

Gateway Planning Proposal

To Permit a Rezoning of Land from
RU1 Primary Production to R1 General Residential

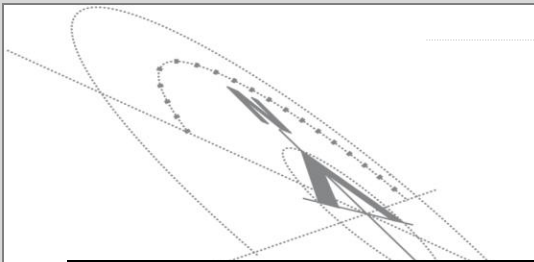
ON BEHALF OF
ROSEBERRY CREEK DEVELOPMENTS

Site: Lot 1 DP 307050
45 Anzac Drive, Geneva

Our Ref: 200397
Date: November 2021



Document Control Sheet



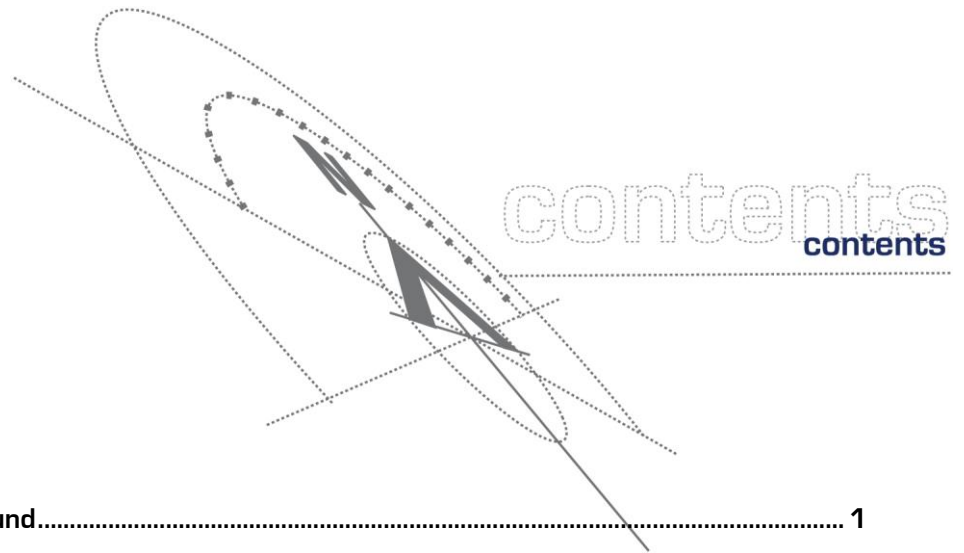
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The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by the Consent Authority.

The information contained in this report is based on independent research undertaken by NDC. To the best of our knowledge, it does not contain any false, misleading or incomplete information. No extract of text from this document may be reproduced, stored or transmitted in any form without the prior consent of NDC. NDC declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 10.4(3) of the Environmental Planning and Assessment Act 1979 to declare



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Attachment 3 – NCRP 2036 – Urban Growth Area Variation Principles

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PLANS

Plan 1 – Location

Plan 2 – Detail Survey

Plan 3 – Land Zone

Plan 4 – Site Analysis

Plan 5 – LEP Mapping

1. Background

1.1 Summary of Project

Newton Denny Chapelle has been engaged by Roseberry Creek Developments to prepare a Planning Proposal located at 45 Anzac Drive, Geneva.

This Planning Proposal has been completed in accordance with the Department of Planning & Environment guide to preparing Planning Proposals. A Gateway Determination under Sections 3.33 & 3.3.4 of the Environmental Planning and Assessment Act was sought as part of the Planning Proposal.

A Gateway Determination has now been issued by the NSW Department of Planning and Environment dated 15 September 2022 and is contained within **Attachment 6**. This Planning Proposal has been updated in accordance with the Gateway Determination conditions.

As shown in **Plate 1**, the subject land is currently dually zoned R1 – General Residential and RU1 – Primary Production under the Kyogle Local Environmental Plan 2012.

The purpose of the Planning Proposal is to change the town planning provisions applying to Lot 1 DP 307050 to rezone part of the land presently zoned RU1 – Primary Production to R1 – General Residential in accordance with the provisions of the Kyogle Local Environmental Plan 2012. The proposed rezoning is illustrated in **Plate 2** and comprises an area of approximately 2.45 hectares.

The proposed R1 zoning line is proposed to reflect the 1 in 100 year flood line of RL 59.25m AHD, with the exception of a small area retained above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

All future dwelling sites within the proposed R1 zone will have the capacity to be located above the Flood Planning Level of RL 59.75m AHD, and also above the PMF Level which ranges between RL 61.75m AHD at the lowest/eastern boundary of the site and RL 62.25m AHD at the highest/western boundary. Dwelling sites will also be located above increased flood levels due to climate change.

The Planning Proposal also seeks to amend the minimum lot size map to permit the creation of lots with a minimum lot size of 500m² within the area to be rezoned to R1. Upon the future subdivision of the land, that area to be retained as RU1 –

Primary Production zone will be attached to one of the residential zoned lots via the split zone clause of the Kyogle LEP being *Clause 4.1B – Minimum subdivision lot sizes for certain split zones*.

To maintain strategic consistency and Planning framework with the adjoining R1 zoned land, it is also proposed to introduce a 9 metre LEP building height limit for that part of the land proposed to be rezoned.

A development application has been approved by Kyogle Council under DA 2021/78 to subdivide the existing R1 zoned portion of land into 6 residential lots (with Lot 7 being a residue lot), and for the construction of a new road to provide access into the development from Anzac Drive. The 6 lots proposed are intended to be developed for residential development targeted towards seniors living.

It is considered that due to similar land characteristics such as topography and future dwelling sites located above the Flood Planning Level (FPL) of 59.75m AHD and PMF Level, and on land not constrained by vegetation, bushfire hazard, or regionally significant farmland, the rezoning of the nominated land area to R1 General Residential is considered reasonable and suitable.

The proposed rezoning will offer a logical extension of the existing residential zone to enable further residential development on suitable land with similar characteristics as the current R1 zoned portion. The proponent intends on subdividing and in-turn delivering further residential development that will continue to be orientated towards seniors living. A concept of the future proposal is provided below in **Plate 3**.

To clarify the future development intentions of the land, it is not proposed that an aged care type facility will be developed on the proposed R1 zoned land for vulnerable persons, but rather that future dwellings will be designed to accommodate seniors living (i.e. over 55 years). Whilst future dwelling designs may be orientated to accommodate seniors living, the dwellings will not be expressly restricted to this age group.

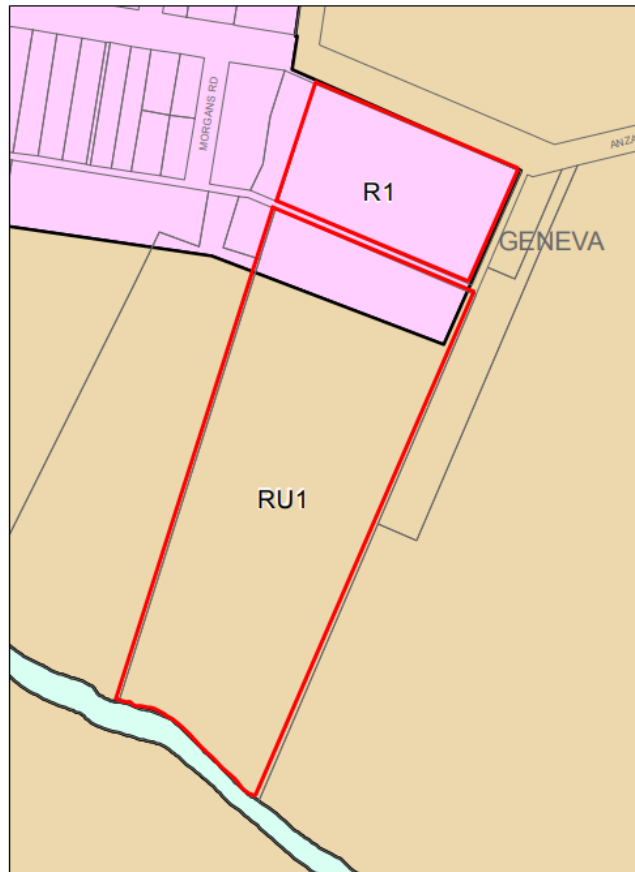


Plate 1: Current land zoning under the Kyogle LEP 2012
[Source: Kyogle LEP 2012]

