect to the context of the Jindera urban area providing convenient opportunity for greater large lot residential market choice within reasonable proximity of the town centre. It is also evident that the subject land potentially offers an attractive precinct situated between Jindera and Table Top, that is



situated in close proximity to local services within Jindera and regional services in nearby Albury/Wodonga (Figure 2).

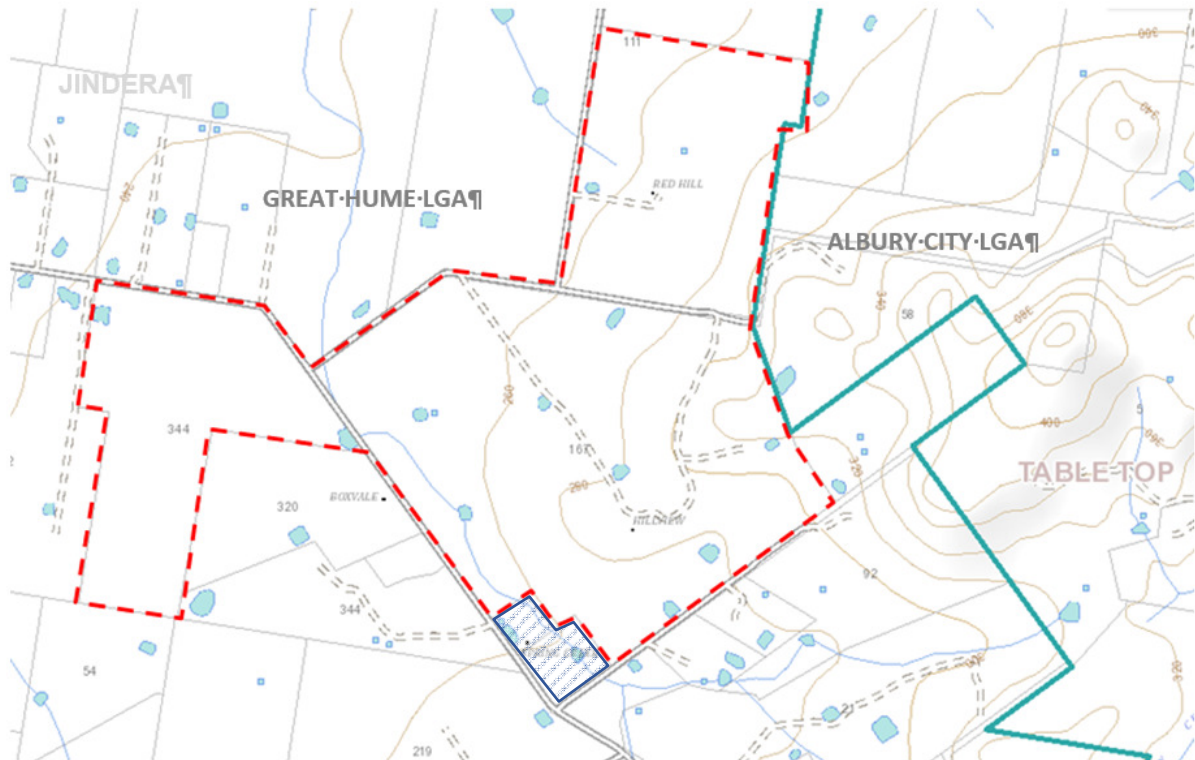


Figure 2. Nos 375 and 387 Molkentin Road hatched blue. Developable area of subject land outlined in red.

Further it is also worth noting that the developable part of the subject land:

- adjoins the Albury City LGA along the north eastern frontage and represents a transitional area comprising 6 parcels only ranging in size from 16 ha – 44ha;
- is land held by three land owners only, all of whom are all interested in development in the short term;
- has a total area of 187ha with a realistic lot yield in the order of 60 – 80 lots equating to approximately 7 - 9 years' worth of R5 residential land supply;
- has only one existing dwelling across this section of the subject land;
- is capable of being supplied with a reticulated water service;
- is not agricultural land of local or regional strategic importance as evidenced by the existing RU4 zone of the land; and
- has convenient access to higher order roads.



2. PLANNING PROPOSAL

2.1 Part 1 – Objectives or Intended Outcomes

The objectives of the amendment to the GHLEP are to:

1. rezone Nos.344 Molkentin Road & Nos.111 and 167 Funk Road Jindera, from RU4 - Primary Production Small Lots to R5 Large Lot Residential to reflect the strategic intent of the Jindera Residential Land Use Strategy (JRLUS) to encourage large lot residential subdivision in preferred locations; and
2. as recommended by Council, include Nos. 375 and 387 Molkentin Road Jindera in the rezoning process to reflect existing large lot residential landuse of these two parcels.

An indicative subdivision plan for the future development of the subject land has been discussed with Council which provides a starting point for indication of possible lot yield etc. However so as not to generate an unrealistic expectation about the future development of the site and limit opportunities for a thorough site responsive design approach the plan has been omitted from the Planning Proposal. Any future design will as a consequence, be subject to further detailed site investigation and constraints analysis as noted within this report.

A key outcome of the amendment is to add to the supply of large lot residential land in the Jindera locality and provide additional choice in location and housing options for future residents. It is intended that the development of the subject land will assist in responding to the strong demand for residential land in Jindera. In this case the rural residential outcome in proximity of the urban area will further reinforce Jindera's position of offering a viable alternative in the broader Albury-Wodonga market in terms of a residential environment.



2.2 Part 2 – Explanation of Provisions

It is firstly noted that the subject land straddles the boundary of three Land Zoning Maps (See Part 4 Maps). Having regard to this situation the Amendment of the GHLEP will comprise a number of components namely:

1. amending the Land Zoning Map LZN_002 to show the subject land zoned as R5 Large Lot Residential.
2. amending the Land Zoning Map LZN_002C to show the subject land zoned as R5 Large Lot Residential.
3. amending the Land Zoning Map LZN_004 to show the subject land zoned as R5 Large Lot Residential.
4. amending the Minimum Lot Size Map LSZ_002 to indicate a minimum lot size of 2ha for subdivision of the subject land;
5. amending the Minimum Lot Size Map LSZ_002C to indicate a minimum lot size of 2ha for subdivision of the subject land.
6. amending the Minimum Lot Size Map LSZ_004 to indicate a minimum lot size of 2ha for subdivision of the subject land.

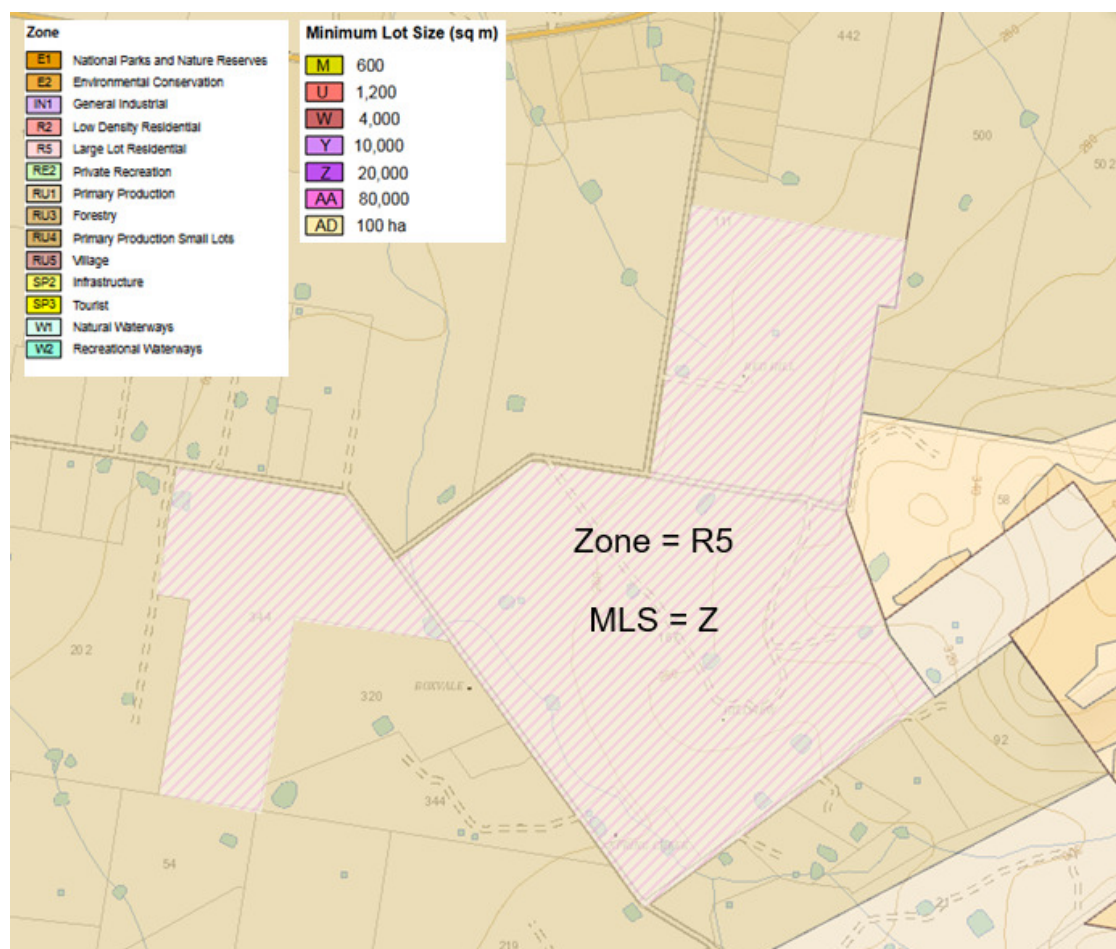


Figure 3. Schematic of proposed map changes



2.3 Part 3 – Justification of Strategic and Site-Specific Merit

This section of the Planning Proposal sets out the justification for the intended outcomes and provisions, and the process for their implementation. The questions to which responses have been provided are as outlined within Table 3 of the Guide.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal derives from the Strategic Vision, intent and priorities as outlined within the *Greater Hume Local Strategic Planning Statement (2020)* (the “LSPS”) as well as the recommendations of the *Jindera Residential Land Use Strategy (August 2021)*.

The LSPS seeks to set:

“... the land use framework on a local scale for Greater Hume Council’s economic, social and environmental land use needs over the next 20 years. It addresses the planning and development issues of strategic significance to the Council through planning priorities and actions, spatial land use direction and guidance.

The LSPS gives effect to the Riverina Murray Regional Plan 2036 implementing the directions and actions at a local level. It is also informed by other State-wide and regional policies including Future Transport Plan 2056 and the NSW State Infrastructure Strategy 2018 – 2038.”

Among other priorities, the vision statement the LSPS outlines the following:

“Greater Hume will continue to recognize the importance of the regional cities of Albury, Wodonga and Wagga Wagga and our community’s ability to access higher level services, such as higher education, health services and employment. Recognising and enhancing this connection will be a key driver to the success of Greater Hume.

Our towns and villages will capitalise on growth opportunities so that they continue to service our rural communities. Our towns will offer variety of housing choice to retain the ageing population but will also provide an alternate rural lifestyle that will attract people to the area. As our towns continue to support new growth, our economic base will diversify. Our townships will be vibrant active places to visit and live providing a variety of basic economic and community services, within a rural heritage town setting, resilient to effects of climate change.”

At Figure 6 below the extract of the Shire wide Plan Map indicates the strategic role that the Jindera locality plays in providing a feasible alternative for large lot residential development within the context of the broader Albury Wodonga residential market.

To achieve the 20-year vision for Greater Hume, Council has identified nine (9) Planning Priorities to indicate the focus of future strategic planning. These priorities are seen as being consistent with the:

- Directions of the Riverina Murray Regional Plan 2036
- Strategic direction for Greater Hume expressed in Council’s Community Strategic Plan 2017-2030.

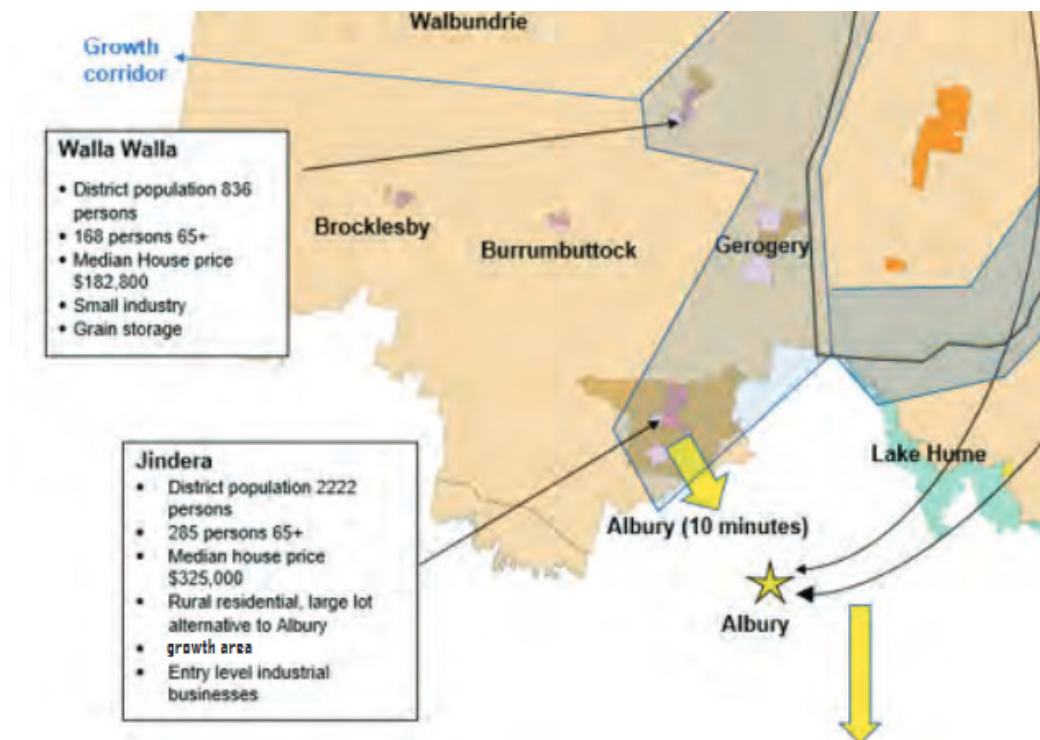


Figure 4. Extract of Shire wide plan (Source Greater Hume LSPS 2020)

Planning Priority One relates to Housing and Land Supply. The planning rational associated with this priority includes the following statements relevant to the Jindera context:

“Larger lots are a popular housing product in Greater Hume and will be strategically planned by Council to minimise the impact on our agricultural lands and to efficiently utilise existing infrastructure capacities and investments. As Jindera continues to grow it is also important for Council to provide a variety of housing choices to cater for the changing demographic and household incomes.”