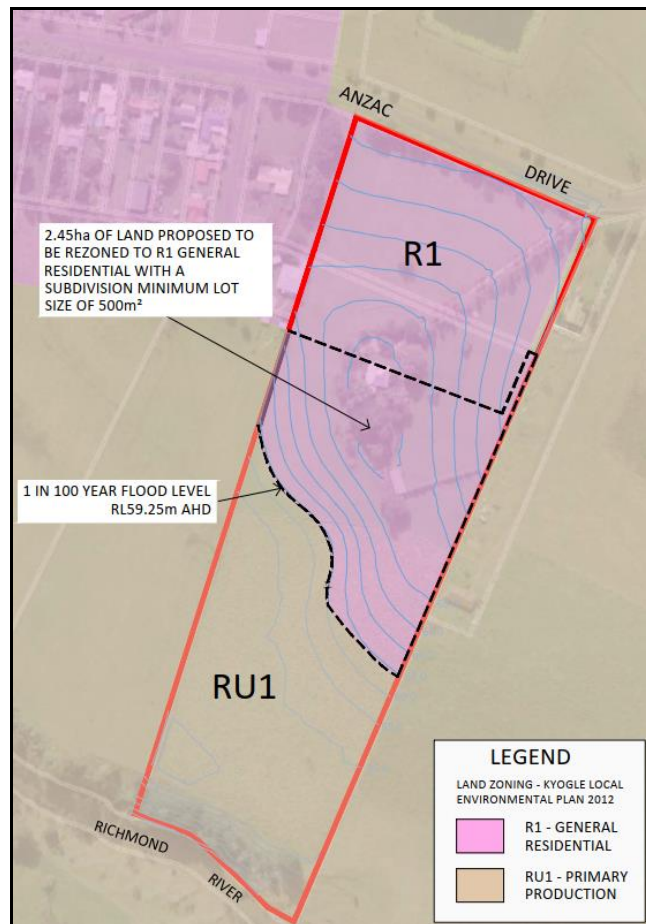


Plate 2 – Proposed Rezoning Area

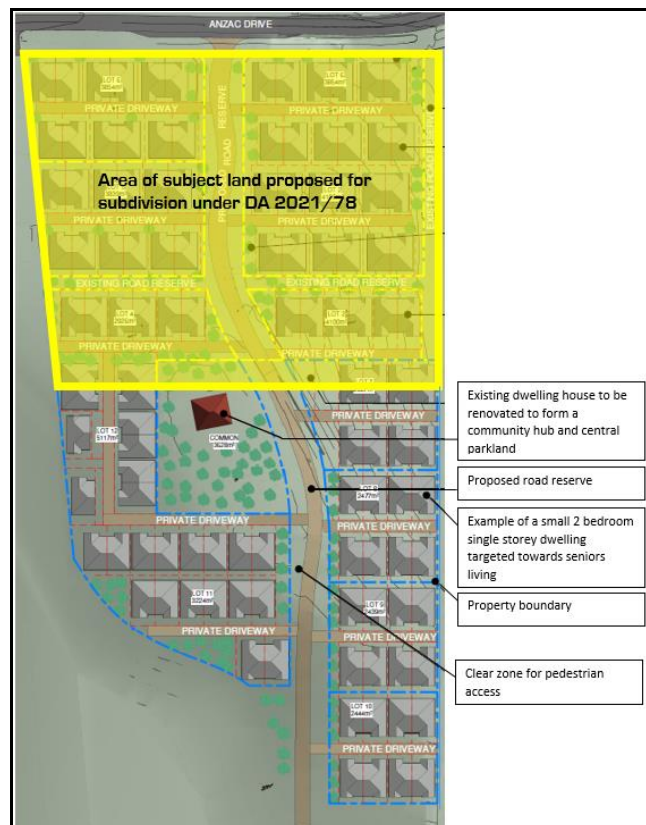


Plate 3 – Future concept of proposed area to be rezoned to R1

1.2 Location of Subject Land and the Nature of Surrounding Rural Area

Location and Land Use

The subject land is located at 45 Anzac Drive, Geneva as identified on **Plan 1** – Location Plan and also within the below **Plate 4**. **Plate 5** provides a visual illustration of the subject land in the context of an aerial photo.

The land subject to this Planning Proposal is as follows in **Table 1**:

Table 1: Land Subject to the Planning Proposal

Property Address	Property Description
45 Anzac Drive, Geneva	Lot 1 DP 307050

The Deposited Plan (DP 307050) can be found within **Attachment 1** of this report.

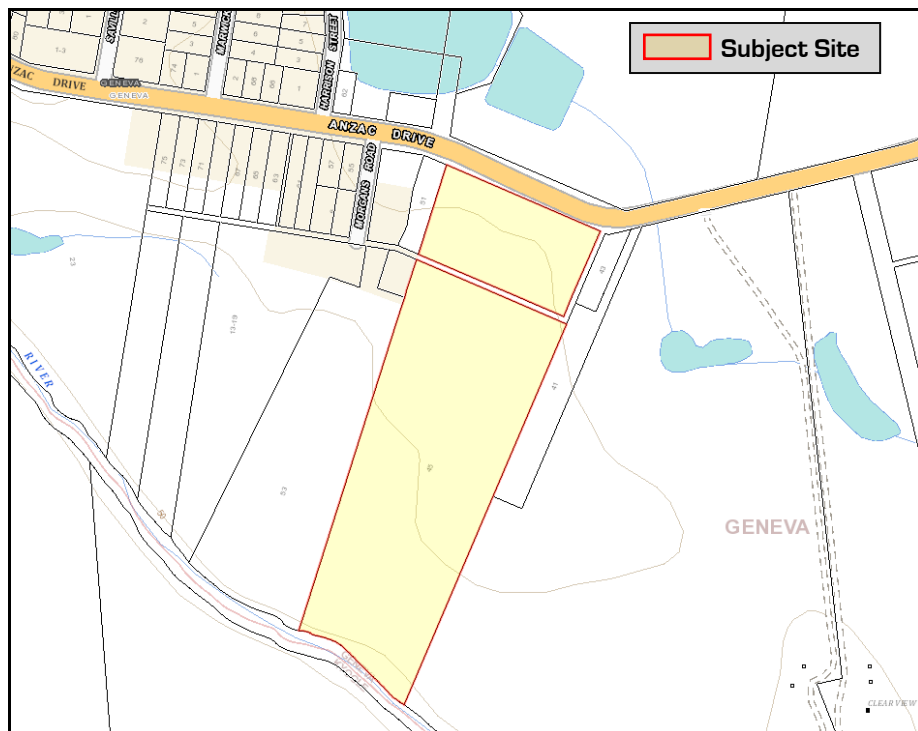


Plate 4: Subject land located at 45 Anzac Drive, Geneva
[Source LPMA Six Viewer]

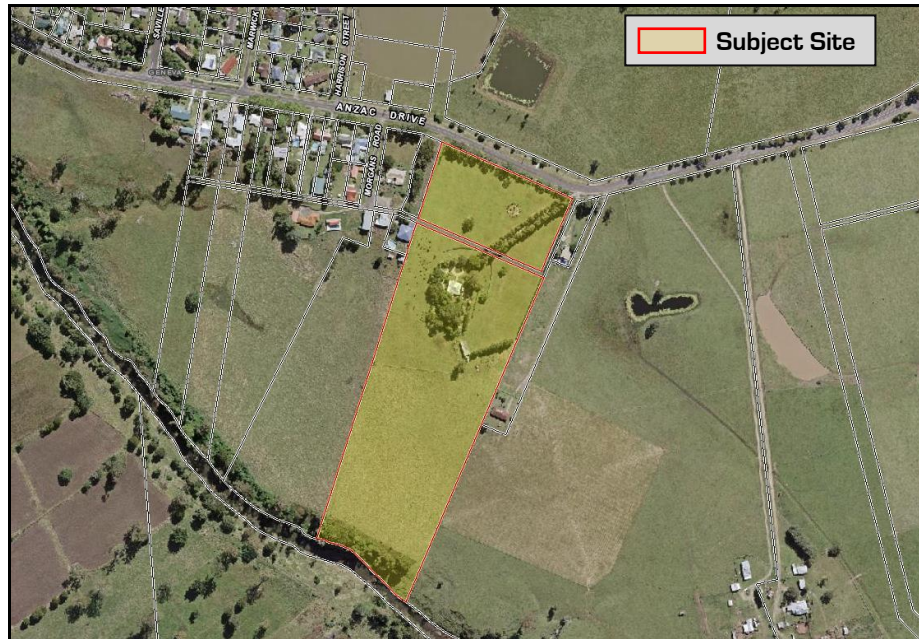


Plate 5: Aerial photo of the subject land (Source LPMA Six Viewer)

The site is currently embellished with a residential dwelling house, associated outbuildings, swimming pool, with a driveway access connection to Anzac Drive. The rear portion of the site is generally used for low intensive cattle grazing.

The property contains street frontage to Anzac Drive to the north of approximately 180 metres. The physical features of the site are illustrated within **Plan 2 – Detail Survey** as previously completed by NDC.

The property is embellished with an unformed road reserve which extends some 85 metres southwards from Anzac Drive adjacent to the eastern property boundary then running west across the site on the northern side of the dwelling to the western property boundary.

The northern portion of the land is zoned R1 – General Residential pursuant to the Kyogle Local Environmental Plan 2012 with a minimum subdivision lot size of 500m². The central and rear portion of the site is zoned RU1 – Primary Production with a minimum lot size of 40 hectares. **Plan 3** (and **Plate 1** provided earlier) illustrates the dual land zoning over the property.

The subject land is adjoined to the north by Anzac Drive, to the east by rural lifestyle lots and rural zoned land. The adjoining rural zoned land is utilised for grazing purposes.

The subject land is adjoined to the south by the Richmond River, with a rural lifestyle lot (dually zoned R1 – General Residential and RU1 – Primary Production) adjoining to the west which is used to run low scale grazing.

Plates 6 - 8 provide photo illustrations of the subject land.



Plate 6 – View of the existing dwelling on the subject property



Plate 7 – View into the rural zoned portion of land at the rear of the subject site.



Plate 8 – Looking into the subject site from Anzac Drive.

A development application has been approved by Kyogle Council under DA 2021/78 to subdivide the R1 zoned portion of land into 6 residential lots and a residual lot [refer to **Plate 9**], and for the construction of a new road to provide access into the development from Anzac Drive. The 6 lots proposed are intended to be developed for residential development targeted towards seniors living.

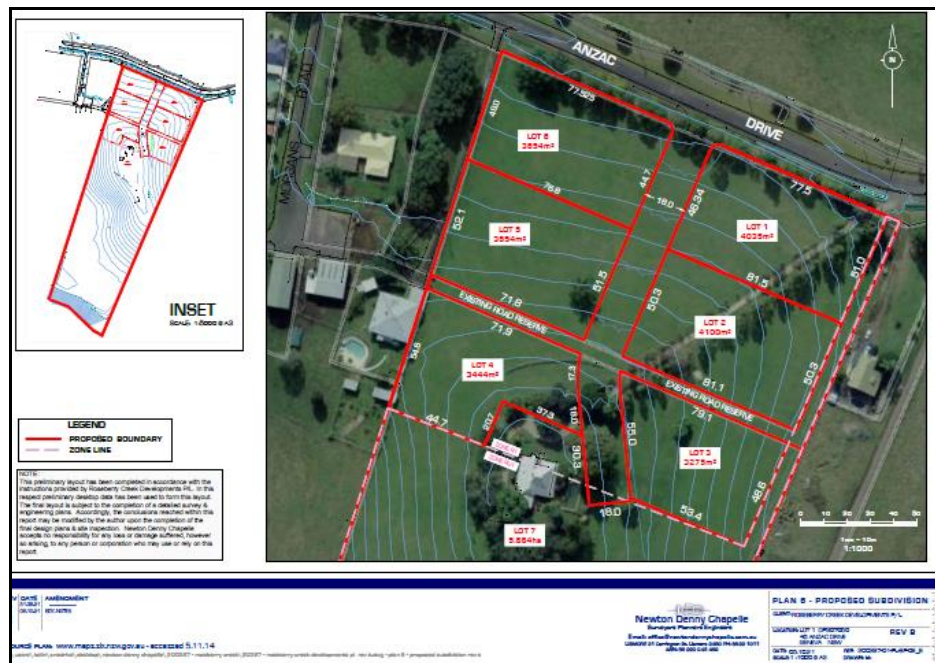


Plate 9 – Proposed subdivision under DA 2021/78

1.3 Site Analysis

A site analysis plan has been prepared to identify opportunities and constraints presented by the subject land which have been taken into consideration during the preparation of the Planning Proposal, and will also be taken into consideration during the future subdivision layout for that area of the land proposed to be rezoned to R1.

The Site Analysis Plan is provided within **NDC Plan 4** and illustrates the following components deemed relevant:

- Area proposed to be rezoned to R1 General Residential;
- Existing lot boundaries including existing internal road reserve;
- Contours;
- Waterways (Richmond River);
- Vegetation locations (identified through site detail survey and LPMA Six Viewer aerial photography);
- Services;
- Fencing;
- Existing dwelling house;
- 1 in 100 year Flood Level (59.25m AHD);
- PMF flood level;
- Mapped Regionally Significant Farmland;
- Existing access point and driveway;
- Adjoining road (Anzac Drive);
- Adjoining / adjacent land uses;
- Environment (sun directions and breezes).
- Ground water bore (NSW Government – Department of Primary Industries: Office of water
<http://allwaterdata.water.nsw.gov.au/water.stm>)
- Power pole locations (identified DBYD);
- NBN cable locations (identified DBYD);
- Telstra cable (DBYD).

The subject land is **not** mapped as:

- containing a heritage item or as being located within a heritage conservation area pursuant to the Kyogle LEP 2012;
- being located within the buffer area of the significant resource identified at Cedar Point pursuant to the Kyogle LEP 2012.
- Being impacted by bushfire prone land.

Contamination has been addressed further on in this report under Question 8.

Discussions with the proponent have indicated that the bore identified on **NDC Plan 4** will be decommissioned prior to the construction of the subdivision following the rezoning of the land.

1.4 Topography, Flooding, Soils, & Vegetation

Topography

Previous detail survey undertaken by Newton Denny Chapelle identifying the site's topographical details can be found on **NDC Plan 2** within this report.

The subject land generally varies in topographical levels between RL57.9 metres AHD at the north eastern corner of the site, with land to the south immediately adjacent to the Richmond River located at approximately RL 44 metres AHD.

Flooding

Council have advised that the Flood Planning Level of the site is RL 59.75m AHD. With reference to the Kyogle Floodplain Risk Management Plan 2009, using Figure A-7 (FPL3 for residential building floor level) the 1% AEP + 0.5m freeboard appears to be 59.75m AHD which accords with advice from Council. Accordingly the 1 in 100 year flood level is derived at RL 59.25m AHD, which has been confirmed by Council.

The proposed R1 zoning line is proposed to reflect the 1 in 100 year flood line of RL 59.25m AHD, with the exception of a small area retained above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

All future dwelling sites within the proposed R1 zone will have the capacity to be located above the Flood Planning Level of RL 59.75m AHD, and also above the PMF Level which ranges between RL 61.75m AHD at the lowest/eastern boundary of the site and RL 62.25m AHD at the highest/western boundary. Dwelling sites will also be located above increased flood levels due to climate change.

Soils

Section 6 of the contaminated land assessment prepared by Greg Alderson & Associates as part of a previous development application for the existing R1 zoned portion of the land under DA 2015/72, identified the following geology and soil classification:

“Morand (1994) shows that the soil type of the investigation area is in the ‘McKee Soil Landscape’. The soils are generally described as shallow (<100cm), well drained, stony Prairie Soils and structured plastic clays on crests. The soils are derived from the Lamington volcanics: Lismore basalts-tertiary basalt with bole and minor agglomerate (Morand, 1994). If chemicals were used on the site, due to the soil texture and structure, the contaminants would be remaining in the upper layers, typically 0-150mm for arsenic, 0-300mm for lead and 0-75mm for dieldrin.

As stated in Schedule B1 of NEPM 1999 (2013), HIL’s are generic to all soil types and so will not require a textural classification for determining investigation Levels. It is understood soil texture is applicable for determining Environmental Investigation Levels (EIL’s) and Environmental Screening Levels (ESL’s), however EIL’s and ESL’s are not calculated for the subject site as there are no environmentally sensitive locations at risk in or adjacent to the investigation area.”

In accordance with the Gateway Determination conditions, a preliminary contaminated land assessment has been completed by Greg Alderson & Associates for that part of the land proposed to be rezoned and is contained within **Attachment 7**. Whilst full reference should be made to that report, it considers that the site is suitable for rezoning from rural to residential.

Vegetation

The subject site is not mapped as containing any bushfire hazard vegetation on Council’s bushfire vegetation mapping.

On-site vegetation consists of managed grassland within the northern R1 – General Residential zoned portion of the site whilst the RU1 rural zoned portion consists primarily of grassland reflecting the low scale grazing use of the site.

Domestic gardens are established on the site together with landscape vegetation surrounding the dwelling house and swimming pool and also along the eastern property boundary. Previous site inspection identified the following mix of tree species existing on the property aligning the internal driveway and also along the property frontage within the Anzac Drive road reserve:

- Fruit trees
- Bauhinia (exotic)
- Crepe myrtle (exotic)
- Spotted gum
- Acacia species
- Eucalyptus sp.

- Jacarandas
- Swamp mahogany
- Gum species (spotted, grey)
- Mixed eucalypt planting
- Broad-leaved paperbark
- Poinciana

However this vegetation is proposed for removal under Development Application 2021/78 as illustrated later on in this report in **Plate 11**. The remainder of vegetation to the south of the dwelling as illustrated in **Plate 12** will be further investigated for retention at the development application stage.

Cultural

An AHIMS database search identifies no record of an Aboriginal site or places within a 50 metre radius of the subject site. The AHIMS search is contained within **Attachment 2** of this report.

The subject land is not identified as containing an item of heritage or as being located within a heritage conservation area pursuant to Schedule 5 of the Kyogle Local Environmental Plan 2012 and associated mapping (OO4CA).

1.5 Existing Character and Landscape Value

The visual and landscape value of the site and immediate locality is typically characterised by a combination of residential and rural zoned land, whilst rural residential type development is located further to the west fronting Ettrick Road, Omagh Road, and Afterlee Road.

Residential development is located to the west of the site fronting Anzac Drive, and an R1 residential estate to the north west situated within Geneva. Rural lifestyle lots immediately adjoin the subject site to the east whilst the rural zoned land found within the locality typically comprises grazing land. As noted earlier in this report, grazing land adjoins the subject site to the east and west.

In consideration of the existing residential development to the west of the subject site fronting Anzac Drive and also within the identified Geneva residential estate to the north-west, the proposed residential rezoning is considered well integrated with the visual and landscape value of the immediate catchment and in this respect is considered a suitable form of development. The proposed rezoning will offer a logical extension of the existing residential zone to enable further residential development on suitable land with similar characteristics.

2. Planning Proposal

Part 1: Objectives and Intended Outcomes

The objective of the Gateway Planning Proposal is to change the town planning provisions applying to Lot 1 DP 307050 to rezone part of the land presently zoned RU1 – Primary Production to R1 – General Residential in accordance with the provisions of the Kyogle Local Environmental Plan 2012.

The land proposed to be rezoned comprises an area of approximately 2.45 hectares. The proposed R1 zoning line is proposed to reflect the 1 in 100 year flood line of RL 59.25m AHD, with the exception of a small area (1,000m²) retained above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

All future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change.

The Planning Proposal also seeks to amend the minimum lot size map to permit the creation of lots with a minimum lot size of 500m² within the area to be rezoned. To maintain strategic consistency and Planning framework with the adjoining R1 zoned land, it is also proposed to introduce a 9 metre LEP building height limit for that part of the land proposed to be rezoned.

A development application has been approved by Kyogle Council under DA2021/78 to subdivide the existing R1 zoned portion of the subject land into 6 residential lots and a residue lot, and for the construction of a new road to provide access into the development from Anzac Drive. The 6 lots proposed are intended to be developed for residential development targeted towards seniors living.

The proposed rezoning will offer a logical extension of the existing residential zone to enable further residential development on suitable land with similar characteristics as the current R1 zoned portion. The proponent intends on subdividing and in-turn delivering further residential development that will continue to be orientated towards seniors living. A concept of the future proposal is provided earlier in **Plate 3**.

To clarify the future development intentions of the land, it is not proposed that an aged care type facility will be developed on the proposed R1 zoned land for vulnerable persons, but rather that future dwellings will be designed to accommodate seniors living (i.e. over 55 years). Whilst future dwelling designs may be orientated to accommodate seniors living, the dwellings will not be expressly restricted to this age group.

Part 2: Explanation of Provisions

2.1 Proposed Changes to the Kyogle LEP 2012

The land the subject to this Planning Proposal is currently dually zoned R1 – General Residential and RU1 – Primary Production under the Kyogle Local Environmental Plan (KLEP) 2012.

Under the KLEP, the R1 zoned portion of land comprises a minimum lot size requirement of 500m². The RU1 zoned portion of land comprises a minimum lot size requirement of 40 hectares.

The following amendments are required to the Kyogle LEP 2012 to enable the subdivision and development of the land for residential purposes.

- **Land Zoning Map (Sheet LZN_004CA)** – Application of an R1 – General Residential Zone in accordance with **NDC Plan 5**. The RU1 Primary Production zone has been retained to cover the remaining land.
- **Significant Resource Map** – No change.
- **Flood Planning Map** – No change.
- **Height of Buildings Map (Sheet HOB_004CA)** – Application of a 9 metre maximum building height for the area of land proposed to be rezoned in accordance with **NDC Plan 5**.
- **Land Application Map** – No change.
- **Land Reservation Acquisition Map** – No change.
- **Lot Size Map (Sheet LSZ-004C)** – Application of a 500m² minimum lot size for the area of land proposed to be rezoned in accordance with **NDC Plan 5**. The 40 hectare minimum lot size has been retained to cover the remaining land.
- **Heritage Map** – No change.
- **Schedule 1 Additional Permitted Uses** – No change.

Part 3: Justification

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal has strategic merit and is consistent with the following strategic documents applicable to the project as demonstrated within the Planning Proposal:

- North Coast Regional Plan 2036
- Draft North Coast Regional Plan 2041
- Kyogle Local Strategic Planning Statement (LSPS) 2020
- Kyogle Community Strategic Plan 2016 – 2026
- Kyogle Strategy for Closer Rural Settlement and Urban Expansion (2005)
- Kyogle Local Growth Management Strategy (LGMS) 2010.

Whilst not being identified on Figure 7 of the Kyogle Local Growth Management Strategy (LGMS) 2010 as a 'preferred area', justification is provided below under Question 4 to address the suitability of the subject land for rezoning in the context of the LGMS.

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

Yes. In order for a Development Application to be considered for the subdivision and development of the land for residential purposes, it is necessary to first amend the planning framework applying to the land – being those elements of the Kyogle Local Environmental Plan 2012 relating to land zoning, subdivision (minimum lot size), and maximum building height.

Section B – Relationship to Strategic Planning Framework

3. Will the Planning Proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including and exhibited draft plans or strategies)?

North Coast Regional Plan 2036

The North Coast Regional Plan 2036 has been prepared by the Department of Planning and Environment to manage expected growth in a sustainable manner. The Regional Plan applies to the Far North Coast and Mid North Coast of NSW (being an area which stretches from Port Macquarie in the south to Tweed Heads in the north). The Plan includes Kyogle Council and is therefore applicable to the current proposal.