In response the identified actions include the following short-term priority:

- *Investigate and identify future opportunities to provided fully serviced large lot residential allotments and partially serviced rural residential allotment in Jindera.*

As a complementary strategic document, the Jindera Residential Land Use Strategy (the “JRLUS”) provides the strategic framework and vision to guide the future residential growth of Jindera. The JRLUS identifies a number of areas in and around Jindera, (including the subject land), as the preferred areas to be rezoned from R4 Primary Production Small Lots to R5 Large Lot Residential with a corresponding reduction in the minimum lot size provisions from 8ha to 2ha for the purposes of subdivision.

Significantly the JRLUS residential supply analysis notes that in respect of the existing R5 zoned land (ie 2ha+ min lot size) there is currently an identified supply of less than 2.7 years with the identified available land being situated in only one location, namely 187-313 & 315-323 Pioneer Drive & 81 Bungowannah Roads. As noted below at Figure 6 this precinct is located to the south west of the Town Centre, and approximately 3.2km to the west of the subject land.

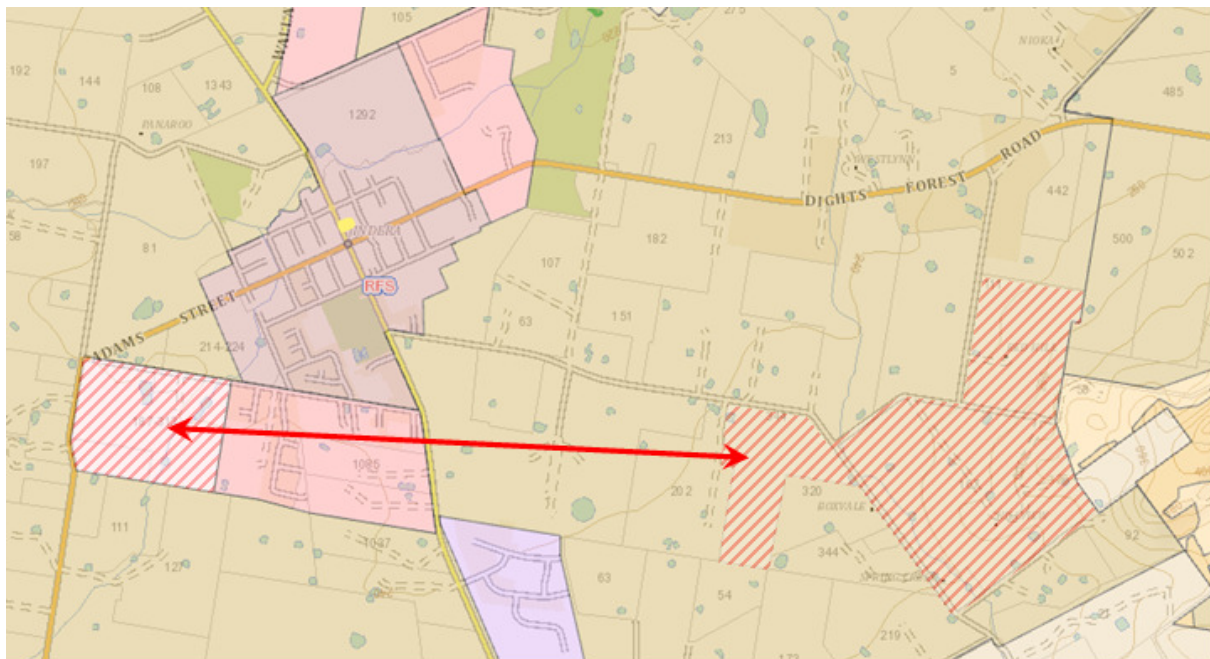


Figure 5. Existing R5 zoned land relative to subject land

In respect of the subject land the JRLUS concludes:

“The subject land also has access to all necessary infrastructure and services, namely water supply along Molkentin Road. The rezoning of this land will not require connection to the reticulated sewerage network as effluent will be disposed of on-site and all other infrastructure is adequate and can service this area.

The rezoning and subsequent subdivision of this land would result in the creation of approximately 75 additional lots. Based on current take-up rates this equates to a land supply of approximately 9 years.

In recognition of the large size of these lots, their unfragmented nature and a general lack of R5 zoned land (current and proposed), it is considered appropriate to include these properties as part of this Strategy ...”

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

The subject land is currently affected by the RU4 Primary Production Small Lots zone and has a minimum lot size of 8 hectares for subdivision and dwelling houses. Consequently, the current zone and lot size provisions do not apply to the type of subdivision and residential development envisaged by relevant strategic planning for the Jindera locality.

Having regard to the above the objective of catering for the housing needs of the community within a large lot residential environment on the subject land can only be achieved through an amendment to the GHLEP via a Planning Proposal.

The application to rezone the land to R5 Large Lot Residential is consequently considered to have merit in that it will result in an orderly planning outcome that is consistent with the objectives of the EP & A Act.



An alternative option to a site-specific Planning Proposal is to instead wait for Council's next scheduled review of the GHLEP. This option is not preferred as there is no identified timeline for preparation of an amendment to its LEP to implement the recommendations of the JRLUS. Furthermore, there is an identified lack of large lot residential zoned land (ie 2ha as identified within the JRLUS being 2.7 years theoretical supply.) The Planning Proposal seeks to directly address this situation.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Riverina Murray Regional Plan 2036 (the "RMRP") provides a 20-year blueprint for the Riverina Murray. Among other things the RMRP provides a framework and context to guide the preparation of new LEP's. This overarching document builds on an earlier draft Strategy (Murray Regional Strategy - October 2009).

Relevant to this planning proposal it is noted that the RMRP promotes an outcome of whereby strong regional cities are supported by a network of interdependent centres, including local centres, towns and villages. This is evidence by the stated goals, directions and nominated actions of the RMRP which include:

GOAL 4 – Strong, connected and healthy communities

Under this Goal the following directions and nominated actions are of some relevance namely:

DIRECTION 25: Build housing capacity to meet demand.

ACTION 25.2 Facilitate increased housing choice, including townhouses, villas and apartments in regional cities and locations close to existing services and jobs.

ACTION 25.3 Align infrastructure planning with land release areas to provide adequate infrastructure.

DIRECTION 27: Manage rural residential development.

ACTION 27.2 Locate new rural residential areas:

- in close proximity to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewerage and waste services and social and community infrastructure;*
- to avoid or minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and*
- to avoid areas of high environmental, cultural and heritage significance, important agricultural land or areas affected by natural hazards.*

While the strategic focus of the RMRP is clearly aimed at the three largest cities within the region, namely Albury, Wagga Wagga and Griffith the plan also includes discussion relevant to smaller settlements including the following commentary:



“Population growth across the region will not be evenly distributed, with Albury, Wagga Wagga and Griffith projected to experience the highest rates of growth, followed by the Murray River Local Government Area. Investment in major services, facilities and industrial activity will drive growth in these places, distributing benefits across the region.

The population across other smaller towns and villages is likely to remain relatively stable or, in some cases, decline. However, these numbers don’t reflect the dynamic nature of some communities, with high levels of transient workers and populations that fluctuate at different times of the year.”

In respect of rural residential development, the RMRP notes:

“Rural residential housing is a popular lifestyle housing option. This type of housing has the potential to create land use conflicts with productive agricultural land and industrial land, or with other potentially productive land uses, such as areas with mineral or renewable energy potential.

Managing this type of development and its cumulative impacts will become increasingly important as the regional economy diversifies and as development pressure for this type of housing increases.”

In response it is firstly acknowledged that demand for rural residential style development is frequently driven by the desire for a rural lifestyle in close proximity to larger settlements or to scenic features such as the Murray River. It is also to be noted that poorly located rural residential development can result in the loss or alienation of agricultural lands, socially isolate residents, increase the demand and cost for services and facilities, and adversely affect the environment.

Having regard to the above, it is the case that Council Strategy as currently expressed both the LSPS as well as the JRLUS has specifically taken into consideration broader context as expressed in the RMRP and that the Planning Proposal can be regarded as representing an orderly planning outcome that will contribute to strong, connected and healthy community outcomes.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Consideration of the endorsed Greater Hume LSPS as well as the Council adopted JRLUS has been addressed in the above Section A of the Planning Proposal.

In addition, it is also relevant to note that Greater Hume Community Strategic Plan 2017-2030 (the “CSP”) is Council’s local community strategic planning document. The CSP is based on four Strategic Directions and Themes, including Theme 3 - Growth and Sustainability.

The CSP notes in respect of the settlement of Jindera as follows:

“Jindera is the fastest growing town in the shire. A location with a short commute to the regional city of Albury has made Jindera a popular destination for people wanting a rural village lifestyle with strong community participation.”

The Planning Proposal is considered to be consistent with the following outcome and strategies under Theme 3:

Outcome: *Our Outcome is that towns and villages in the shire are revitalised:*



Strategy: *Development a new Strategic Land Use Plan for the shire.*

Measuring our progress:

- *New Strategic Land Use Plan.*

Strategy: *Develop a new Resident Attraction Strategy for GHS and expand new residential estates.*

Measuring our progress:

- *Population growth.*
- *Increased number of new housing approvals.*

The Planning Proposal is considered to be consistent with the above, in this instance seeking to follow through on an opportunity to support appropriate residential growth in identified locations in and around Jindera.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The planning proposal is not inconsistent with any other State or regional study or strategy, including but not necessarily limited to:

- Future Transport Strategy 2056,
- NSW Net Zero Plan - Stage 1: 2020-2030,
- Murray Alluvium Water Resource Plan (draft),
- State Infrastructure Strategy 2022-2042,
- A 20 Year Economic Vision for Regional NSW (2021). The subject land is located within the Functional Economic Region of Albury Wodonga. In particular it is noted that relevant to anticipated growth around Jindera, that:

“For regional NSW, the choice of residential location is expanded if people are able to work, study or shop online.”

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

The following Table 1 provides an assessment of the Planning Proposal against all State Environmental Planning Policies (SEPP's). In summary, the majority of SEPP's are not applicable to the subject land and those that are, are generally not applicable to the circumstances of the Planning Proposal.

STATE ENVIRONMENTAL PLANNING POLICY	COMMENT
SEPP (Biodiversity and Conservation) 2021	<p>Noted. In the event the rezoning is successful the provisions of the Biodiversity Conservation Act 2016 will apply in respect of any proposed clearing.</p> <p>The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria.</p>



STATE ENVIRONMENTAL PLANNING POLICY	COMMENT
SEPP (Building Sustainability Index: BASIX) 2004	Noted. The planning proposal does not conflict with the aims and development consent requirements relating to BASIX affected building(s).
SEPP (Exempt and Complying Development Codes) 2008	Noted. The planning proposal does not seek to deviate from any relevant SEPP aims and functions with respect to exempt and complying development provisions.
SEPP (Housing) 2021	The planning proposal does not seek to deviate from any relevant SEPP principles or development standards.
SEPP (Industry and Employment) 2021	Noted. The subject land is not located within the Western Sydney employment area. The Planning Proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria for advertising and signage.
SEPP No 65—Design Quality of Residential Apartment Development	Not applicable.
SEPP (Planning Systems) 2021	Noted. The subject land is however not related to an identified State or Regional development and/or mapped Aboriginal Land. Further the subject land is not situated within Kosciuszko National Park and alpine resorts or the Gosford City Centre.
SEPP (Precincts—Central River City) 2021	Not applicable.
SEPP (Precincts—Eastern Harbour City) 2021	Not applicable.
SEPP (Precincts—Regional) 2021	Noted. The subject land is however not located within a State Significant and/or Activation precinct.
SEPP (Precincts—Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Noted. The planning proposal does not seek to deviate from any relevant SEPP aims, development consent requirements and assessment criteria.
SEPP (Resilience and Hazards) 2021	Noted. Chapter 2. The subject land is not located with a Coastal management area. Chapters 3 & 4. In respect of hazardous or offensive development and/or contaminated land the planning proposal does not seek to deviate from any relevant SEPP aims, strategies, development consent, assessment and location provisions.



STATE ENVIRONMENTAL PLANNING POLICY	COMMENT
SEPP (Resources and Energy) 2021	Noted. The Planning Proposal does not conflict with the aims, permissibility, development assessment requirements relating to mining, petroleum production and extractive industries as provided for in the SEPP.
SEPP (Transport and Infrastructure) 2021	Noted. The Planning Proposal does not conflict with the aims, permissibility, development consent, assessment and consultation requirements, capacity to undertake additional uses, adjacent, exempt and complying development provisions as provided in the SEPP.

Table 1: State Environmental Planning Policy Assessment

7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

The Minister for Planning, under section 9.1(2) of the EP&A Act may issue directions that a Council must follow when preparing planning proposals for new LEPs. The directions as of March 2022 cover a range of Focus Areas across the following broad categories:

- Planning systems;
- Design & place;
- Biodiversity & conservation;
- Resilience & hazards;
- Transport & infrastructure
- Housing
- Industry & employment
- Resource & energy
- Primary production.


The following Table 2 provides commentary against the s.9.1 Directions as follows:

DIRECTION	REQUIREMENTS	COMPLIANCE
1. Planning Systems		
1.1 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	Consistent (refer above Sec B – Question 3)
1.2 Development of Aboriginal Land Council land	Not applicable.	Not applicable
1.3 Approval and Referral Requirements	A planning proposal must: <ul style="list-style-type: none"> • not contain provisions requiring concurrence, consultation or referral 	Consistent. The planning proposal does not introduce concurrence, consultation or referral requirements.