The Regional Plan has a number of Directions of relevance and can be satisfied by the current Planning Proposal:

Direction 1: Deliver environmentally sustainable growth

Actions:

1.1 Focus future urban development to mapped urban growth areas.

1.2 Review areas identified as 'under investigation' within urban growth areas to identify and map sites of potentially high environmental value.

1.3 Identify residential, commercial or industrial uses in urban growth areas by developing local growth management strategies endorsed by the Department of Planning and Environment.

1.4 Prepare land release criteria to assess appropriate locations for future residential, commercial and industrial uses.

Comment: The land is not located within the Town and Village Growth Boundary of Kyogle. This direction provides guidelines to vary urban growth areas as new information becomes available or to fix anomalies. Any variation must be in accordance with the Urban Growth Area Variation Principles provided within NCRP 2036. Compliance with these principles is provided within **Attachment 3**.

Direction 2: Enhance biodiversity coastal and aquatic habitats and water catchments

Actions:

2.1 Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.

2.2 Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts.

Comment: The area proposed to be rezoned to R1 is not mapped as High Environmental Value Land within the North Coast Regional Plan 2036.

Discussions with the proponent have indicated that the ground water bore identified on **NDC Plan 4** will be decommissioned prior to the construction of the subdivision following the rezoning of the land.

Direction 3: Manage natural hazards and climate change

Actions:

3.1 Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.

3.2 Review and update floodplain risk, bushfire and coastal management mapping to manage risk, particularly where urban growth is being investigated.

3.3 Incorporate new knowledge on regional climate projections and related cumulative impacts in local plans for new urban development.

Comment: The subject land is mapped as being flood prone on Kyogle LEP 2012 flood mapping. Council have advised that the Flood Planning Level of the site is RL 59.75m AHD. With reference to the Kyogle Floodplain Risk Management Plan 2009, using Figure A-7 (FPL3 for residential building floor level) the 1% AEP + 0.5m freeboard appears to be 59.75m AHD which accords with advice from Council. Accordingly the 1 in 100 year flood level is derived at RL 59.25m AHD which has been confirmed by Council.

The proposed R1 zoning line is proposed to reflect the 1 in 100 year flood line of RL 59.25m AHD, with the exception of a small area (1,000m²) retained above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

All future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change.

NSW Department of Planning & Environment (BCD)

The NSW BCD have reviewed the Planning Proposal and provided comment to Kyogle Council dated 25 January 2023. The BCD have requested the Planning Proposal to be amended to adequately address:

- Potential increase to flood levels resulting from climate change;
- Flood emergency management.

The NSW BCD have requested that further discussion also be undertaken with regards to:

- The availability of flood warnings and warning times for the location, including the time to the onset of flooding;
- The period of isolation from the Kyogle CBD during flooding and whether there are alternative routes to necessary services;
- Compatibility with any existing emergency management strategies;
- The cumulative impacts of future development of the site on emergency management, including the impacts of population increase on existing emergency management strategies.

Information has been provided below to address the matters raised by the BCD. A response to the NSW SES has also been provided further below within this section, which also serves to address the matters raised by the BCD in relation to emergency management strategies. An assessment of a future residential subdivision against the Kyogle Floodplain Risk Management Plan 2009, and the Kyogle Development Control Plan (DCP) 2014 has also been provided below which further demonstrates that the proposal (and its cumulative impacts as a result of population increase) is compatible with existing emergency management strategies.

Climate Change Impacts

In regards to climate change impacts, the Kyogle Floodplain Risk Management Study (BMT: dated April 2009) included a flood assessment based on a climate change scenario resulting in a 10% increase in rainfall, which under this scenario, a 1% Annual Exceedance Probability (AEP) flood may increase in magnitude in the future to be more comparable to a present 0.2% AEP flood.

Correspondence issued by the NSW BCD addressed to Kyogle Council dated 25 January 2023, identifies that based on available data, a 0.2% AEP (500-year ARI) flood in the southern portion of the site is approximately 57.8m AHD, which is well below the southern limit of the proposed new R1 zone line which is proposed at 59.2m AHD. Accordingly, the planning area is located significantly above the existing 100-year ARI flood level and would allow for increases to flood levels due to climate change.

Flood Duration/Isolation from Kyogle CBD

To address the NSW DPE concerns about the subject land being cut off from the CBD during a flood, Council have responded to advise that several areas of the township are cut off from the CBD during a flood, however, waters recede quickly (within 1-2 days).

The Kyogle Flood Study 2004, Kyogle Floodplain Risk Management Plan 2009, and Kyogle Floodplain Risk Management Study 2009 provide limited information on the duration of floods, in regards to flood recession times, during particular flood events in relation to the subject site. Further investigations were also undertaken with the NSW SES Emergency Risk Management division, who were also unable to provide the flood recession times.

The NSW SES in correspondence to Kyogle Council dated 19 December 2022, reference that access from the site to Kyogle is expected to be impacted during 50% AEP events [Kyogle Floodplain Risk Management Study, 2009], which equates to a 2 year Approximate Average Recurrence Interval (ARI). This will isolate residents from having access to Kyogle, including medical facilities [Kyogle Multi-Purpose Service].

Notwithstanding the above, Kyogle Council have since been able to advise that Anzac Drive, which connects the subject site to the Kyogle CBD, gets cut at a flood height of 15.5m which is about 55.7m AHD. Using this data in context, Anzac Drive would get cut during a 5 – 10 year flood event based on Figure 6-2 'Flood Classification at Kyogle River Gauge at Geneva Bridge' contained within the Kyogle Floodplain Risk Management Study 2009.

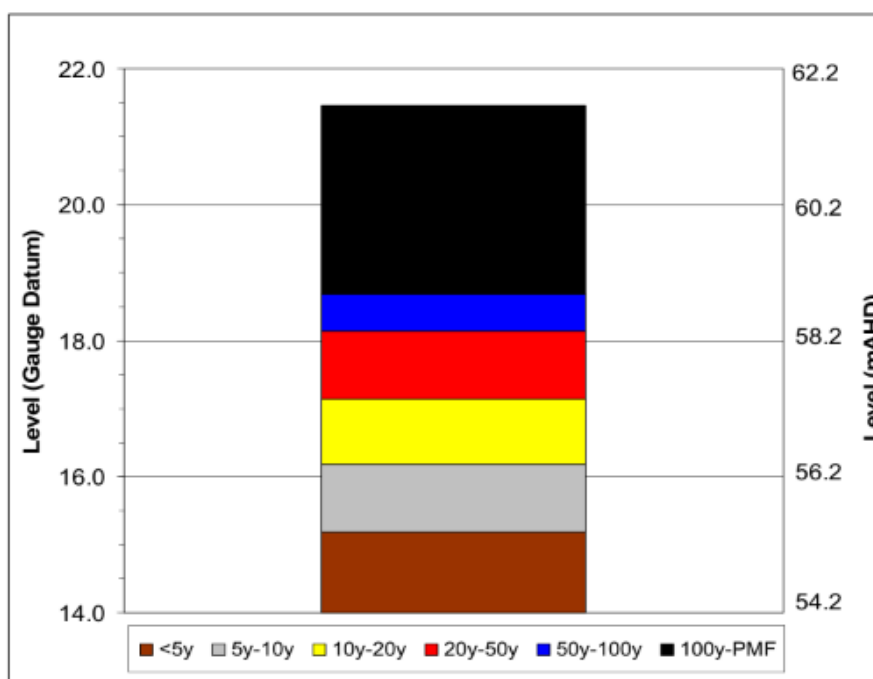

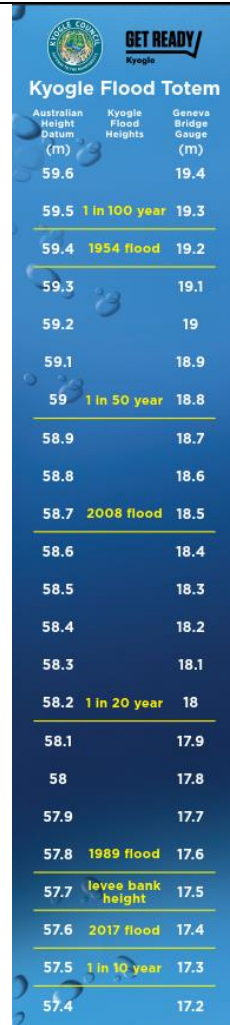


Figure 6-2 Flood Classification at Kyogle River Gauge at Geneva Bridge

A review of the Kyogle Flood Totem for the Geneva Bridge Gauge identifies the larger flood events in Kyogle, which have been summarised in the following table. Given the flood recession time information is not readily available, anecdotal evidence has been sourced from local residents and business owners to provide some meaningful information with regards to flood recession times in the context of these various flood events and the subject site, which then enabled access back to the Kyogle CBD via Anzac Drive.

Year	Flood Event	Anecdotal Evidence
1954	59.4m AHD – comparable to a 1 in 100 year flood level of 59.5m AHD.	<p>A representative of the proponent held discussions (23.03.23) with various long term local residents at the Kyogle Museum, and also held discussions with different businesses on both sides of town. The various residents and business owners were in absolute agreement that Geneva is accessible to town within 12 hours of flood waters peaking, regardless of the size of the flood. People interviewed were quick to point out that the water always recedes very quickly.</p> <p>The below information has been supplied which shows photographic evidence (sourced from the Kyogle Museum Archives) of how quickly the flood water recedes and access opens up to Geneva. In both the 1954 flood and the 2022 flood, access to Geneva was possible the day after the flood peaked.</p>  <p>The largest flood on record in Kyogle was February 20th 1954. The above photo was taken by air late on Sunday 21st February 1954, when the flood waters were “rapidly receding”. In the red circle above, it can be seen that the flood water has receded from the back of the Norco building and all the streets behind the building, so access to Geneva should have been possible when this photo was taken, the day after the largest flood in history.</p> <p>Another article was found in The Kyogle Newspaper Vol VI No 4 that also referenced the 1954 flood saying the peak of the flood was in the middle of the night on February 20th 1954. Again, having the waters recede so quickly by late the next day supports the information that access from Geneva to Kyogle is never cut off for long.</p> <p>The image below of the Kyogle Flood Totem shows the flooding history of Kyogle and the Geneva Bridge Height. The 1954 flood was the largest Kyogle has experienced.</p>
1989	57.8m AHD – less than 1 in 20 year flood level of 58.2m AHD, but higher than 1 in 10 year flood level of 57.5m AHD.	
2008	58.7m AHD – less than 1 in 50 year flood level of 59m AHD, but greater than 1 in 20 year flood level of 58.2m AHD.	
2017	57.6m AHD – comparable to the 1 in 10 year flood level of 57.5m AHD.	
2022	58m AHD – Comparable to a 1 in 20 year flood level of 58.2m AHD.	



In the February 2022 flood, the peak of the Geneva Bridge Gauge was 17.8m, a bigger flood than 1989 and 2017. As can be seen in the video screenshot below, access to Geneva was open the morning after the 2022 flood had peaked.

Video of the 2022 flood event sourced from YouTube [screen shot below], includes a timeline in the bottom right corner. Roads were cut 8am 28/02/2022, water still rising at 5pm 28/02/2022. However, by 9am on 1/03/2022 access was possible from Geneva back to the Kyogle CBD.



Section 5.3.4.3 (page 91) of the Kyogle Flood Study 2009 identifies the following with respect to the flood duration in Kyogle:

Duration of Flooding

In some areas, the duration of flooding can result in buildings/townships being completely isolated for a significant period of time [sometimes weeks]. To overcome this, some areas may adopt higher FPLs to enable the community to function with some normality during times of flood. However, this is not the case for Kyogle as the duration of flooding is considered too short for a higher FPL to be necessary. No additional consideration is given to this factor in terms of development control.

Residents are advised when key infrastructure will be cut and plan accordingly. Further discussion is provided below with regards to flood warnings and evacuation.

Flood Warnings

Section 7.4 of the Kyogle Floodplain Risk Management Plan 2009 discusses flood data collection in relation to flood warnings. In this regard, it identifies that there is an extensive rainfall and stream gauge network upstream of Kyogle, and it is believed that the current flood warning system is sufficient to meet Kyogle's flood warning requirements.

Figures B14 – B26 of the Kyogle Floodplain Risk Management Plan 2009 outline the emergency response based on predicted flood level depth including when residents are provided with early warning. Flood levels for Kyogle are modelled based on measured flood levels at Wiangaree. Section 6.5.1 of the Kyogle Flood Study 2009 provides the following with regards to flood warnings for Kyogle.

"Experience has shown that the Wiangaree Gauge can be used as an indicator for the severity of Richmond River flooding in Kyogle. Formulated by the local SES and the BoM, Table 6-3 presents the predicted flood levels in Kyogle based on river height readings from Wiangaree. For the levels listed in Table 6-3, based on river height readings at Wiangaree, the flood warning time in Kyogle is approximately 6 to 8 hours."

Table 6-3 Predicted Flood Heights at Kyogle Based on Wiangaree Heights		
Measured Flood Level- Wiangaree Gauge Height (m Gauge Datum)	Predicted Flood Level- Richmond River Kyogle Gauge (m Gauge Datum)	Flood Impact/ Emergency Response
9.75	14.00	Evacuation of the caravan park required
10.50	14.50	Businesses in Bridge street informed to allow movement of stock and equipment
12.25	15.80	Back flow up Fawcetts Creek will break out across the Flats area compromising evacuation routes.

Information obtained from Kyogle Local Flood Plan (SES, 2003)

Public flood warnings will be issued as identified within Section 7.6 of the Kyogle Floodplain Risk Management Plan 2009, which states that *“Once the SES has assessed the data received, their primary role is then to inform the community.”*

Whilst a range of methods of disseminating public flood warnings are listed in Section 7.6, more contemporary measures are now also available including text messages that are distributed by the NSW SES. Alerts are also made public on the NSW SES website, NSW BOM website, and the Kyogle Disaster Dashboard website.

Flood Evacuation

With regard to flood evacuation, whilst the road access point (i.e. the internal road connection point with Anzac Drive approved via DA2021/78) that will be used for the development is subject to flooding, it is understood from consultation with Council that this is not the first part of the town that is subject to flood inundation. In this regard, future residents will have ample time to evacuate to high ground in the locality if need be. To assist in the event of an evacuation process of residents, there will typically be adequate flood warnings put in place by the BOM and the SES prior to evacuation (i.e. flood watch, flood warnings) to ensure flood evacuation occurs in a timely manner. As discussed above, the flood warning time in Kyogle is approximately 6 to 8 hours.

With regard to a flood evacuation route to higher ground, the existing property (i.e. Lot 1 DP 307050) is embellished with an unformed road reserve which extends some 85 metres southwards from Anzac Drive adjacent to the eastern property boundary, then running west across the site on the northern side of the existing dwelling to the western property boundary and beyond. This road reserve connects with Morgans Road and in-turn Anzac Drive, and as such will offer an alternative

flood evacuation route from the land. This connection to Morgans Road via the road reserve will allow for vehicle, pedestrian and emergency vehicle access in the event of a large flood (i.e. 100 year ARI flood event) should access to the land become unsafe from Anzac Drive.

A future development application for the subdivision of the land will enable an opportunity to formalise the presently unformed road reserve, to provide a physical flood free connection to Morgans Road and in-turn Anzac Drive.

As previously clarified, it is not proposed that an aged care type facility will be developed on the proposed R1 zoned land for vulnerable persons, but rather that future dwellings will be designed to accommodate seniors living (i.e. over 55 years). Whilst future dwelling designs may be orientated to accommodate seniors living, the dwellings will not be expressly restricted to this age group. In this regard, Council have acknowledged that whilst older persons may have health conditions that require access to the Kyogle CBD including medical facilities, the demographic for the development is not considered so vulnerable that intermittent isolation would result in increased risk to life.

Notwithstanding the above, in the event that development on the land is occupied by vulnerable persons within their independent dwellings, and in any circumstances, under Kyogle's Emergency Evacuation Procedures, residents are provided early warning of predicted flood levels, including when access to the Kyogle CBD will be cut by flood waters. Council have indicated that residents are able to evacuate to the Kyogle Emergency Evacuation Centre (located in the Kyogle Memorial Hall on Summerland Way) or appropriate medical facilities should loss of access present an unacceptable risk to life. The Kyogle Floodplain Risk Management Study 2009 identifies that the evacuation site has a floor level above the PMF flood extent.

State Emergency Services

The NSW SES have reviewed the Planning Proposal and provided comment to Kyogle Council dated 19 December 2022. The following comments were offered by the NSW SES (in italics), and are addressed accordingly:

- *Zoning should not enable development that will result in an increase in risk to life, health or property of people living on the floodplain.*

Comment: As clarified above, an aged care type facility is not proposed to be developed on the proposed R1 zoned land for vulnerable persons, but rather future dwellings will be designed to accommodate seniors living (i.e. over 55 years). Whilst

future dwelling designs may be orientated to accommodate seniors living, the dwellings will not be expressly restricted to this age group. Whilst older persons may have health conditions that require access to the Kyogle CBD including medical facilities, the demographic for the development is not considered so vulnerable that intermittent isolation would result in increased risk to life.

All future dwelling sites within the area to be rezoned will be located above the 1 in 100 year flood level, PMF level, and will allow for increases to flood levels due to climate change.

As per the Kyogle Flood Study 2009, there is an extensive rainfall and stream gauge network upstream of Kyogle, and it is believed that the current flood warning system is sufficient to meet Kyogle's flood warning requirements. Based on river height readings at Wiangaree, the flood warning time in Kyogle is approximately 6 to 8 hours.

Access to the site has been addressed above in response to the NSW BCD, where an alternative access to and from the site will be available through the currently unformed road reserve which connects to Morgans Road and in-turn Anzac Drive. A future development application for the subdivision of the land will enable an opportunity to formalise the presently unformed road reserve, to provide a physical flood free connection to Morgans Road and in-turn Anzac Drive.

This connection to Morgans Road via the road reserve will allow for vehicle, pedestrian, and emergency vehicle access in the event of a large flood (i.e. 100 year ARL flood event) should access to the land become unsafe from Anzac Drive.

In the event that the land becomes isolated during a large flood event, residents are provided early warning of predicted flood levels, including when access to the Kyogle CBD will be cut by flood waters. Council have indicated that residents are able to evacuate to the Kyogle Emergency Evacuation Centre (located in the Kyogle Memorial Hall on Summerland Way) or appropriate medical facilities should loss of access present an unacceptable risk to life. The Kyogle Floodplain Risk Management Study 2009 identifies that the evacuation site has a floor level above the PMF flood extent.

- *Risk assessment should consider the full range of flooding, including events up to the PMF and not focus only on the 1% AEP flood.*

- *Risk assessment should have regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration should also be given to the impacts of localised flooding on evacuation routes.*
- *In the context of future development, self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES's principles for evacuation.*
- *Future development must not conflict with the NSW SES's flood response and evacuation strategy for the existing community.*
- *Evacuation must not require people to drive or walk through flood water.*
- *Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.*
- *Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.*
- *The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.*
- *NSW SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to NSW SES and/or increase capability requirements of the NSW SES.*
- *Consent authorities should consider the cumulative impacts any development will have on risk to life and the existing and future community and emergency service resources in the future.*

Comment: All future dwelling sites within the area to be rezoned will be located above the 1 in 100 year flood level, PMF level, and will allow for increases to flood levels due to climate change. The internal road system will also be located above these flood levels.

As noted above, whilst future dwelling designs may be designed to accommodate seniors living, they will not be expressly restricted to this age group. Whilst older persons may have health conditions that require access to the Kyogle CBD including medical facilities, the demographic for the development is not considered so vulnerable that intermittent isolation would result in increased risk to life.

Flood warnings, evacuation, and access routes have been addressed above in response to the NSW BCD comments, and will be available for future development of the site in the event of a flood.

The following flood management and design Guidelines (originally developed for the Hawkesbury Nepean Valley) have been reviewed to assist in providing a response to the NSW SES in relation to the Planning Proposal:

- Managing Flood Risk Through Planning Opportunities;
- Designing Safer Subdivisions.

Chapter 6 – Planning for Evacuation of the Guideline titled ‘**Managing Flood Risk Through Planning Opportunities**’, and Chapter 6 – Designing for Emergency Response and Evacuation’ of the Guideline titled ‘**Designing Safer Subdivisions**’ have been reviewed in the context of the Planning Proposal. The following comments are provided:

- The area proposed for rezoning contains all dwelling sites above the 1 in 100 year flood level, PMF level, and increases in flood levels due to climate change. The internal road system will also be above these flood levels.
- In regards to public awareness, the Kyogle Flood Study 2009 identifies that there is an extensive rainfall and stream gauge network upstream of Kyogle, and it is believed that the current flood warning system is sufficient to meet Kyogle’s flood warning requirements.
- Appropriate flood warning times will be provided to residents, and self-evacuation achievable to flood free land. Residents will be able to evacuate to the Kyogle Emergency Evacuation Centre (located in the Kyogle Memorial Hall on Summerland Way) or appropriate medical facilities should loss of access present an unacceptable risk to life.
- The unformed road reserve within the property has an opportunity to be formalised at the development application stage to provide a physical flood free self-evacuation route to Morgans Road and Anzac Drive. This flood evacuation route may be signposted accordingly, will be relatively straight forward, and require travelling uphill along Anzac Drive which is a constantly rising road to higher ground above the PMF level.
- The Guidelines provide that *“Subdivision of flood prone land that does not become a flood island may be acceptable, if an increase in households would not present a risk to the evacuation of both existing residents and new occupants. In new subdivisions the local road layout should include continuously rising evacuation routes to facilitate car-based evacuation to land beyond the floodplain.”*

The subdivision of the area to be rezoned will not result in a 'flood island', as an evacuation route will be maintained to flood free higher ground, whilst future dwellings will not be subject to flood inundation. In this case, the internal road system to service future lots will comprise a simple/logical road network which rises uphill in a northerly direction away from the lower lying flood prone land to the south, connecting to the aforementioned internal road reserve evacuation route, and in turn Morgans Road and Anzac Drive. This will facilitate car-based evacuation to land beyond the flood plain.