DIRECTION	REQUIREMENTS	COMPLIANCE
	<p>of a Minister or public authority.</p> <ul style="list-style-type: none"> identify development as designated development unless justified. 	The planning proposal does not relate to designated development.
1.4 Site Specific Provisions	Not applicable	Not applicable
1.5 – 1.17 Planning Systems – Place-based	Not applicable	Not applicable
2. Design and Place (N/A)		
3. Biodiversity and Conservation		
3.1 Conservation Zones	<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land.</p>	<p>Consistent. The Planning Proposal does not apply to land within a conservation zone.</p> <p>However, a part of the subject land (ie Lot 5 DP260275) is identified as “Biodiversity” on the Terrestrial Biodiversity Map within GHLEP (see Figure 8). The planning proposal does not seek to reduce the relevant conservation standards that apply to the land, ensuring development pursues the aim of avoiding, minimizing or if necessary off-setting any impacts.</p> <p>Further it is understood that future development as a consequence of the Planning Proposal will be subject to relevant SEPP provisions.</p>
3.2 Heritage Conservation	Planning proposal must incorporate provisions that facilitate the conservation of European and Aboriginal heritage items or places.	<p>Consistent. No additional controls other than that provided at GHLEP Clause 5.10 – Heritage Conservation are required.</p> <ul style="list-style-type: none"> No known items of European heritage identified. In respect of Aboriginal heritage, a Due Diligence report has been prepared which will subsequently inform the final subdivision layout (Appendix 1). While no Aboriginal objects have been identified across




DIRECTION	REQUIREMENTS	COMPLIANCE
		the subject land, the report recommends that any future development within the Project Area be the subject of a detailed Aboriginal heritage assessment at the DA stage.
3.3 Sydney Drinking Water Catchments	Not applicable	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable	Not applicable
3.5 Recreation Vehicle Areas	Not applicable	Not applicable
4. Resilience and Hazards		
4.1 Flooding	<p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> (a) the NSW Flood Prone Land Policy, (b) the principles of the Floodplain Development Manual 2005, (c) the Considering flooding in land use planning guideline 2021, and (d) any adopted flood study and/or floodplain risk management plan adopted by the relevant council. 	<p>Consistent. The Jindera Flood Study (2015) and Jindera Floodplain Risk Management Study and Plan (2017), both developed by Council through the NSW Floodplain Management Program, have been duly considered. The 2015 Report notes that modelling indicates that the 100 Year ARI Event affects a small section of the western corner of Lot 122 DP753345 and along the Molkentin Road frontage of Lot 5 DP226025 (Figure 6). This flooding is related to an ephemeral flow path that traverses the site before joining Ten Mile Creek downstream.</p>  <p>Figure 6. Flood Map Extract - Jindera Flood Study 2015</p> <p>In summary the property is assessed</p>



DIRECTION	REQUIREMENTS	COMPLIANCE
		<p>as representing a relatively low risk location. The Planning Proposal is subsequently justified on the basis that:</p> <ol style="list-style-type: none"> 1. Detailed engineering design will ensure any works associated with the development will not adversely impact upon flood characteristics of the locality. 2. All future building envelopes can be located well above the 100 Year ARI Event. 3. All weather access will remain available to the land. 4. There will be no undue increase in risk to public health or safety.
4.2 Coastal Management	Not applicable	Not applicable
4.3 Planning for Bushfire Protection	<p>A planning proposal in bush fire prone land:</p> <ul style="list-style-type: none"> • Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination prior to community consultation. • Have regard to Planning for Bush Fire Protection 2019 (PBP). • Restrict inappropriate development from hazardous areas. • Ensure bush fire hazard reduction is not prohibited within the APZ. 	<p>Consistent. A part of the subject land (ie Lot 5 DP260275) is affected by Bushfire mapping (Figure 10).</p> <p>As noted within the PBP due regard has been had to the bush fire risk at the macro-scale, looking at fire runs, steep slopes and any areas of isolation. The amount of proposed development interfacing vegetation will also be considered. Having regard to matters raised at Table 4.2.1 of PBP the following is a summary response.</p> <ul style="list-style-type: none"> ○ The open woodland across the south western section of the property is mapped as vegetation category 2 being situated on the edge of a remnant patch of vegetation on adjoining freehold property to the south east of the land (Figure 7). ○ The effective slope across the subject land (west to east) in the direction of the vegetation of greatest risk is upslope (ie 0.6° approx).



DIRECTION	REQUIREMENTS	COMPLIANCE
		 <p>Figure 7: Lot 5 DP260275</p> <ul style="list-style-type: none"> ○ This mapped section of the property is characterised as being highly modified remnant grassy woodland vegetation (ie grassland interspersed with scattered paddock trees) with understory comprising essentially pasture grass. ○ There is no apparent regeneration of the woodland species. ○ There are distinct spaces between the crowns of trees. ○ Leaf and twig litter is largely absent ○ The area is easy to walk through similar to a 'park-like' setting. ○ There will only be one lot with an interface with the adjoining freehold property to the south east. ○ The longest fire run across the adjoining land towards the subject land is approximately 475m in a north westerly direction. ○ Based on the existing local road network it is evident that the proposed local road connecting to



DIRECTION	REQUIREMENTS	COMPLIANCE
		<p>Molkentin Road to the north will provide sufficient capacity for emergency vehicle access as well as evacuating residents.</p> <ul style="list-style-type: none"> ○ The proposal will not alter or impact upon the ability of the adjoining landowner to the south east to undertake bush fire management. <p>In summary the property is assessed as representing a relatively low risk location. The Planning Proposal is subsequently justified on the basis that:</p> <ol style="list-style-type: none"> 5. it will not result in the introduction or intensification of development in an area that has, or will on completion have, more than a BAL-12.5 rating under AS 3959-2009 <i>Construction of Buildings in Bushfire-prone Areas</i> (Standards Australia, 2009); 6. future subdivision can readily accommodate a relevant Asset Protection Zone of 13m as nominated at Table 1.12.3 of PBP (see Map 8); and 7. new development on the subject land will be able to readily comply with PBP without undue reliance on performance-based solutions.
4.4 Remediation of Contaminated Land	A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land.	Consistent. The planning proposal does not apply to land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997.
4.5 Acid Sulfate Soils	Not applicable	Not applicable
4.6 Mine Subsidence and Unstable Land	Not applicable	Not applicable



DIRECTION	REQUIREMENTS	COMPLIANCE
5: Transport and Infrastructure		
5.1 Integrating Land Use and Transport	Not applicable	Not applicable
5.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or a nominated officer).	Consistent. The planning proposal will not create, alter or reduce existing zonings or reservations of land for public purposes.
5.3 Development Near Regulated Airports and Defence Airfields	Not applicable	Not applicable. No aerodromes are located within proximity of the subject land.
5.4 Shooting Ranges	Not applicable	Not applicable. No shooting ranges are located adjacent or adjoining the subject land.
6: Housing		
6.1 Residential Zones	<p>The planning proposal must:</p> <ul style="list-style-type: none"> • Broaden the choice of housing types and locations. • Make efficient use of existing infrastructure and services. • Reduce consumption of land for housing; and. • Be of good design. <p>A planning proposal must,</p> <ul style="list-style-type: none"> • Provide that residential development is not permitted until land is adequately serviced; and • Not contain provisions that will reduce residential density. 	<p>Consistent. The planning proposal seeks to rezone the land for large lot residential purposes. This outcome will provide opportunity to broaden the choice of housing types and locations.</p> <p>The subdivision will be appropriately serviced to the satisfaction of Council and other relevant agencies.</p> <p>The final layout and staging will respond appropriately to site constraints and opportunities.</p> <p>The proposal will increase opportunity for housing density through a reduction in the minimum lot size from 8ha to 2ha.</p>
6.2 Caravan Parks and Manufactured Home Estates	The planning proposal must retain provisions that permit development of caravan parks.	Inconsistent. The inconsistency is justified on the basis that the subject land has been identified by the JRLUS as a preferred location for large lot



DIRECTION	REQUIREMENTS	COMPLIANCE
		residential. The Standard LEP Zone provisions result in an outcome where Caravan Parks become a Section 4 – Prohibited Landuse in the zone.
7: Industry and Employment		
7.1 Business and Industrial Zones	Not applicable	Not applicable
7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	Not applicable
8. Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	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 minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Consistent. The planning proposal does not seek to alter existing arrangements as applicable to the current Zone RU4 Primary Production Small Lots.
9: Primary Production		
9.1 Rural Zones	(1) A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	Inconsistent. The inconsistency is however justified on the basis of a strategy report adopted by Council which: i. gives consideration to the objectives of this direction, and ii. identifies the land which is the



DIRECTION	REQUIREMENTS	COMPLIANCE
		subject of the planning proposal.
9.2 Rural Lands	Not applicable	Not applicable
9.3 Oyster Aquaculture	Not applicable	Not applicable
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	Not applicable

Table 2: Section 9.1 Directions Assessment

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

The planning proposal is supported by a preliminary Biodiversity Assessment (Appendix 2) that has been prepared by NGH (March 2022). The purpose of the assessment was to consider:

- The nature, extent and condition of the flora and fauna at the site.
- The likelihood of any threatened species, communities and populations being present.
- Any threatened biota to which a significant effect could occur.
- The Biodiversity Offset Scheme (BOS) thresholds assessment.
- Design or ongoing management measures that could mitigate impacts.
- Serious and Irreversible Impact (SAIL) entities.

Flora surveys across the Study Area (Figure 8) were undertaken to:

- Determine the vegetation communities present within the study area, their condition and extent;
- Identify potential Threatened Ecological Communities (TECs) within the study area and determine their condition and extent;
- Identify potential and map habitat for threatened flora species within the study area;
- Map and identify scattered trees; and
- Identify any connectivity corridors or waterways.

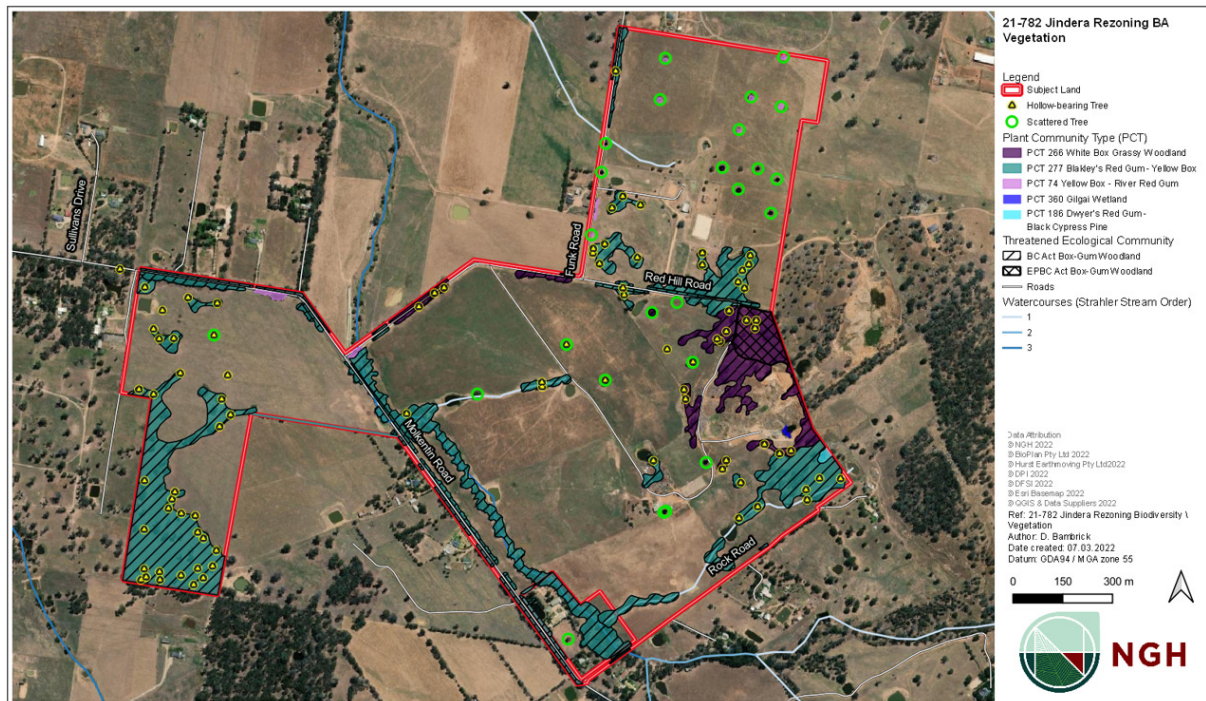


Figure 8. Vegetation across the Biodiversity Assessment Study Area

In summary the Biodiversity Assessment will inform the final layout of any subdivision should the Planning Proposal result in a successful rezoning of the land to R5 Large Lot Residential. The following extracts are relevant:

"No impacts are proposed or expected to occur from the rezoning of the proposal area. Predicted impacts below are relevant to phase two 'subdivision'. A quantifiable measurement, i.e. area and habitat features, to be impacted, by a proposed subdivision would be calculated for the phase two following drafting of detailed subdivision design.

The potential future subdivision is likely to have direct impacts to native vegetation. Short-term direct impacts in the form of vegetation clearing are likely to occur from:

- Road upgrades
- Road construction
- Storm water
- Temporary disturbance to ground cover
- Fragmentation and isolation of woodland habitat

Long-term direct impacts are likely to occur following:

- Building of residential dwellings
- Utility connection
- Fence lines
- Introduction of weeds and garden escapes
- Modification and disturbance of retained woodland within residential parcels

Phase two of the proposed subdivision has a high potential of triggering the BOS thresholds (clearing and impacts to threatened species) and therefore require a BDAR under the BAM 2020.

It is recommended that the following areas are excluded from the subdivision design to avoid and minimise impacts to threatened entities:

- Hollow-bearing trees
- Box-Gum Woodland/SAIL entity"



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

There are no particular identified environmental effects that are unique to the planning proposal. As previously discussed however, in respect of hazard and constraints mapping it is noted that a part of the developable balance of the subject land (ie Lot 5 DP260275) is affected by:

- Terrestrial Biodiversity mapping (Figure 9).