- The internal road system and flood evacuation route will not involve a river or creek crossing, or be positioned along a drainage corridor/channel;
- Future subdivision design of the land will not require a change in the landform that would result in a hinderance for flood evacuation;
- The future subdivision design will not result in an overuse of cul-de-sacs.

Kyogle Floodplain Risk Management Plan 2009

Future development within the lots will also be subject to complying with the relevant flood planning policies applicable to the Kyogle LGA, which in this instance includes the Kyogle Floodplain Risk Management Plan 2009. A review of 'Appendix A: Development Controls for Kyogle Township' have been completed in relation to the Planning Proposal and future residential development of the land.

Currently, the Flood Planning Matrix within Appendix A applies to residential development in urban areas as contained within the Kyogle Floodplain Risk Management Plan. In this regard, the following controls from Appendix A apply to land within the flood hazard categories Flood Fringe, High Hazard Depth, and High Hazard Floodway for residential development:

- Land Use Suitability and Fill Level for Subdivision - (L2) For residential areas, the minimum fill level to be greater than or equal to the 100 year ARI event peak flood level (FPL2).
- Floor Level for New Habitable Building - (F3) All floor levels to be greater than or equal to 100 year ARI event peak flood level + 0.5m freeboard (FPL3)
- Evacuation and Access for Subdivision - (E2) Reliable access for pedestrians and transport required for 100 year ARI event peak flood level (FPL2). Council to provide information on flood evacuation strategy.
- Flood Awareness - (A2) S149(2) Certificates to notify possible affectation by a flood in the Richmond River or Fawcetts Creek. The severity of flooding

can be determined by comparison of surveyed levels of the site with predicted flood heights, and also the flood hazard.

In response to the above flood control requirements, future residential development will be compatible with the flood management strategies specified by flood planning controls L2, F3, E2, and A2. The following comments are provided to demonstrate compliance:

- All future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change. The internal road system will also be above these flood levels.
- Given all dwelling sites will be located above the required flood levels, the design controls within the flood planning matrix relating to building components, structural soundness, and flood impact will not impact on future residential buildings.
- Flood warnings, evacuation, and access routes have been addressed above, and will be available for future development of the site in the event of a flood.
- Notations can be placed on future lots at the time of registration to notify possible affection by a flood. As identified above, The Kyogle Floodplain Risk Management Plan 2009 states that there is an extensive rainfall and stream gauge network upstream of Kyogle, and it is believed that the current flood warning system is sufficient to meet Kyogle's flood warning requirements. Public flood warnings will also be disseminated as outlined earlier.

Kyogle Development Control Plan 2014

The Kyogle Development Control Plan (DCP) 2014 applies to the Kyogle LGA and as such will apply to the subject site. The provisions contained within the DCP are intended to form a guideline under which development can take place which meet the underlying objectives of the Kyogle LEP 2012.

Chapter 2 of the Kyogle Development Control Plan provides Council's requirements for subdivisions, with Section 4 specifically relating to residential subdivision in urban areas. Clause 4.5.4 'Hazard and Risk' provides the relevant flood criteria, and in this regard Performance Criteria (P19) and Acceptable Solution (A19, or A19.2, or A19.3) must be satisfied. These clauses are as follows:

4.5.4 Hazard and Risk	
Performance criteria	Acceptable solution
Flood	
P19 Development complies with the provisions of Clause 6.2 of the LEP	<p>A19.1 The development site is not prone to flooding from inundation or overland flow</p> <p>OR</p> <p>Where development is proposed on flood prone land:</p> <p>A19.2 A report is submitted by a suitably qualified person that demonstrates the level of proposed lots is at least the level of a 100 year ARI flood event</p> <p>OR</p> <p>Where development is proposed on a lot within the Flood Planning Area shown on the LEP Flood Planning Map:</p> <p>A19.3 The development complies with the provisions of the Development Control Plan in the Kyogle Council Floodplain Risk Management Plan 2009</p>

The future subdivision of the land will be compatible with the flood planning criteria contained within the Kyogle DCP. In this regard the following comments are reiterated:

- All future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change. The internal road system will also be above these flood levels.
- Flood warnings, evacuation, and access routes have been addressed above, and will be available for future development of the site in the event of a flood.
- The proposal will comply with the Development Control Plan within the Kyogle Floodplain Risk Management Plan 2009 as assessed above. In this regard, the development controls within the flood planning matrix within Appendix A can be satisfied.

The subject site is not mapped as being bushfire prone on bushfire hazard maps adopted by Council.

Direction 11: Protect and enhance productive agricultural lands

Actions:

11.1 Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.

11.2 Deliver a consistent management approach to important farmland across the region by updating the *Northern Rivers Farmland Protection Project* (2005) and *Mid North Coast Farmland Mapping Project* (2008).

11.3 Identify and protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion.

11.4 Encourage niche commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances.

11.5 Address sector-specific considerations for agricultural industries through local plans

Comment: The Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot.

The proposal does not involve rezoning land identified as Important Farmland under the North Coast Regional Plan 2036.

Grazing lands adjoin and partly surround the subject site and will also potentially be undertaken on the balance of the land to be zoned RU1 Primary Production albeit at a low scale given the size of the land. A small area (1,000m²) will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

A development application has been approved by Kyogle Council to subdivide the R1 zoned portion of the subject land for residential purposes as outlined earlier. Based on the land use conflict risk assessment that was submitted with the development application, NDC are of the view that future residential development on the proposed rezoned land can co-exist with surrounding land uses in a compatible manner without the need to implement a vegetated buffer.

Direction 15: Develop healthy, safe, socially engaged and well-connected communities

Actions:

15.1 Deliver best-practice guidelines for planning, designing and developing healthy built environments that respond to the ageing demographic and subtropical climate.

15.2 Facilitate more recreational walking and cycling paths and expand inter-regional and intra-regional walking and cycling links, including the NSW Coastline Cycleway.

15.3 Implement actions and invest in boating infrastructure priorities identified in regional boating plans to improve boating safety, boat storage and waterway access.

15.4 Create socially inclusive communities by establishing social infrastructure benchmarks, minimum standards and social impact assessment frameworks within local planning.

15.5 Deliver crime prevention through environmental design outcomes through urban design processes.

Comment: As identified within the NSW Department of Planning and Environment's Gateway determination report (PP-2022-2869), this direction aims to design the urban environment to help build community health, social wellbeing and cohesion. The Gateway determination report acknowledges that the Planning Proposal aims to provide additional housing opportunities in proximity to existing services and facilities, thereby supporting this direction.

Direction 18: Respect and protect the North Coast's Aboriginal Heritage

Actions:

18.1 Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities.

18.2 Undertake Aboriginal cultural heritage assessments to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanisms are identified.

18.3 Develop local heritage studies in consultation with the local Aboriginal community, and adopt appropriate measures in planning strategies and local plans to protect Aboriginal heritage.

18.4 Prepare maps to identify sites of Aboriginal heritage in 'investigation' areas, where culturally appropriate, to inform planning strategies and local plans to protect Aboriginal heritage.

Comment: An AHIMS database search identifies no record of an Aboriginal site or places within a 50 metre radius of the subject site. The AHIMS search is contained within **Attachment 2** of this report.

Direction 21: Coordinate local infrastructure delivery

Actions:

21.1 Undertake detailed infrastructure service planning to support proposals for new major release areas.

21.2 Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure.

Comment: As identified within the NSW Department of Planning and Environment's Gateway determination report [PP-2022-2869], this direction highlights the importance of coordinated local infrastructure delivery. The Gateway determination report acknowledges that the Planning Proposal constitutes infill development and as such, it maximises the efficient use of existing infrastructure in accordance with the intent of this direction.

Direction 22: Deliver greater housing supply

Actions

22.1 Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the region's projected housing needs.

22.2 Facilitate housing and accommodation options for temporary residents by:

- preparing planning guidelines for seasonal and itinerant workers accommodation to inform the location and design of future facilities; and
- working with councils to consider opportunities to permit such facilities through local environmental plans.

22.3 Monitor the supply of residential land and housing through the North Coast Housing and Land Monitor.

Comment: The proposal seeks to increase the housing supply of Kyogle by enabling the site to be rezoned for residential purposes. As identified in Figure 10 of the NCRP 2036, the Kyogle LGA will require a minimum of 100 additional houses by 2036. The proposal will assist in the attainment of this goal.

Direction 23: Increase housing diversity and choice

23.1 Encourage housing diversity by delivering 40 per cent of new housing in the form of dual occupancies, apartments, townhouses, villas or dwellings on lots less than 400 square metres, by 2036.

23.2 Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place.

Comment: As noted above, a development application has been approved by Kyogle Council to subdivide the R1 zoned portion of the subject land into 6 residential lots that are intended to be developed for residential purposes targeted towards seniors living.

The proposed rezoning will offer a logical extension of the residential zone to enable further residential development on suitable land with similar characteristics as the current R1 zoned portion. The proponent intends on subdividing and in-turn delivering further residential development that will be designed to accommodate seniors living as illustrated earlier in **Plate 3**.

Local Government Narrative – Kyogle

Comment: The Regional Plan identifies the following as a priority:

- *Deliver housing to the northern, eastern and southern fringes of Kyogle.*
- *Support the village and rural lifestyle of Woodenbong, Bonalbo, Tabulam, Mummulgum, Cawongla, Old Bonalbo, Geneva, Wiangaree and Mallanganee.*

The current proposal is consistent with this approach as it provides for the provision of additional opportunities for new seniors living housing to support the village lifestyle of Geneva located on the fringe of Kyogle.

Urban Growth Area Principles

Direction 1 of the North Coast Regional Plan 2036 provides guidelines where urban growth areas can be varied as new information becomes available or to fix anomalies. Any variation must be in accordance with the Urban Growth Area Variation Principles provided within NCRP 2036. Compliance with these principles is provided within **Attachment 3**. The variation to the urban growth area is justified given the site is adjacent to and directly adjoins existing residential development within an R1 General Residential zone.