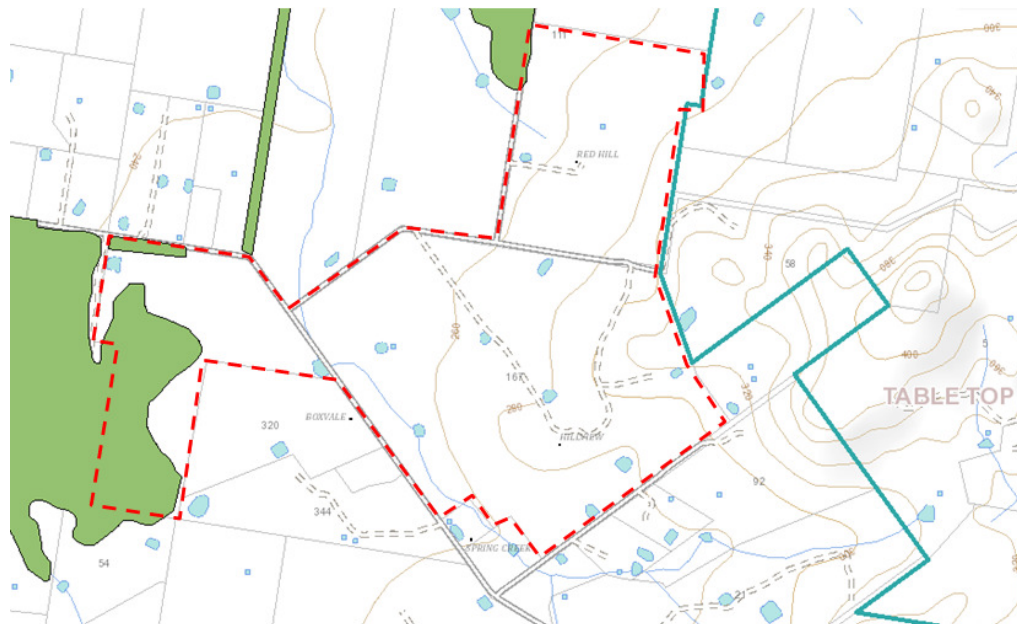


Figure 9. Terrestrial Biodiversity mapping extract – GHLEP 2012

It is relevant to note that when taking the GHLEP mapping into account, that the property is not mapped as Category 2 land by the Transitional Native Vegetation Regulatory map¹. Further the land is not mapped by the Biodiversity Values Map (BV Map)² as being of high biodiversity value that is particularly sensitive to impacts from development and clearing.

This notwithstanding it will also be the case that the findings of any subsequent Biodiversity Development Assessment Report (BDAR), will have a significant impact on the final site responsive subdivision layout, that might be tabled for consideration at the DA stage.

- Bushfire mapping (Figure 10) which would require more detailed analysis at the DA stage once a final subdivision layout is determined. (Also see above discussion regarding s.9.1 Ministerial Direction 4.3 – Planning for Bushfire Protection.)

¹ Transitional Native Vegetation Regulatory map (online) <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=NVRMap> (accessed 21/06/22)

² Biodiversity Values Map (online) URL: <https://datasets.seed.nsw.gov.au/dataset/biodiversity-values-map> (accessed 21/06/22)

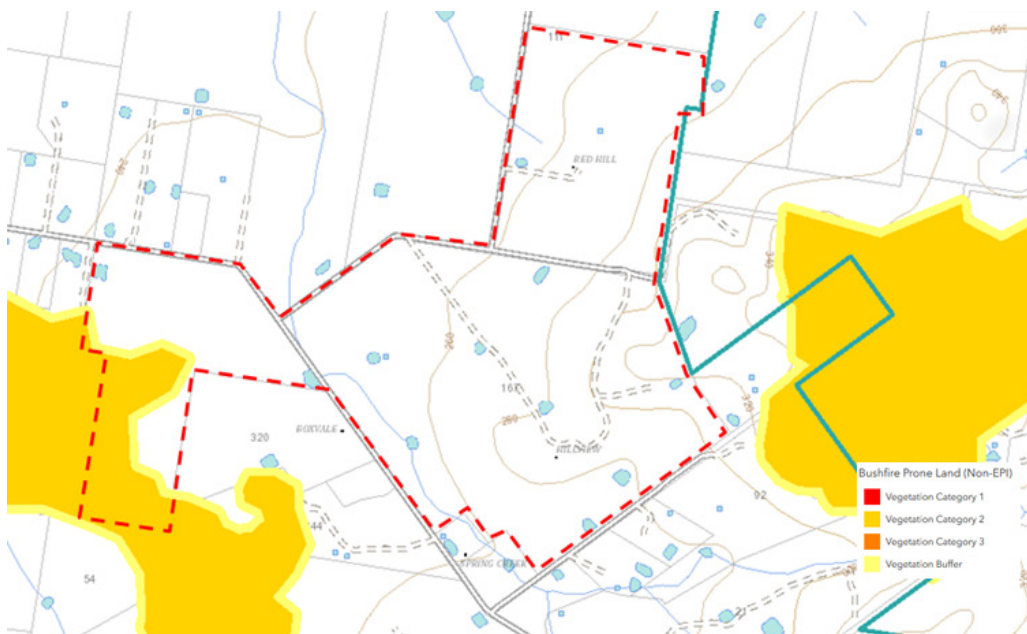


Figure 10. Bushfire Prone Land Use Mapping extract

Apart from the unnamed waterway along the eastern side of Molkentin Road, the developable area of the subject land is otherwise generally clear of constraints. The land is not mapped as being within a land slide risk area, a Protection Area (eg Acid Sulfate Soils; Groundwater Vulnerability or Salinity mapped areas) or Subsidence Advisory area.

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

Relevant issues in relation social and economic effects have been take into account with the strategic work undertaken by Council in preparing and adopting the JRLUS. One of the stated purposes of this strategy report was to:

“To cater for the residential needs of the community and identify appropriate residential densities that reflect the environmental and servicing constraints of the land, whilst avoiding land use conflicts with existing developments.”

The JRLUS concludes that the addition of the subject land into the overall strategy was appropriate so as to allow for further investigations for additional large lot residential subdivision in the Jindera locality to address the identified market shortfall (ie < 2.7 years supply) for such land. This outcome is supported by the proximity of the subject land to the Town Centre of Jindera.

In summary, as previously stated the subject land is seen as an appropriate candidate for R5 zoning offering an excellent lifestyle choice for people and a place of residence within a semi - rural setting, without compromising the landscape and environmental values of the locality. Significantly also the developable area of the subject land is also owned by willing owners ready to respond in the short term to opportunities that would be offered by a rezoning of the land for large lot residential purposes. This is particularly significant given that as identified by the JRLUS, there is a demonstrable demand for approximately 430 lots zoned R5 to service forecast population growth across this established market sector.



SECTION D – INFRASTRUCTURE (LOCAL, STATE AND COMMONWEALTH)

11. Is there adequate public infrastructure for the planning proposal?

There is sealed public road access from the existing local road network which will be further augmented by new local roads with the future subdivision layout. The existing public road network has more than adequate spare capacity to accommodate future development of the subject land. Despite this conclusion, in the event that Council deems it necessary a traffic assessment may be required to accompany any future DA so as to determine possible upgrades that may be necessary on the surrounding road system.

In the event that any upgrades of the adjoining public road network including Rock Road, Red Hill Road and/or part of Funk Road are deemed to be required, these will be constructed at the expense of the developer to the satisfaction of Council. All internal roadways within the developable area will also be constructed at the expense of the developer to the satisfaction of Council.

Council has indicated that the subject land is capable of being supplied with a reticulated water service with more detailed design work being required at development application stage.

Electricity, and telecommunications facilities with spare capacity can also be readily provided to the development at the expense of the developer and to the satisfaction of Council. Future lots will be serviced by on-site waste water disposal facilities consistent with Standard AS/NZS 1547:2012 “On-site Domestic Wastewater Management”.

Other essential services such as health, education and emergency services are available within the nearby Jindera township area and are of adequate capacity to meet the future needs of the proposal.

SECTION E – STATE AND COMMONWEALTH INTERESTS

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

Preliminary consultation with officers of the NSW Department of Planning and Environment has occurred during the preparation of the JRLUS whereby Council was advised that:

“The Strategy is a good initiative and will assist Council in planning future residential growth of Jindera. The Strategy is timely and will be used to inform the revised Riverina Murray Regional Plan as it demonstrates the challenges and opportunities for councils in close proximity to a regional city.”

The planning proposal will necessarily require referral to the Commissioner of the NSW Rural Fire Service (Section 9.1 Direction 4.3 Planning for Bushfire).

It is also anticipated that the Planning Proposal will also be referred to the Environment and Heritage Group within the Department of Planning and Environment, in respect of aboriginal heritage and biodiversity considerations.

The proposal is otherwise considered to be of a relatively minor nature and any further referrals will likely be at the discretion of Council.



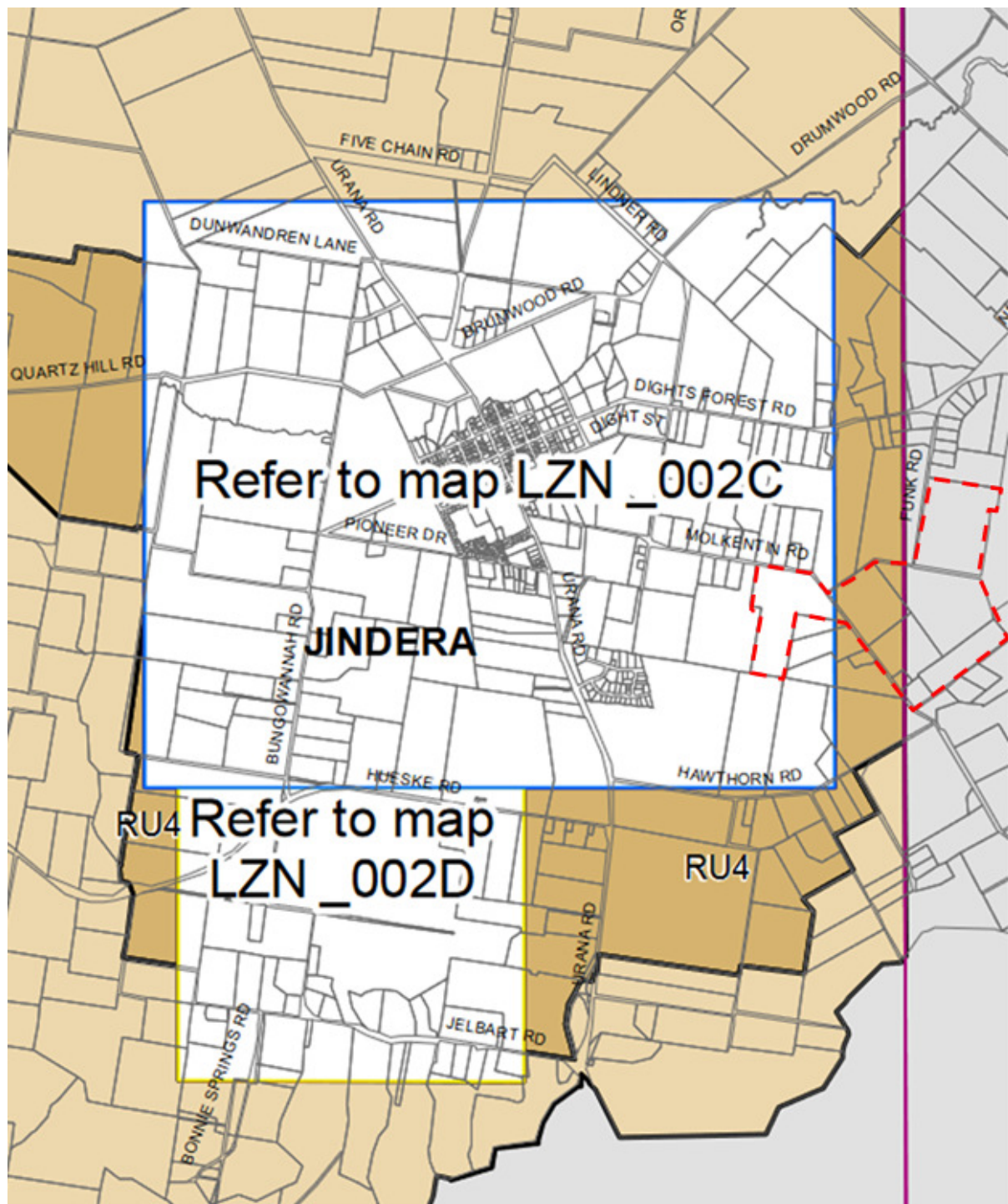
2.4 Part 4 – Maps

The planning proposal is limited to mapping changes. The following maps are provided in support of the Planning Proposal.

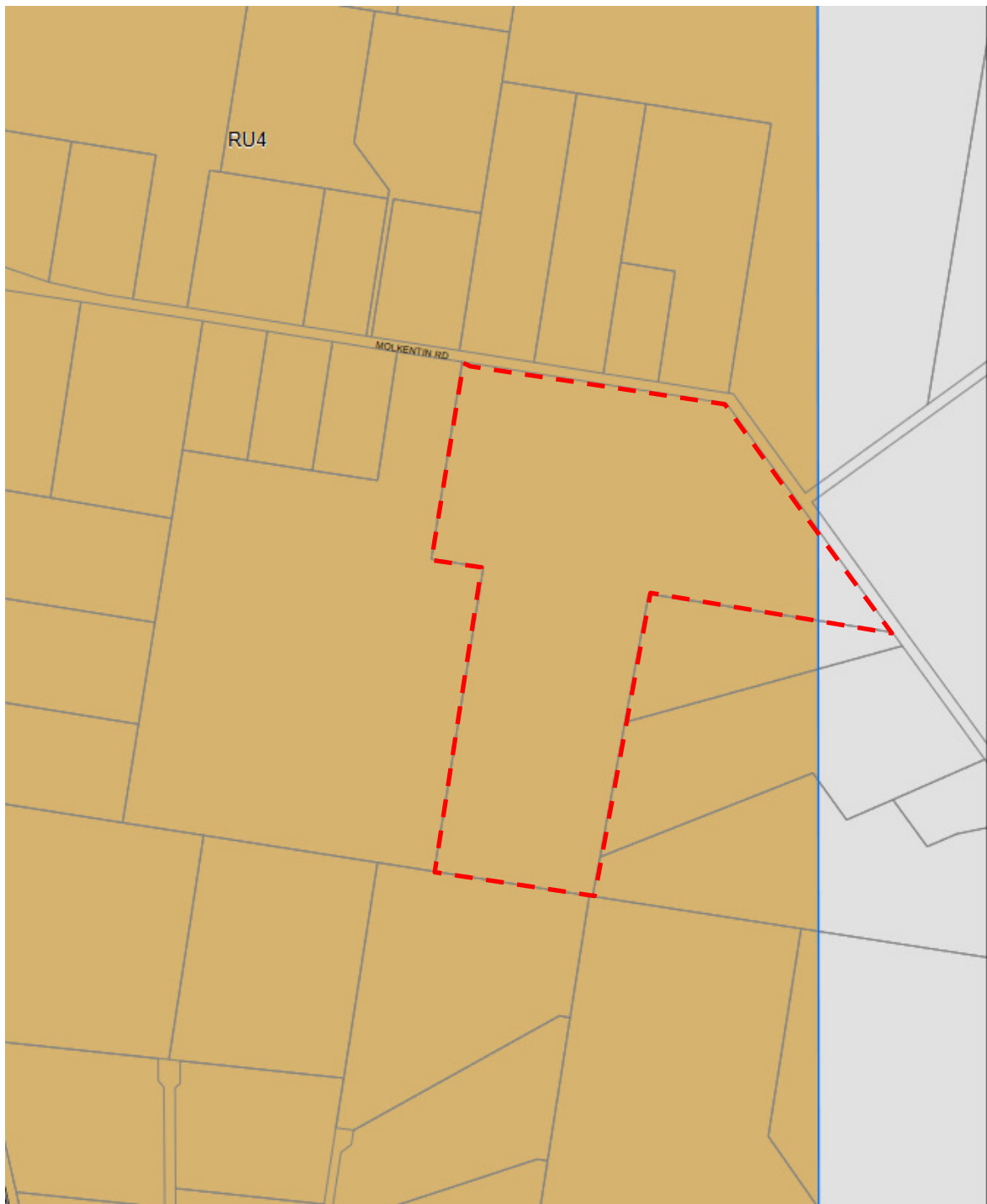
Planning Proposal



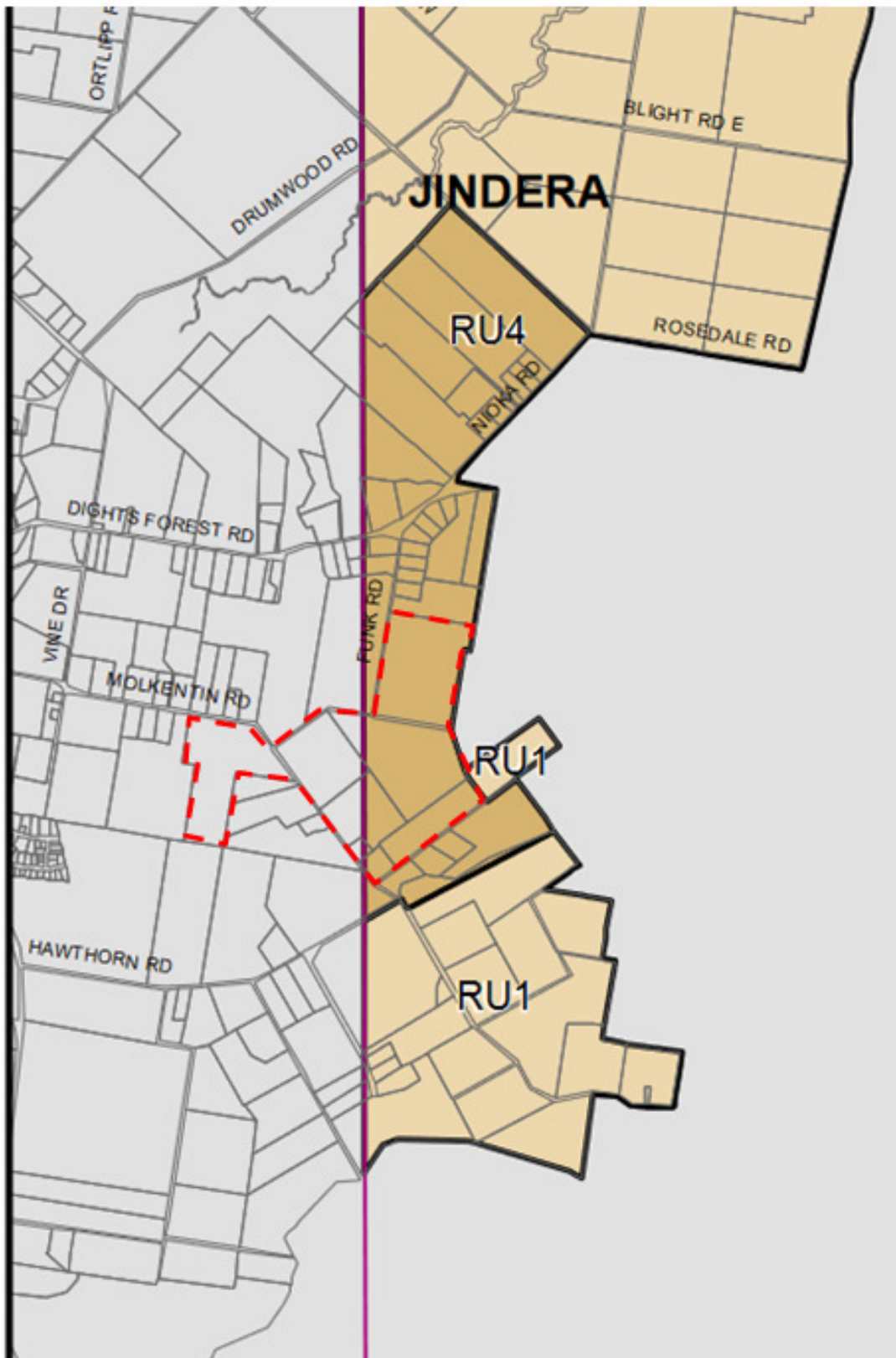
MAP 1: LOCALITY PLAN



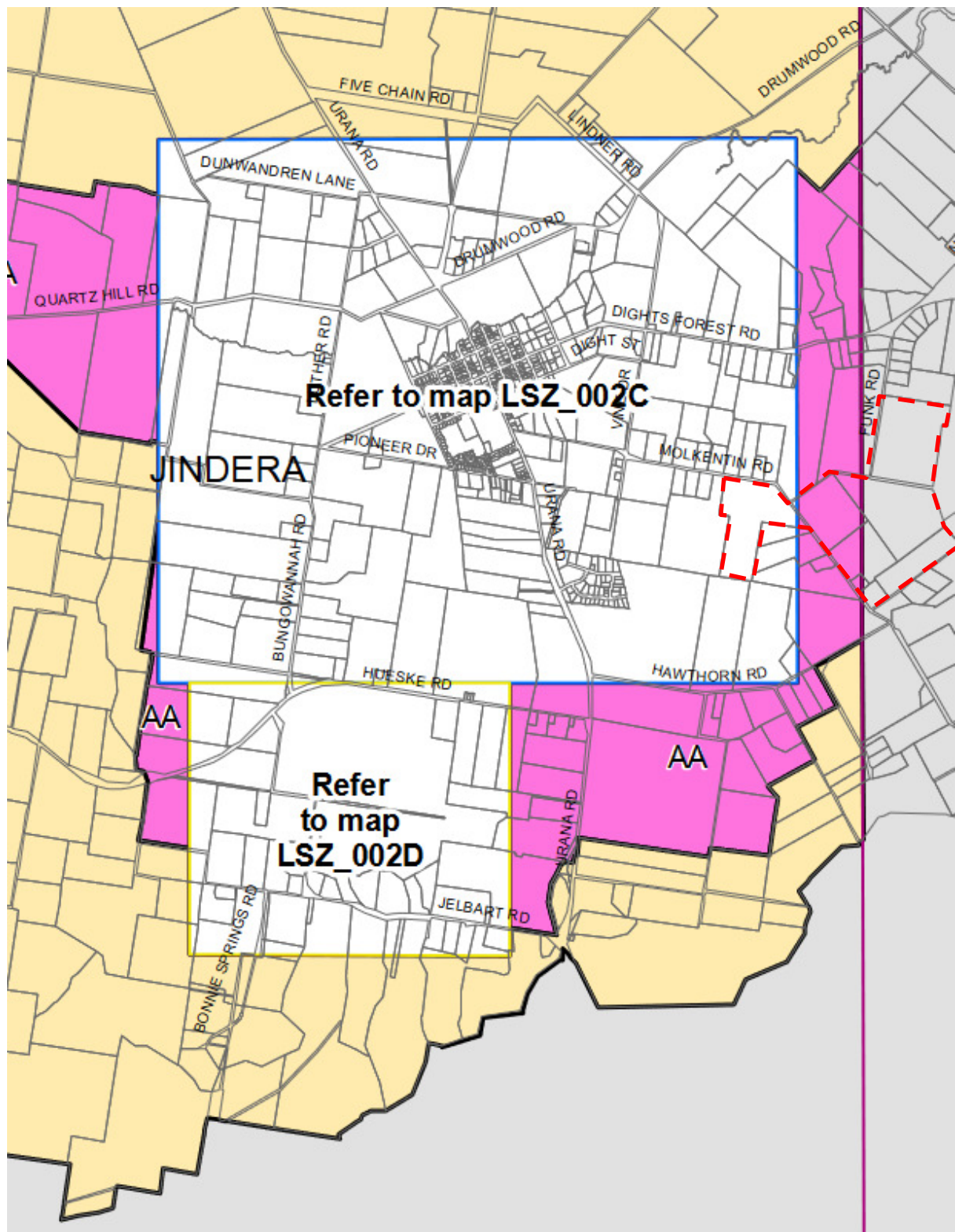
MAP 2: GHLEP 2012 Extract Zone Map 2 (Subject land highlighted)



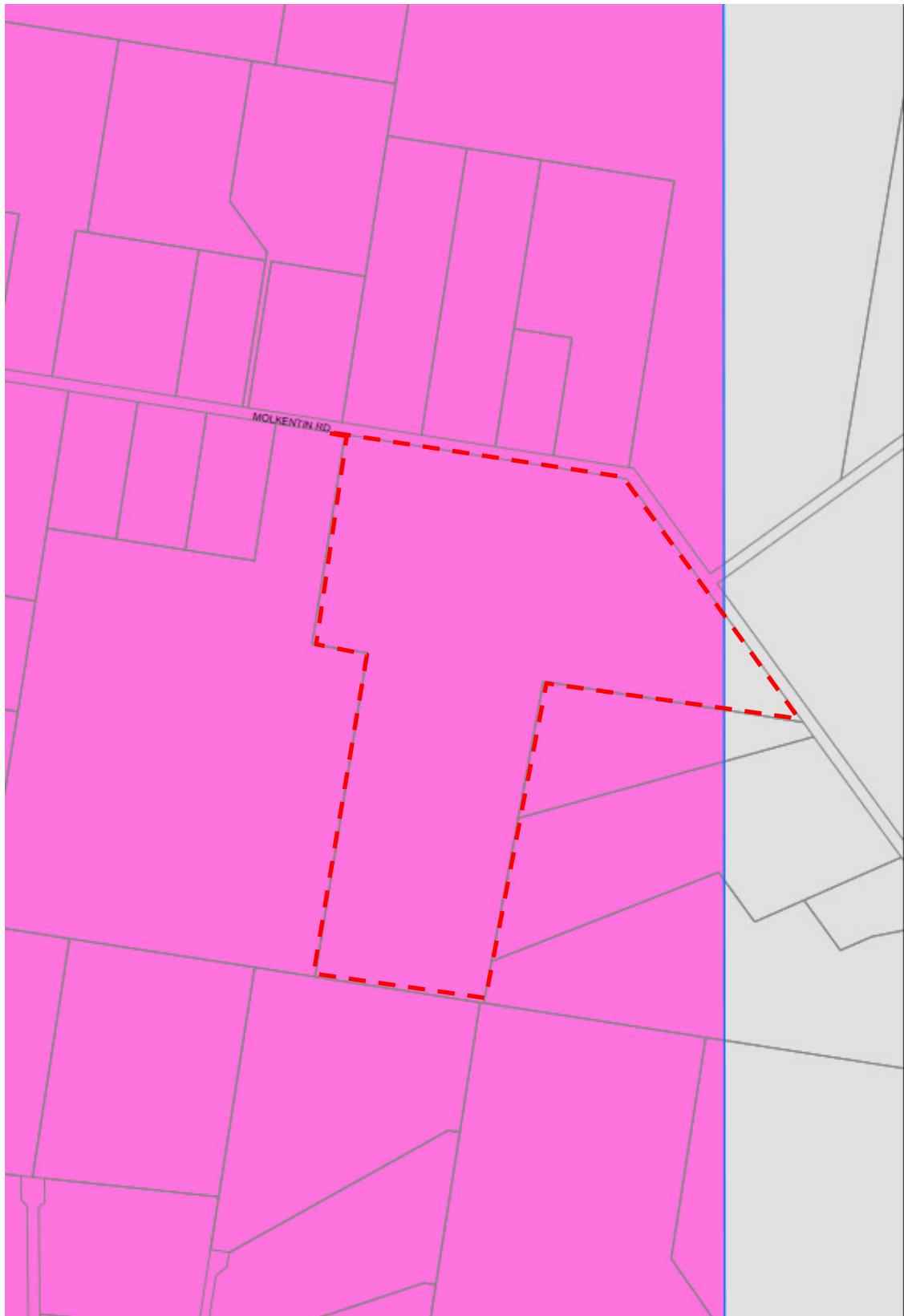
MAP 3: GHLEP 2012 Extract Zone Map 2C (Subject land highlighted)