The current Planning Proposal is not considered to be antipathetic to the objectives and / or implementation of the intent of the North Coast Regional Plan 2036 as the proposal seeks to provide additional residential land to accommodate the future growth of Kyogle and particularly the ageing population. The land is located within an existing urban environment and is readily serviceable.

Draft North Coast Regional Plan 2041

The Draft North Coast Regional Plan 2041 is the updated Government blueprint to harness the opportunities and sustainably support ongoing prosperity and growth for the region over the next two decades.

The draft Plan sets a 20 year strategic land use planning framework for the region, aiming to protect and enhance the region's assets and plan for a sustainable future. The document represents a five-year review of the region's strategic planning settings and considers some of the key land use challenges and opportunities over the last five years and moving forward. It covers all facets of land use planning, including employment areas, town centres, housing and related infrastructure, the natural environment and hazards.

The draft Plan applies to the Local Government Areas (LGAs) of Ballina, Bellingen, Byron, Clarence Valley, Coffs Harbour, Kempsey, Kyogle, Lismore, Nambucca, Richmond Valley, Port Macquarie-Hastings and Tweed.

The draft Plan contains a number of objectives and, strategies and actions of relevance that will be satisfied by the current Planning Proposal. These are addressed below:

Objective 1: Provide well located homes to meet demand

Housing Diversity

Strategy 1.2: Local Council plans are to encourage and facilitate a range of housing options in well located areas.

Comment: The proposed rezoning will offer a logical extension of the existing residential zone to enable residential development on unconstrained suitable land which is readily serviceable. The land subject to rezoning shares similar characteristics as the current R1 zoned portion which has been approved for a residential subdivision via DA2021/78.

Rezoning the land to enable a higher density form of living will provide for housing diversity and choice within the Kyogle LGA, with particular reference to the older age groups. Once the land is rezoned, the proponent intends on subdividing and further developing the land for residential development which will be designed to accommodate seniors living which will assist in addressing the need to provide much needed housing for the ageing population.

Infill, greenfield and rural residential development

Strategy 1.3: Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.

Strategy 1.4: Local housing strategies are to be consistent with the Local Housing Strategy Guideline and the regional plan.

Comment: This draft regional plan reaffirms the 40% multi-dwelling / small lot (<400sqm) housing target to 2036. The proposal will enable future residential development on the land which will assist in meeting the infill development housing target without encroaching into mapped important farmland.

Housing for an ageing population

Strategy 1.5: New rural residential housing is to be located on land which has been approved in an existing strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip.

Strategy 1.6: Councils and LALCs can partner to identify areas which may be appropriate for rural land sharing on Country.

Comment: The draft NCRP does not specify a particular strategy for housing the ageing population, but does provide the following commentary:

All council areas in the region are projected to see an increase in the proportion of retirees. In 2041, over 33% of the North Coast population will be aged 65 or older [25% in 2021]⁵. Providing new housing, services and facilities that are within walking distance of each other, or easily accessible by public transport will benefit both the aged and the broader population.

Comment: As provided above in addressing housing diversity, rezoning the land to enable a higher density form of living will provide for housing diversity and choice within the Kyogle LGA, with particular reference to the older age groups. Future development that is designed to accommodate seniors living will assist in addressing the need to provide much needed housing for the ageing population.

Objective 3: Protect and enhance important environmental assets

Potential High Environmental Value Land

Strategy 3.1: Protect, maintain and restore important environmental assets in strategic planning and local plans by:

- focusing land-use intensification away from HEV land and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals.
- updating existing biodiversity mapping with new mapping in LEPs where appropriate
- identifying HEV land within the rezoning footprint at planning proposal stage through site investigations
- applying appropriate mechanisms to protect HEV land within a rezoning footprint
- considering climate change risks to HEV land
- considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts.

Strategy 3.2: Protect biodiversity values in new urban land release areas. Strategic planning and local plans should consider opportunities to:

- incorporate validated and up-to-date environmental data
- facilitate biodiversity certification by councils at the precinct scale for high growth areas and by individual landholders at the site scale, where appropriate
- focus land-use intensification where possible away from areas of identified HEV and protect HEV with planning controls where necessary.

Strategy 3.3: Consider the needs of climate refugia for threatened species and other key species in strategic planning including biodiversity and conservation planning and embed climate change adaptation actions in local plans.

Comment: The area proposed to be rezoned to R1 is not mapped as High Environmental Value (HEV) Land within the North Coast Regional Plan 2036.

The Biodiversity Offsets Scheme Entry Threshold Tool (BOSET) is a test used to determine when it is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method to assess the impacts of a proposal. The BOSET tool was accessed 22.10.21 and does not identify the area to be rezoned to R1 General Residential as containing mapped biodiversity values.

Discussions with the proponent have indicated that the ground water bore identified on **NDC Plan 4** will be decommissioned prior to the construction of the subdivision following the rezoning of the land.

Objective 4: Understand, celebrate and integrate Aboriginal Culture

Mapping

Strategy 4.1: Councils undertake cultural heritage mapping with Aboriginal communities to protect culturally important sites.

Strategy 4.2: Consider applying dual names to important places, features or local infrastructure.

Comment: An AHIMS database search identifies no record of an Aboriginal site or places within a 50 metre radius of the subject site. The AHIMS search is provided within **Attachment 2**.

Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change

Shocks, stresses and natural hazards

Strategy 5.1: When preparing local strategic plans, councils should be consistent with and adopt the principles outlined in the Strategic Guide to Planning for Natural Hazards.

Strategy 5.2: Where significant risk from natural hazard is known or presumed, complete or update hazard strategies to inform new land use strategies and consult with emergency service providers and Local Emergency Management Committees (LEMCs). Hazard strategies should investigate options to minimise risk such as voluntary housing buy back schemes.

Comment: The subject site is not mapped as containing any bushfire hazard vegetation on Council's bushfire vegetation mapping.

The proposed rezoning is compatible with the flood hazard of the land as addressed under Direction 3 of the NCRP 2036.

All future dwelling sites within the area to be rezoned will be located above the 1 in 100 year flood level, PMF level, and will allow for increases to flood levels due to climate change. The internal road system will also be above these flood levels. Flood warnings, evacuation, and access routes will be available for future development.

Minimising and managing risk

Strategy 5.3: Use local strategic planning and local plans to adapt to climate change and reduce exposure to natural hazards by:

- identifying and assessing the impacts of place-based shocks and stresses

- taking a risk-based-approach that uses the best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees
- locating development (including urban release areas and critical infrastructure) away from areas of known high bushfire risk and flooding hazards to reduce the community's exposure to natural hazards
- identifying industries and locations that would be negatively impacted by climate change and natural hazards and preparing strategies to mitigate negative impacts and identify new paths for growth
- preparing, reviewing and implementing updated natural hazard management plans and Coastal Management Plans to improve community and environmental resilience which can be incorporated into planning processes early for future development
- updating flood studies and flood risk management plans after a major flood event incorporating new data and lessons learnt
- communicating natural hazard risk through updated flood studies and strategic plans
- identifying vulnerable infrastructure assets and considering how they can be protected.

Comment: The subject site is not mapped as containing any bushfire hazard vegetation on Council's bushfire vegetation mapping.

The proposed rezoning is compatible with the flood hazard of the land as addressed under Direction 3 of the NCRP 2036. All future dwelling sites within the area to be rezoned will be located above the 1 in 100 year flood level, PMF level, and will allow for increases to flood levels due to climate change. The internal road system will also be above these flood levels. Flood warnings, evacuation, and access routes will be available for future development.

The subject site is not located within a coastal zone defined by Chapter 2 of the Resilience and Hazards SEPP 2021.

Objective 8: Support the productivity of agricultural land

Important Agricultural Land

Strategy 8.1: Local planning should protect and maintain the productive capacity of Important Agricultural Land in the region by directing urban, rural residential and other incompatible development away from important farmland.

Strategy 8.2: Local planning should assist and support the agricultural sector to be more sustainable and resilient.

Comment: The proposed rezoning is compatible with the agricultural characteristics of the land as addressed under Direction 11 of the NCRP 2036. The following points are provided based on the assessment:

- The Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot.
- The proposal does not involve rezoning land identified as Important Farmland under the North Coast Regional Plan 2036.
- NDC are of the view that future residential development on the proposed rezoned land can co-exist with surrounding land uses in a compatible manner without the need to implement a vegetated buffer.
- A small area (1,000m²) will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

Objective 18: Coordinate land use planning and the extension of the urban footprint for future growth and community need

The objective primarily relates to the preparation of land use planning strategies by Council's to deliver appropriate land to accommodate population growth. The draft Plan states that these strategies *"will reflect the aims and strategies of this plan and be based on the following key settlement planning principles and the settlement planning guidelines in Appendix A"*. The following discussion is provided in response to the identified key settlement planning principles and the settlement planning guidelines in Appendix A.

Key Settlement Planning Principles

Principle no. 1 – Identify growth needs and opportunities

As identified below in response to the Kyogle LGMS 2010 regarding the supply and demand of residential land within Kyogle, development of some of the preferred areas identified within the LGMS has not proceeded and therefore the housing supply need identified within the LGMS has not been fulfilled. The rezoning of the subject land for residential purposes will therefore address the housing supply need identified within the LGMS.

The proposed rezoning and subsequent future residential development will further contribute in addressing the need for housing supply to accommodate the identified ageing population. In this regard, following the rezoning of the land, the proponent intends on developing the land to deliver residential development that will be designed to accommodate seniors living.

The proposed rezoning will offer a logical extension of the existing residential zone to enable residential development on unconstrained suitable land which is readily serviceable.

Principle no. 2 – Direct growth to identified urban growth areas

As identified in addressing the NCRP 2036, the land is not located within the Town and Village Growth Boundary of Kyogle. This Principle provides guidelines to vary urban growth areas, and any variation must be in accordance with the Urban Growth Area Variation Principles provided within Appendix B. It is noted that the variation principles contained within Appendix B largely replicate those variation principles contained within the NCRP 2036, and accordingly compliance with these principles is provided within **Attachment 3**.

The variation to the urban growth area is justified given the site is adjacent to and directly adjoins existing residential development within an R1 General Residential zone.

The current Planning Proposal is not considered to be antipathetic to the objectives and outcomes of the draft North Coast Regional Plan 2041 as the proposal seeks to provide additional residential land to accommodate the future growth of Kyogle and particularly the ageing population. The land is located within an existing urban environment and is readily serviceable.

Principle no. 3 – Ensure sustainable development within the coastal strip

The subject site is not located within a coastal zone defined by Chapter 2 of the Resilience and Hazards SEPP 2021.