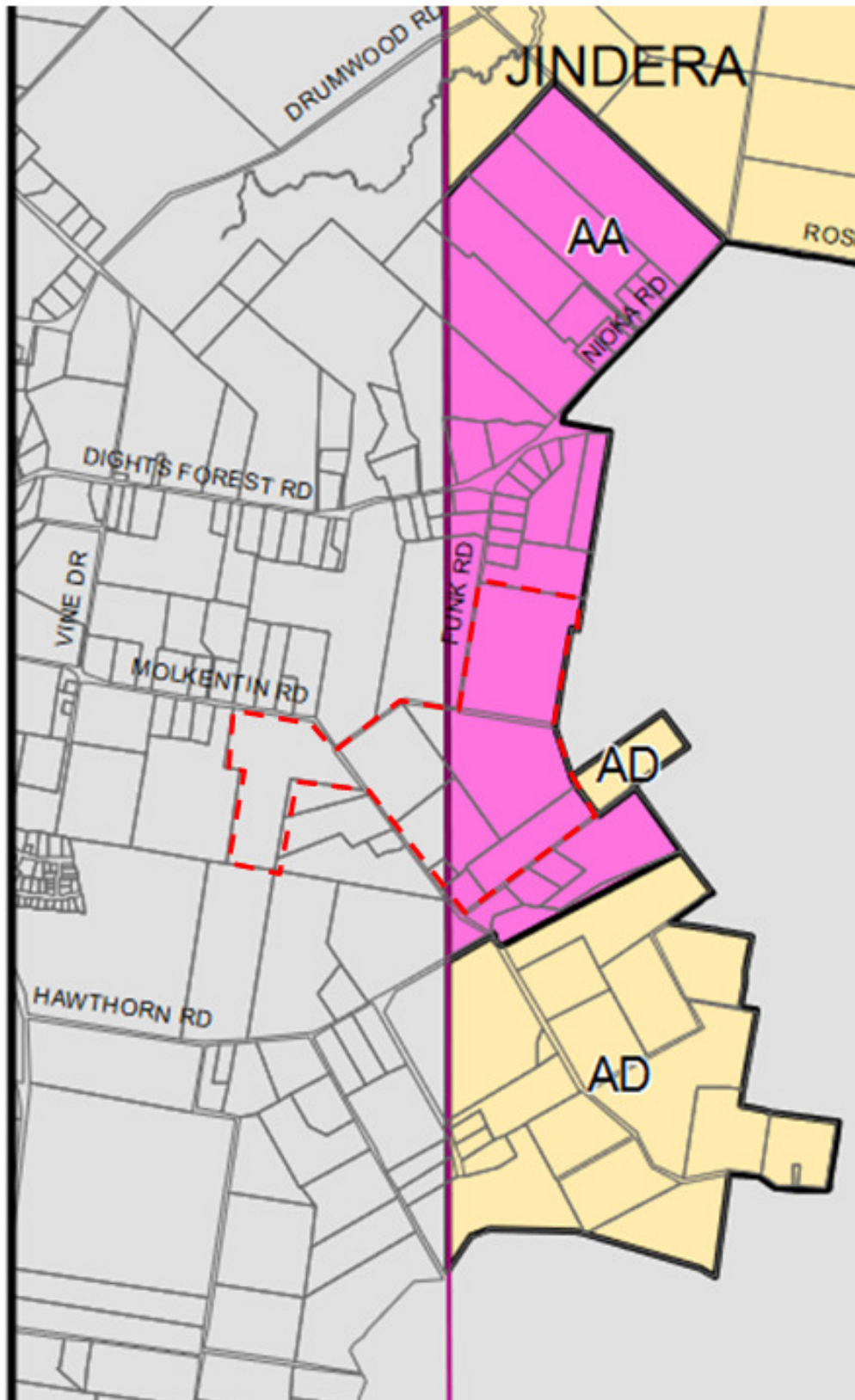
MAP 4: GHLEP 2012 Extract Zone Map 4 (Subject land highlighted)



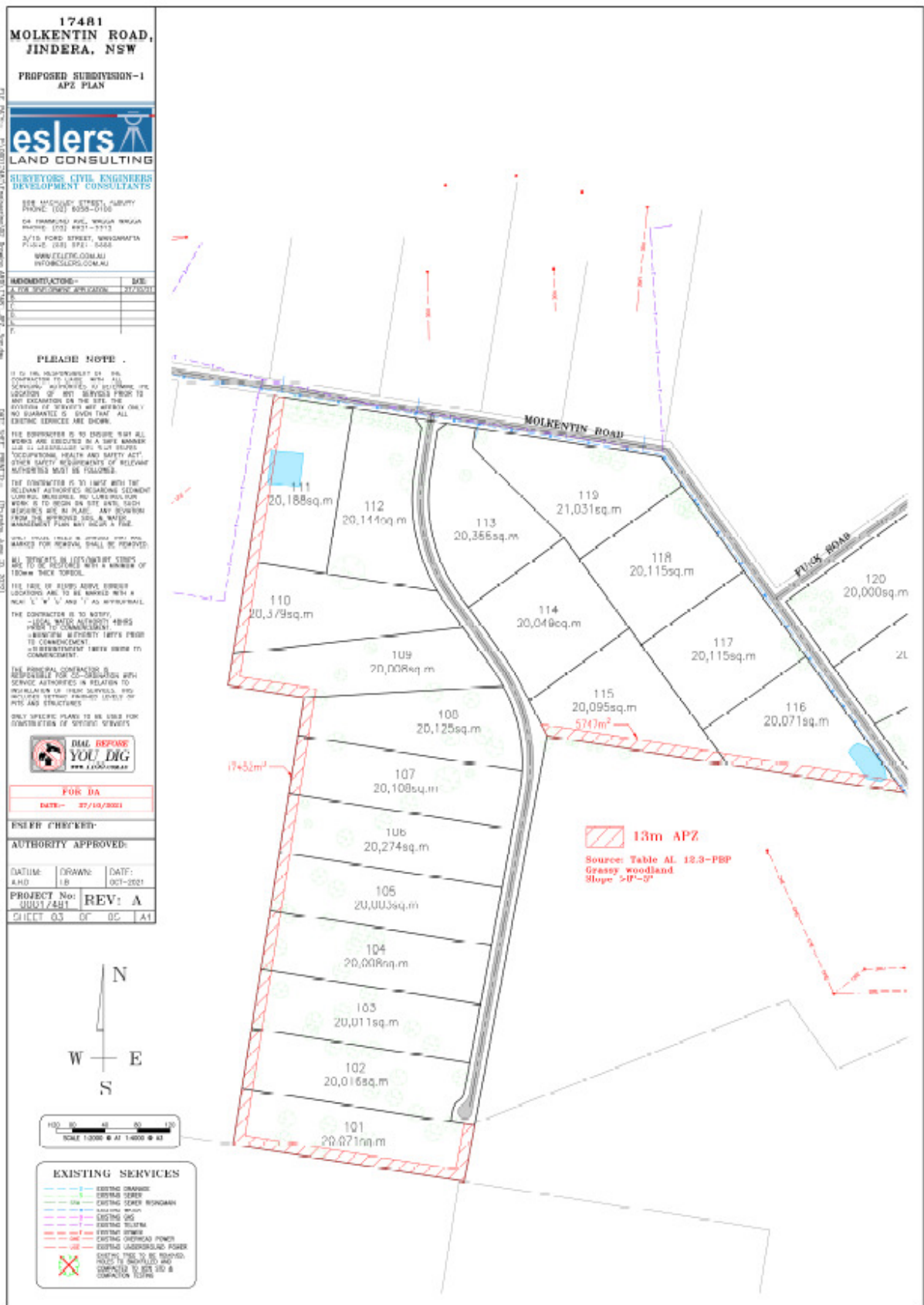
MAP 5: GHLEP 2012 Extract LSZ Map 2 (Subject land highlighted)



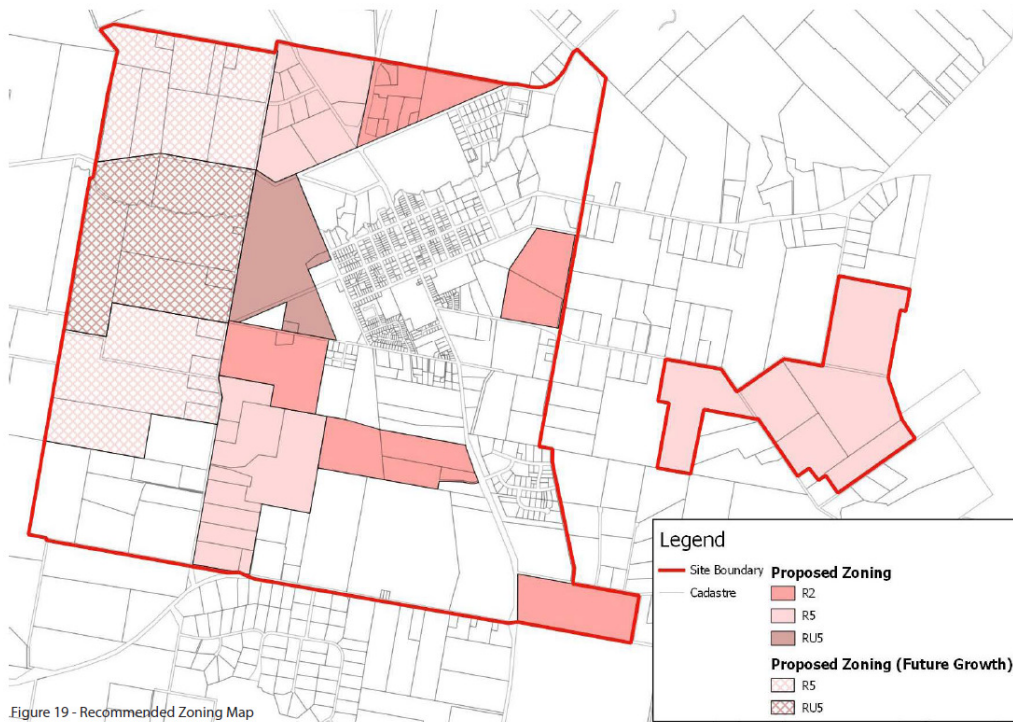
MAP 6: GHLEP 2012 Extract LSZ Map 2C (Subject land highlighted)



MAP 7: GHLEP 2012 Extract Zone Map 4 (Subject land highlighted)

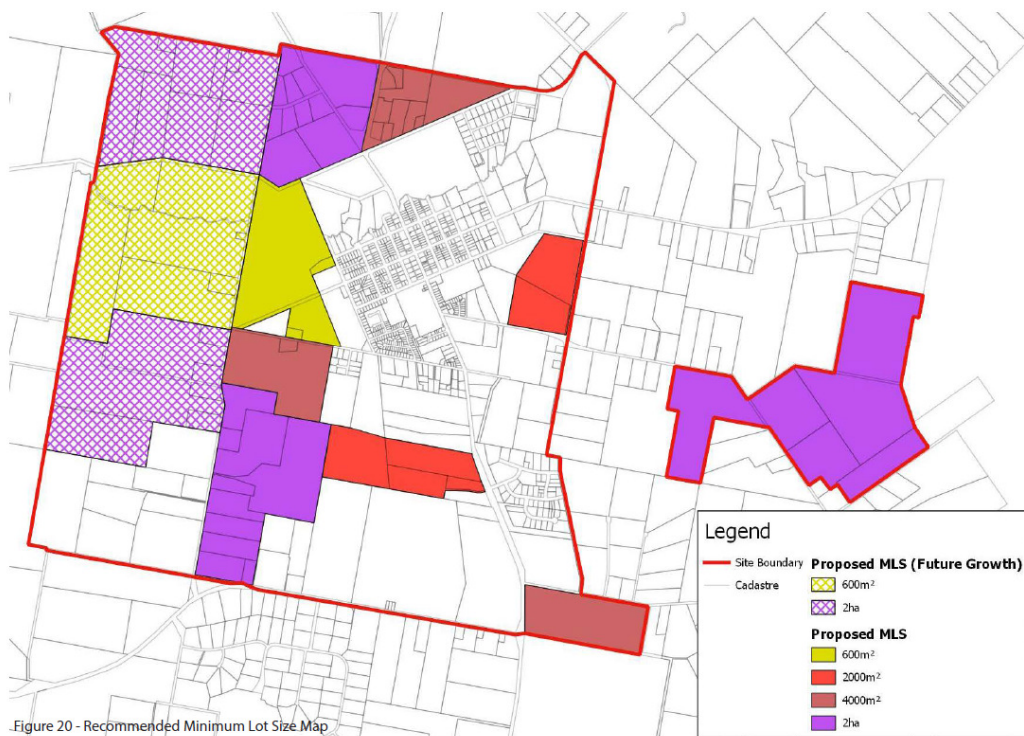


MAP 8: ASSET PROTECTION ZONE MAP – LOT 5 DP260275 (Indicative lot layout only)



41

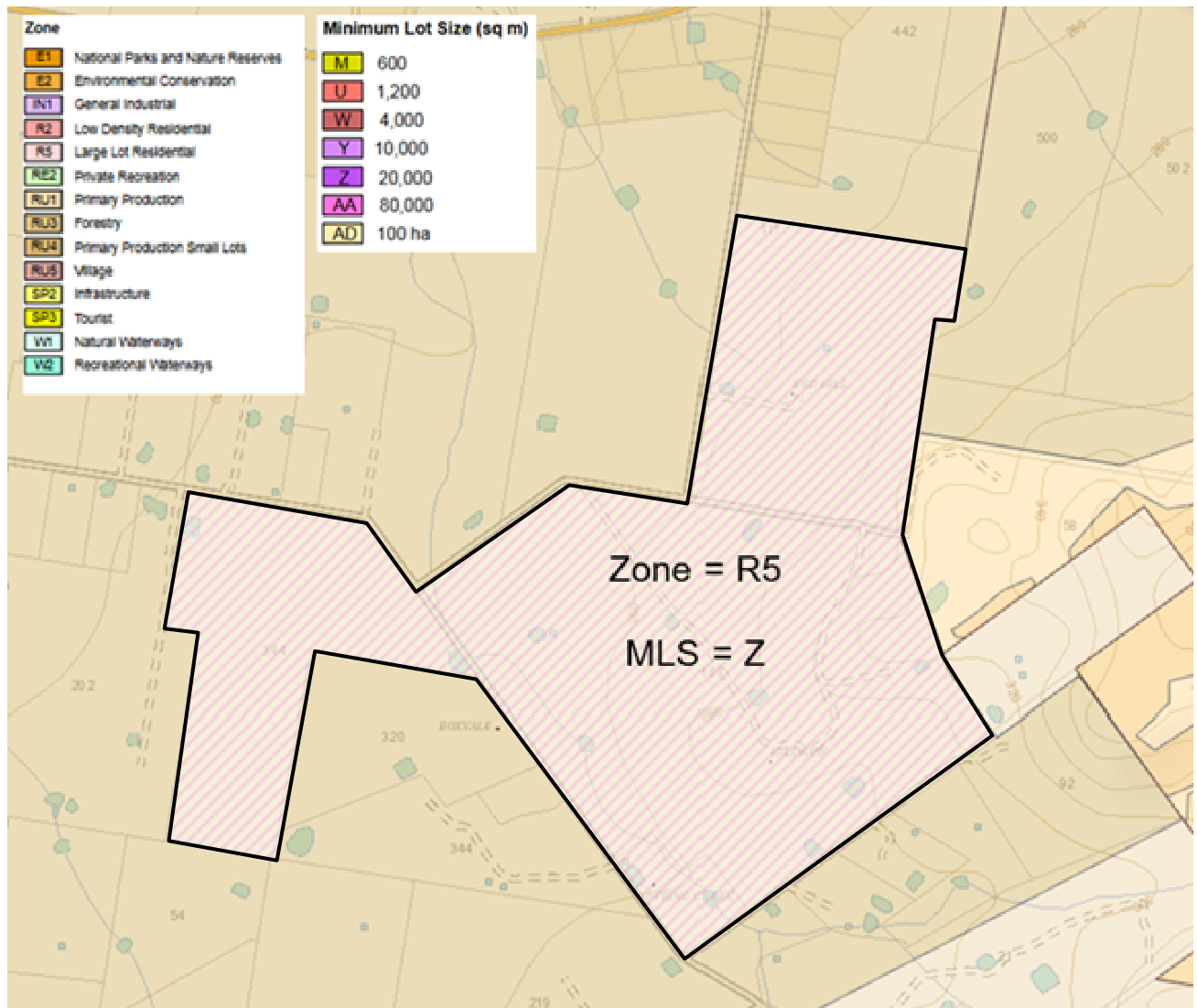
MAP 9: RECOMMENDED ZONING MAP - JRLUS



42

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MAP 10: RECOMMENDED MINIMUM LOT SIZE MAP – JRLUS



MAP 11: SCHEMATIC OF PROPOSED MAP CHANGES – SUBJECT LAND (INCLUDING Nos. 375 & 387 MOLKENTIN ROAD) HATCHED



2.5 Part 5 – Community Consultation

The planning proposal is considered to be “Standard” as described at Section 1 of the Guide and as a consequence an exhibition period of 20 days is considered appropriate.

Consultation will be carried out in accordance with the statutory requirements set by the EP&A Act and its regulation.

The proposed consultation strategy for this proposal will include:

- written notification to affected and adjoining landowners;
- notification of the proposal on Council’s website
- notification of the proposal on the Planning Portal
- consultation with relevant Government Departments and agencies, service providers and other key stakeholders, as determined in the Gateway determination;
- static displays of the Planning Proposal and supporting material in Council public buildings; and

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

At this stage it is considered unlikely that any public hearing would be required under relevant provisions of the EP&A Act.



2.6 Part 6 – Project Timeline

The project timeline for the planning proposal is outlined below in Table 3.

Typical of the strategic planning process however it needs to be noted that there are indeed many factors that can influence compliance with the timeframe including the cycle of Council meetings, consequences of agency consultation and consequences of public exhibition.

As a consequence, the following project timeline in respect of this planning proposal should be regarded as providing an indicative outline only as a mechanism to monitor the progress of the planning proposal through the plan making process.

MILESTONE	DATE/TIMEFRAME
Date of Gateway determination	23 May 2023
Date of Completed studies & plans	13 July 2023
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	2 months from Gateway determination
Commencement and completion dates for Commence public exhibition period	3 months from Gateway determination
Dates for public hearing (if required)	Within 2 weeks of public exhibition completion
Timeframe for consideration of submissions	2 weeks following completion of exhibition
Timeframe for the consideration of a proposal post exhibition	1 month following completion of exhibition
Anticipated date RPA will make the plan (if delegated)	2 weeks following consideration of proposal
Anticipated date RPA will forward to the department for notification (if delegated).	1 month following consideration of proposal

Table 3: Suggested Project Timeline



3. CONCLUDING COMMENTS

The Planning Proposal seeks to rezone Nos.344, 375 & 387 Molkentin Road and Nos.111 & 167 Funk Rd, Jindera to R5 Large Lot Residential, as well as reducing the minimum lot size for subdivision and dwellings from 8ha to 2ha. An amendment to the GHLEP is necessary for such a development outcome to be considered as the current RU4 zoning and MLZ map applying to the subject land does not permit it.

A key outcome of the proposal is to add to the current < 2.7 years supply of large lot residential land in the Jindera locality, providing opportunity for additional choice in location and housing options for future residents. It is intended that the development of the subject land will assist in responding to the strong demand for residential land in Jindera.

In summary opportunities for the development can be outlined as follows:

- the subject land is relatively close proximity of the Jindera Town Centre to the west while also adjoining the Albury City LGA along the north eastern frontage;
- the developable part of the subject land is only held by three land owners, all of whom are all interested in development in the short term;
- the proposal relates to developable land with a total area of 187ha with a realistic lot yield in the order of 60 – 80 lots equating to approximately 7 - 9 years' worth of R5 residential land supply;
- the proposal relates to rural land that is not identified as being of local or regional strategic importance as evidenced by the existing RU4 zone of the land;
- has convenient access to higher order roads; and
- is situated in close proximity to local services within Jindera and regional services in Albury/Wodonga.

In conclusion, the Planning Proposal is considered to have strategic merit and will facilitate an orderly and proper planning outcome for the following reasons:

- The proposal is consistent with the strategic planning framework including State, Regional, District and local planning strategies for Greater Hume.
- The proposal is consistent with the recommendations of the recently adopted Jindera Residential Land Use Strategy that identifies the subject land as R5 Large Lot Residential with a 2ha minimum lot size.
- The resultant development of the land will not create any unacceptable environmental or social impacts.
- There is clear evidence and demand for this form of residential development within the Jindera market.
- The density of development is sustainable for the subject land.
- There will be a net benefit for the Jindera community.

Having regard to the above it is concluded that the planning proposal is appropriate and well-considered and warrants the support of Council before proceeding to a Gateway Determination.



APPENDIX 1

ABORIGINAL CULTURAL HERITAGE – DUE DILIGENCE (Separately Attached)



APPENDIX 2

BIODIVERSITY ASSESSMENT (Separately Attached)



APPENDIX 3

Council's response 1 March 2023 to the Department's Request for Further Information



**Greater
Hume
Council**

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PP-2022-2454

Mr Wayne Garnsey
Manager Western Region
Local and Regional Planning
PO Box 58
DUBBO NSW 2830
ATTENTION Tom Scoble

Dear Mr Garnsey

Greater Hume Local Environmental Plan 2012 (PP-2022-2454) – Rezoning land at Molkentin and Funk Roads, Jindera – Request for Further Information

Reference is made to the Departments response to Councils request for a gateway determination which was received by Council on the 20 December 2022. Following is Councils response to the additional information that was requested.

Strategic Justification

- The Jindera Residential Land Use Strategy (the strategy) provided an existing supply analysis (pages 10 -12). At the time the strategy was produced it noted that there was a significant shortfall in supply for R5 zoned land with only 3.7 years of supply. From table 6 it was shown that the supply was held in two parcels land in Pioneer Drive and Bungowannah Road and Glenholm Estate. It is advised that a 4 lot subdivision has been approved at 81 Bungowannah Road and the land is currently being developed and the vacant land supply at Glenholm Estate has all been sold. The remaining R5 zoned land in Pioneer Drive is unlikely to be developed by the current owner who has not acted upon the opportunities of the zoning since gazettal of the Greater Hume Local Environment Plan. Due to the availability of reticulated sewer the Strategy is recommending that this land be rezoned R2 (page 38). So at the current time there is no supply of R5 land in Jindera area and it is believed that similar zoned land is not readily available in the Albury LGA.
- It is acknowledged that the proposal does result in the leap frogging of land to the east of Jindera. This leap frogging is discussed in the planning proposal report and is considered warranted given the constraints on the eastern side of Jindera which are shown in Figure 18 on page 36 of the strategy. It is the due to the identified constraints that the focus in the strategy is for additional residential land to be to the west of Jindera where it is anticipated that services such as sewer will be extended. The subject land is suitable for the R5 zoning as the land is less constrained then other land on the eastern side of Jindera and Council can provide reticulated water. The site is still in close proximity to Jindera and the residents of this estate will utilise the services in Jindera.

Given that there is currently no supply of R5 zoned land a key attribute of this proposal is that it is held by 3 landowners (majority owned by one landholder) who have actively pursued the rezoning of their land. The existing allotments are large and have the potential to yield a considerable number of allotments. In contrast the other two areas identified in the strategy are held by many land owners who have not actively pursued the rezoning of their land. The two parcels were included in the strategy to rezone to R5 to allow for incremental increase in the supply of R5 land and to reflect the landuse pattern that exists in the locations. Council believes that the land between the site and Jindera would be best placed to remain zoned RU4 which is why the land was not included in the strategy. Council has permitted a similar proposal the Glenholm estate which is located adjacent to Hueske and Jelbart Roads. The land immediately surrounding this R5 estate is zoned RU4 and there has been no significant issues relating to land use conflict.

Agricultural Land and Land Use Conflict

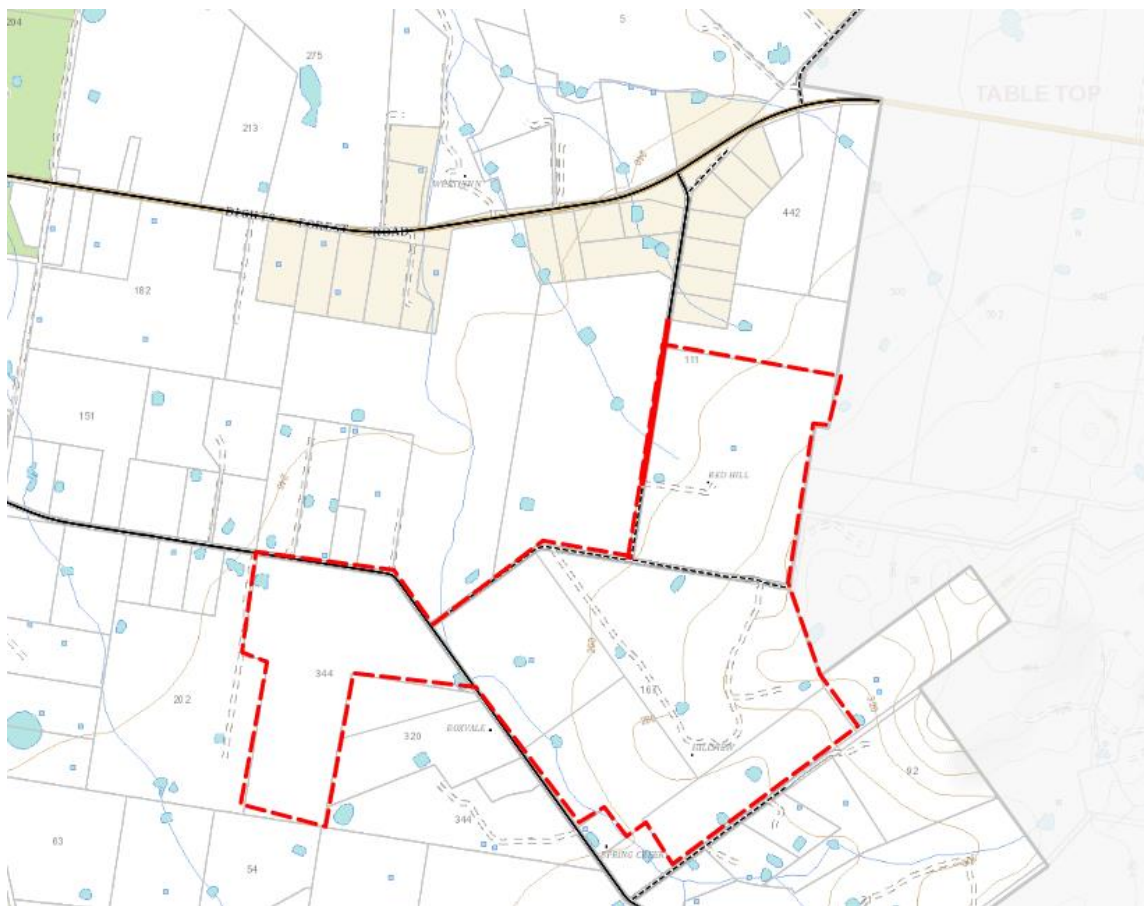
The Greater Hume Shire Strategic Land Use Plan (SLUP) 2007-2030 is a document that is approximately 20 years old. The Jindera area has experienced high rates of population growth since the preparation of the SLUP and capacity constraints within Councils Planning Department has prevented the updating of the Plan. The Greater Hume Local Strategic Planning Statement (GHLSPS) that was produced in 2018 has some Planning Priority Actions – Housing and Land Supply that align with this proposal:

3. Investigate and identify future opportunities to provide fully serviced large lot residential allotments and partially serviced rural residential allotments in Jindera – Short Term (refer to plans)
4. For the RU4 zoning in Jindera and other townships investigate the feasibility of increasing the density to a residential zoning

Council concedes that there will be some loss of agricultural activity should the change in zoning and lot size occurs. However when the strategy was exhibited Council consulted with the Department of Primary Industries. A discussion was held between the author of this letter and Lillian Parker wherein the subject land and other sites from the strategy were discussed. The intention of Council to intensify the density within the Jindera RU4 zone was put to Lillian and she confirmed that it was preferable that rezoning for residential purposes occurs in the RU4 zone rather than the RU1 zoning. Attached is a written response from Department of Primary Industries about the Draft Jindera Residential Land Use Strategy.

It should be noted that from the Riverina Murray Region Agricultural Profile there is 4,359 sq km of land in Greater Hume Shire that is currently used for agriculture. Most of this land is zoned RU1 and is highly productive land. In 2015-2016 the value of agricultural production for Greater Hume was calculated by the Australian Bureau of Statistics as \$219,433,178.

The planning proposal is seeking to rezone a total area of 187 hectares of RU4 land which is inconsequential in comparison to the total amount of land used for agricultural land in Greater Hume Shire. The gazettal of the Greater Hume Local Environment Plan introduced the RU4 zone for the land surrounding Jindera inclusive of this site. That zoning was applied because it aligned with the former Rural (Living) Zone of the Hume Local Environment Zone 2001. The Rural (Living) Zoning permitted subdivision of land down to 2 hectares in size providing the average size of lots created was 8 hectares and half the resulting lots exceeded 8 hectares in size. The previous Rural (Living) Zoning and former planning instrument provisions permitting concessional allotments to 2 hectares in size has resulted in a land use pattern around Jindera and the site being fragmented which is shown in the following image:



From the image the site is marked in Red and it is apparent that land to north on both sides of Funks Road is 2 hectares in size and land to West along Molokentin and Dights Forest Road is 2 hectares in size.

There is a possibility that soils on the site could be contaminated from previous use for agricultural purposes. It has been Council's experience from reviewing preliminary investigations for similar land uses being mixed farming (grazing and cropping) that soil contamination when found is localised to sites where activities such as measuring and dispensing chemicals has been undertaken or animal dipping occurred. It is likely that should contamination be discovered then the consultant will be able to provide a solution to ameliorate the problem or the site of the contamination can be avoided. It is considered that a preliminary investigation could be required as part of a conditional gateway determination.

From the E spade website the land and soil capability of the site is category 2 on the flatter terrain and then changing to 4 and 7 as the terrain rises. Category 2 has slight but significant limitations, the category 4 is moderate to severe limitations and the category 7 has extreme limitations.

It is acknowledged that the site is proposed to be mapped as State Significant Agricultural Land by the Department of Primary Industries. Council has engaged in the process that has produced this mapping. Consequentially Council is aware that the mapping primarily aligns with the properties of the soil consequently the presence of the Category 2 soil capability would correspond to the proposed mapping as state significant agricultural land. The process of preparing the mapping does not take into consideration other factors such as land fragmentation. As stated above Council considers the RU4 land in the vicinity of the site to be fragmented and used only in a very limited way for agricultural purposes.

Following is Councils response to State Environmental Planning Policy (Primary Production) 2021, Ministerial Directions 9.1 Rural Zones and 9.2 Rural Lands

SEPP/Ministerial Direction	Consistency	Comment
State Environmental Planning Policy (Primary Production) 2021	Yes	<p>The SEPP applies to this planning proposal as it is seeking a rezoning of RU4 land to R5 land and a reduction in the minimum lot size to 2 hectares.</p> <p>The aims of the SEPP that are applicable are as follows:</p> <ul style="list-style-type: none"> • to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, • to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, <p>Some of the site is proposed to be mapped as state significant land and the objects of Part 2 State Significant Agricultural Land may apply which are listed below:</p> <p>(a) to identify State significant agricultural land and to provide for the carrying out of development on that land,</p>

		<p>(b) to provide for the protection of agricultural land—</p> <p>(i) that is of State or regional agricultural significance, and</p> <p>(ii) that may be subject to demand for uses that are not compatible with agriculture, and</p> <p>(iii) if the protection will result in a public benefit.</p> <p>Response</p> <p>The RU4 land surrounding Jindera is fragmented for agricultural purposes and the GHLSPS has identified the intention to increase the density for residential land use.</p> <p>It has been Councils previous experience that R5 zoning adjacent to RU4 zoning does not resulted in significant land use conflict.</p> <p>Based on the properties of the soil some of the site maybe proposed to be mapped as state significant agricultural land. It is considered that the fragmented nature of the RU4 zone would be a factor which should exclude the site from being considered state significant agricultural land.</p>
Direction 9.1 Rural Zones	Yes	<p>Direction 9.1 Rural Zones indicates that a planning proposal must</p> <p>(a)not rezone land from a rural zone to a residential, business,</p>

		<p>industrial, village or tourist zone.</p> <p>(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).</p> <p>Response</p> <p>The GHLSPS identified the need for opportunities to provide fully serviced large lot residential allotments and partially serviced rural residential allotments in Jindera. For the RU4 zoning in Jindera and other townships the GHLSPS stated a need to investigate the feasibility of increasing the density to a residential zoning.</p> <p>The strategy indicated that the subject land would be suitable for development as R5 residential land.</p> <p>For Greater Hume the rezoning of the site from RU4 to the R5 zone with a change in minimum lot size will be inconsequential in terms of the quantity of available agricultural land and the value of agricultural production.</p>
Direction 9.2 - Rural Lands	Yes	<p>Response</p> <p>As mentioned the Planning Proposal aligns with actions in the GHLSPS and was identified as being suitable for R5 land in the strategy. The loss of the site as agricultural land is</p>

		<p>inconsequential in terms of the availability of agricultural land and the value of agricultural production. The PP has provided a Preliminary Biodiversity Assessment and Aboriginal Heritage Due Diligence Assessment. Future development plans can demonstrate that an R5 zoning will be sympathetic to natural and physical constraints. The site is situated in an area where productive agriculture cannot solely financially support land owners and the RU4 zone is fragmented. Although the soil parameters of some of the site warrants classification as State Significant Agricultural Land the fragmented nature of the prevailing land makes this classification unwarranted.</p> <p>It has been shown that the site can be serviced and is suitable for R5 land. Within Jindera there is no availability of R5 zoned land. The creation of approximately 80-90 allotments of R5 land will provide opportunities for further population growth of Jindera which will support the social and economic needs of the locality.</p>
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Planning Framework

Planning Priority One – Housing and Land Supply of the GHLSPS provides criteria for land to be considered as suitable for residential purposes and a response against this criteria is contained in the following table.

Criteria	Response
Be located to avoid areas that are identified as important agricultural land or areas that create potential for land use conflict;	It has been determined that land is not important agricultural land and Council is confident that there should not be land use

	conflict between the adjacent R5 and RU4 zoning.
Align with the utility infrastructure network and its capabilities;	Council confirms that the land can be serviced with reticulated water. The existing road network will be adequate for initial stages of the development on the site. There will be a need for road improvements and augmentation of the water supply for later stages of the development site which can be addressed through conditions of consent.
Avoid or mitigate the impacts of hazards, including the implications of climate change;	<p>The site is partially within the study area of the Jindera Flood Study. The land within the study area is only slightly effected by the PMF event. The topography of the portion of the site that is not within the flood study area is elevated and Council is confident that this land will be relatively unaffected by flooding.</p> <p>Only Lot 5 DP260275 which is flat land is mapped as being category 2 bushfire prone land. Category 2 bushfire land is the lowest designation for bushfire prone land, this categorisation and the size of the future allotments will provide opportunity for a development proposal to satisfy the requirements of Planning for Bushfire Protection.</p> <p>As mentioned above there is the possibility for soils to be contaminated. It is proposed that a preliminary investigation should be required which will identify the presence for soil contamination.</p>
Protect areas with high environmental value and/ or cultural heritage value and important biodiversity corridors;	<p>The Preliminary Biodiversity Assessment has identified the presence of native vegetation, threatened species habitat, Threatened Ecological Communities and Serious and Irreversible Impact Entities.</p> <p>The Preliminary Biodiversity Assessment does not conclude that the proposal for rezoning should not proceed. It does indicate that the above areas should be excluded from future subdivision design.</p> <p>It is considered that the above constraints should be expected to exist in some locations within 187 hectares of farming land. From page 20 of Preliminary</p>

	<p>Biodiversity Assessment it is apparent that only 20% of the site is effected by biodiversity constraints.</p> <p>The 2 hectare minimum lot size for R5 zoned land will permit options to be considered at development application stage to avoid and minimise impacts on biodiversity. These options could be requiring vegetation to be contained on an allotment with a larger lot size, use of building envelopes and restrictive covenants.</p> <p>An aboriginal heritage due diligence assessment accompanied the planning proposal and it identifies that the proposed rezoning of the land could proceed subject to the adoption of recommendations.</p>
Not hinder development or urban expansion and will contribute to the function of existing townships;	The strategy has identified that most future residential development will occur to the West of Jindera. The site being situated to the East of Jindera will not hinder development or urban expansion. The future occupants of the site will utilise the services of Jindera and will socially and economically contribute to the local community.
Create new neighbourhoods that are environmentally sustainable, socially inclusive, easy to get to, healthy and safe.	The assessment criteria for the development of the site will ensure that these worthy attributes are obtained.

Strategy 7.1 within the Riverina-Murray Regional Plan 2041 contains standards that must be met for new rural residential development areas. It indicates that rural residential areas must be identified in a local housing or other strategy approved by the Department. The proposed rezoning of the site to a R5 zone with a corresponding change in lot size aligns with this requirement as the strategy identified the site as being suitable for the R5 zone and the strategy was prepared by Council in conjunction with the Department of Planning. Strategy 7.1 of the Riverina- Murray Regional Plan has standards that must be met, the following table addresses this:

Strategy 7.1 Standards	Response
Be near existing urban areas to maximise the efficient use of existing infrastructure and services, such as roads, water, sewerage and waste services, public transport and social and community infrastructure, (including access to education facilities)	The site is approximately 2 kilometres from Jindera which will provide all required services for future residents. The connecting road is able to accommodate the future residents. The nearby Funks Road will likely be used to provide access by future residents to Albury. Council will require the upgrading of Funks Road to be undertaken by the developer. Onsite sewerage systems will be utilised and

	Council can provide reticulated water to the site. The developer will be required to upgrade the current water main.
Not reduce future urban development options.	As mentioned the strategy indicates that Council envisages urban development to be located to the West of Jindera. Consequentially the rezoning and then the development of the site will not reduce future urban development options.
Protect the economic use of rural land and be located away from significant agriculture, forestry, extractive resources or energy production or distribution areas or other air pollution emission sources (see Objective 12)	It has been demonstrated that the site is not important agricultural land.
Not be located on areas of high environmental value or areas of cultural or heritage significance or not adversely affect nearby land with those values	As mentioned a Preliminary Biodiversity Assessment and an aboriginal heritage due diligence assessment both concluded that the proposal for rezoning should proceed. Council is confident that Biodiversity and Cultural Heritage considerations can be managed.
Avoid fragmentation of waterfront areas, and not proliferate additional water rights to water bodies	Only low order streams bisect the site and this standard is not a consideration for the rezoning of the site.
Avoid areas that could pose a risk to public safety, including flood, landslip, bushfires, proximity to hazardous or offensive industry uses or contaminated land	Flooding, soil contamination and bushfire are the foreseeable hazards associated with the proposed rezoning of the site. An assessment has demonstrated that these risks can be addressed.
Be suitable for on-site effluent disposal (if required), or ensure treatment systems that can avoid overflow during storms	Future dwellings will utilise onsite sewerage management systems. Council proactively regulates these systems. Allotments that are 2 hectares in size are able to utilise onsite sewerage management systems in an environmental sustainable manner.
Avoid locations that could adversely impact surface water or groundwater resources	The development of the site can be undertaken in a way that will not detrimentally effect either surface water or groundwater resources.
Provide an adequate water supply for domestic purposes	The allotments can be provided with reticulated water from Councils village water supply scheme.
Offer permanent and safe all-weather access, avoid ribbon development along main roads and minimise access off major roads	Access from the site will be via sealed all weather access local roads.

Provide a lot size and zone that ensures a dwelling is the primary use of the land.	The 2 hectare minimum lot size, development controls and keeping of animals policy will ensure that dwellings are the primary use of the allotments.
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Further assessment against Ministerial Directions 4.1 and 6.2 has been requested. That assessment is provide below:

Ministerial Direction	Consistency	Comment
4.4 Remediation of Contaminated Land	Yes	Typically preliminary investigations undertaken for mixed farming land reveal that when contamination is discovered then that contamination is localised. The consultants usually can suggest remediation or the area can be avoided. A preliminary investigation could be a conditional item on the gateway determination.
6.2 Caravan Parks and Manufactured Home Estates	Yes	Currently in the RU4 zoning caravan parks are permitted with consent. The R5 zone would prohibit caravan parks. In relation to the site this change would be of minor significance as a caravan park would be unlikely to be developed on the site due to the location and topography.

The site has been earmarked in the strategy as being an area to proceed to rezoning and development in the short term. The need for the site to progress before other area identified in the strategy has been discussed above wherein it was stated that the landowners have actively sought rezoning of the land and indicated a willingness to proceed to development. The supply of this land is needed as there is currently no R5 zoned land in Greater Hume.

Infrastructure Provision

In considering the planning proposal Council has considered the infrastructure needs that is Councils responsibility arising from the development. Council has determined a need for reticulated water, roads and stormwater management. As the majority of the land is controlled by one land owner it is possible for Council to condition the provision of infrastructure on a future development consent. A development application will provide a staging plan for the development. Council could allow existing infrastructure to cater for the first stage of the development and require other infrastructure be provided before subsequent stages is commenced.

To provide infrastructure that caters for community and social needs it is proposed that Council will apply the Greater Hume Section 7.12 2021 Plan for each of the dwellings that will subsequently be developed.

Hazards

It has been mentioned above that Council does not foresee the hazards such as bushfire, flooding or biodiversity causing unsurmountable concerns that cannot be addressed at the development application stages for future subdivision and dwellings.

The Preliminary Biodiversity Assessment does indicate the presence of a Serious and Irreversible Impact Entity. The area of this entity is very small portion of the sites 187 hectares and consultation during the gateway process with the Department of Planning and Environment, Biodiversity, Conservation and Science will provide measure where impacts to the entity and other areas of biodiversity value can be avoided or minimised.

It has been mentioned above that there is only a 20% portion of the land area of the site mapped as having biodiversity value. It is understood by Council that the Biodiversity Conservation Act requirement to minimise and avoid impacts on land with biodiversity values will mean that the yield area from future subdivision will be reduced. Finally any development proposal that exceeds the threshold criteria of the Biodiversity Conservation Act will require the production by an Accredited Certifier of a BDAR and this document will assist Council in ensuring the impacts on biodiversity values are either avoided or minimised or appropriately offset.

Council has been asked to consider the effects of the development on the adjoining conservation zones within the Albury local government area. The portion of the site that abuts Albury local government area is zoned C4 Environmental Living Zone and the objectives of that zone is as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To ensure the long term viability of populations of threatened species, populations and ecological communities by protecting and improving the condition of wildlife habitats and wildlife corridors.

There are many uses permitted with consent in this zone including dwellings and dual occupancy. The Albury Local Environment Plan 2010 was gazetted before the Biodiversity Conservation Act. To comply with this Act the proposed R5 zoning of the site and future development will need to align with the objectives of the C4 Environmental Living Zone. Consequentially it has been demonstrated that the rezoning and development of the site will not derogate from adjacent C4 Environmental Living Zone.

In the above response to the Departments request for additional information it has been demonstrated through addressing general concerns, strategic justification, agricultural land use and land use conflict, planning framework, infrastructure provision and hazards that the proposed rezoning of the land does have sufficient strategic merit to permit the Department to issue a conditional gateway determination.

For further clarification please contact Greater Hume Councils Director Environment and Planning Mr Colin Kane on 6044 8928 or via ckane@greaterhume.nsw.gov.au

A handwritten signature in blue ink, appearing to read 'Colin Kane', is positioned above a horizontal line.

1 March 2023