Principle no. 4 – Determine a required structure for future development

This principle is applicable to Council's when preparing structure and precinct plans with respect to employment and growth areas. Notwithstanding, sufficient justification is provided within this Planning Proposal to extend the R1 General Residential zone in the manner proposed to facilitate additional residential development on the land.

Principle no. 5 – Encourage locally responsive sustainable design

This principle is applicable to Council's when preparing land use strategies. Notwithstanding, the following points are provided:

- The proposal is consistent with the Kyogle Local Government Narrative as addressed further below;
- The proposed rezoning will assist in the achievement of the objectives of Council's relevant local strategies as demonstrated below under Question 4;
- The land is located within an existing urban environment and is readily serviceable.

Sub-Regional Planning Principles

The information submitted as part of this Planning Proposal documentation demonstrates that the proposal is consistent with the relevant 'Subregional Planning Principles'. In this regard:

- Justification is provided within the Urban Growth Area Variation Principles found within **Attachment 3** to vary the existing urban growth area boundary to enable the rezoning to occur;
- The proposed rezoning will offer a logical extension of the existing residential zone to enable residential development on unconstrained suitable land which is readily serviceable. Future development for the land is proposed to be designed to accommodate the ageing population;
- The rezoning of the subject land for residential purposes will address the housing supply need identified within the Kyogle LGMS 2010;
- The land proposed for rezoning is not constrained by important farmland, HEV land, environmentally or culturally sensitive areas;
- The proposal will not impact on a visually sensitive landscape, as the rezoning will provide an extension of the existing residential urban footprint.

Appendix A - Settlement Planning Guidelines

The settlement planning guidelines provide key strategy aims to 'identify and direct suitable land to accommodate planned growth'. Despite the Planning Proposal being more aligned with a form of 'infill' subdivision as opposed to a new 'greenfield area', the following points are offered in response to these aims:

- The area proposed for rezoning directly adjoins existing R1 zoned residential land. The land subject to rezoning shares similar characteristics as the

current R1 zoned portion which has been approved for a residential subdivision via DA2021/78.

- The land is readily serviceable with access and services, and is within close proximity to community services within Kyogle;
- The land proposed for rezoning is not constrained by HEV land, culturally or heritage significant land, or land subject to bushfire hazard. The proposal is also compatible with the flood hazard of the land, and in this regard:
 - All future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change. The internal road system will also be above these flood levels.
 - Flood warnings, evacuation, and access routes will be available for future development of the site in the event of a flood.
- The land is not impacted by land use conflict as addressed under Question 8(c) of this Planning Proposal report.

Local Government Narrative – Kyogle

Comment: The draft NCRP 2041 identifies the following narratives as of relevance to the proposal.

Liveable and Resilient

- *Support environmentally sustainable development that is responsive to climate change and natural hazards.*
- *Retain and protect local biodiversity through effective management of environmental assets and ecological communities.*

Comment: The proposal is responsive to the flood hazard of the land. In this regard, future dwelling sites and the internal road system within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increased flood levels due to climate change.

Flood warnings, evacuation, and access routes will be available for future development of the site in the event of a flood.

The land proposed to be rezoned is not impacted by HEV land or land identified as containing biodiversity values on the biodiversity values map.

Housing and Place

- *Deliver a variety of housing options in appropriate locations across Kyogle.*
- *Maintain the village character and rural lifestyle of Kyogle's smaller communities.*

- *Improve housing choice in the LGA by encouraging diversification of housing products, including smaller dwellings for the ageing population.*

Comment: The current proposal is consistent with this approach as it will enable an opportunity to provide future housing to support the ageing population within a suitable location within Geneva which is located on the fringe of Kyogle.

The land proposed to be rezoned directly adjoins R1 General Residential zoned land within an existing urban environment and is readily serviceable.

4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

From a strategic perspective, the proposed rezoning will assist in the achievement of the objectives of Council's relevant local strategies as demonstrated below, and is therefore consistent with Council's strategic planning intent for the LGA. These strategies as discussed below include:

- Kyogle Local Strategic Planning Statement (LSPS) 2020
- Kyogle Community Strategic Plan 2016 – 2026
- Kyogle Strategy for Closer Rural Settlement and Urban Expansion (2005)
- Kyogle Local Growth Management Strategy (LGMS) 2010.

Kyogle Local Strategic Planning Statement (LSPS) 2020

The Kyogle LSPS is a 20-year vision for land use, development, sustainability and transport in the Kyogle Council Local Government Area (LGA). The LSPS identifies the values and characteristics of the LGA that are important to the community and should be protected. It also identifies issues and trends affecting the region and LGA and proposes strategies to address these. The LSPS describes a Vision for the LGA and lists strategies and actions to achieve the Vision, address issues and change, and make this a better place to live.

The LSPS is the highest order strategic land use planning document prepared by Kyogle Council. It is intended to set the overarching vision, priorities and strategies for land use and development in the LGA. It has been drafted to align with, and deliver on, goals and directions contained in the North Coast Regional Plan (NCRP). The LSPS also incorporates relevant strategies and initiatives that are contained in the Kyogle Community Strategic Plan (CSP).

The LSPS identifies priorities for the Kyogle LGA, and short, medium and long-term actions to help deliver on these priorities and vision for the future.

In summary, 16 Planning Priorities are identified within the LSPS, with those relevant to the Planning Proposal addressed below:

Planning Priority B1 – Plan for appropriately located and designed residential development

The proposal is consistent with Directions 22 and 23 of the NCRP as submitted above, and therefore is consistent with Planning Priority B1.

The proposal positively responds to Actions B1.1 and B1.2 of the LSPS which state:

B1.1 Identify additional opportunities for residential development in infill locations; and

B1.2 Review the supply of residential zoned land and where required, zone additional land for residential use.

Planning Priority B2 – Plan to provide great housing choice for our community

The social-economic characteristics profile contained within the LSPS identifies that in relation to age structure, the Kyogle LGA has a higher proportion of persons aged 50-69 than the Regional NSW average. As such the LSPS identifies a number of challenges faced in the LGA including:

- High proportion of older persons;
- Deficiency in housing choice and supply, which is a barrier to relocation and retention.

The proposal is consistent with Direction 23 of the NCRP as submitted above, and therefore is consistent with Planning Priority B2.

The proposed rezoning will enable additional housing that will be designed to accommodate seniors living which will assist in addressing the need to provide much needed housing for the ageing population.

Planning Priority C4 – Value, protect, and celebrate our unique cultural heritage

The proposal is consistent with Direction 18 of the NCRP as submitted above, and therefore is consistent with Planning Priority C4.

Planning Priority D1 – Protect and enhance areas of high environmental value and biodiversity

The proposal is consistent with Directions 1 & 2 of the NCRP as submitted above, and therefore is consistent with Planning Priority D1.

Planning Priority D3 – Protect communities from the risks associated with natural hazards

The proposal is consistent with Direction 3 of the NCRP as submitted above, and therefore is consistent with Planning Priority D3.

Kyogle Community Strategic Plan 2016 - 2026

The Kyogle Community Strategic Plan (CSP) is a practical response to the State's growth management needs for the region while also addressing key community social needs and ensuring the environment, culture and character of the area are preserved and enhanced.

The CSP provides a range of cues that address priority themes that have been identified through community consultation and developed by community focus group representatives to enhance the liveability and sustainability of the area. One of those themes relates to ageing in place.

The CSP identifies a range of key issues and challenges facing the Kyogle LGA. In regards to aged care, it identifies that the Kyogle Council area is facing a rapidly ageing population which brings about an increased need for appropriate services and living opportunities. The CSP states that the number of people aged 65 years and over is expected to double in NSW by 2050. The CSP states that this is also expected to be reflected in the Kyogle Council area's population and will pose significant planning issues for the Council and community in terms of suitable accommodation options.

The CSP identifies a number of strategies and actions to address the challenges presented for the ageing population. The proposal to rezone the land to R1 to enable the construction of additional residential development that will be designed to accommodate seniors living is directly responsive to Strategy C-{2} in relation to Aging in Place:

Aging in Place, Disability Services and Respite Care Strategies and Actions			
Strategy	Action	Community Partners	Timing
C. Facilitate development of additional housing for older people and people with disability needs	1. Benchmark Kyogle Council's development costs for accommodation for older people or people with disability needs against other councils	Kyogle Council (lead) assisted by the community	Medium-term
	2. Review the Kyogle Local Environmental Plan and Development Control Plan requirements to ensure that practicable facilitation of accommodation and services is enabled, including within outlying village areas and their surrounds	Kyogle Council (lead) assisted by the community	Ongoing
	3. Investigate options for short and long term incentives to facilitate accelerated development of accommodation for older people and people with disability needs in the Kyogle Council area	Kyogle Council (lead) assisted by the community with Key Partners: Urban Development Industry of Australia; Master Builders Association NSW; Property Council of Australia; existing service providers	Medium-term
	4. Assist landowners to obtain site compatibility pre-certification through the State Environmental Planning Policy for Seniors' Housing of land within Woodenbong and other village locations for specific sites	Kyogle Council (lead) assisted by the community	Long-term

Kyogle Strategy for Closer Rural Settlement and Urban Expansion (2005)

The Kyogle Strategy for Closer Rural Settlement and Urban Expansion (March 2005) provides the endorsed Strategy for the release of lands for closer rural settlement in 'preferred' locations within the Kyogle Local Government Area. It was prepared in accordance with the provisions of Clause 20 of the previous North Coast Regional Environmental Plan (the Regional Plan). Kyogle Council at their ordinary meeting November 18, 2004 resolved to adopt the Kyogle Strategy for Closer Rural Settlement.

Whilst the Strategy is for the most part outdated, it provided a study of urban land use in Kyogle, and a draft urban settlement strategy for Kyogle. Section 5.1.2 of the Strategy discusses undeveloped village land, and states that a majority of the land is located in the Geneva area and is considered the least environmentally constrained (slope, flooding, adjoining land use, servicing etc) and most suitable for future residential development.

Section 9.3 - *Other 'infill' lands* of the Strategy identifies land adjoining the village zone that is considered potentially suitable for future urban residential development and specifically identifies Part Lot 1 DP 307050 being the subject land. Accordingly, Map 17-4 identifies the undeveloped areas in Kyogle and identifies the area of land proposed to be rezoned as shown below in **Plate 10**.

The current assessment completed for this Planning Proposal application identifies that the area proposed for rezoning contains similar characteristics as the current

adjoining R1 zoned land to the north (approved for subdivision under DA 2021/78) and therefore has strategic merit to provide the impetus to rezone it. In this regard the area to be rezoned is not impacted by slopes, adjoining land uses, bushfire hazard, and is in close proximity to reticulated water, sewer, telecommunications, electricity and stormwater drainage networks. The area can also be serviced through the extension of the local road network. In addition, future residential development will be compatible with the flood hazard of the land as demonstrated earlier in this report.

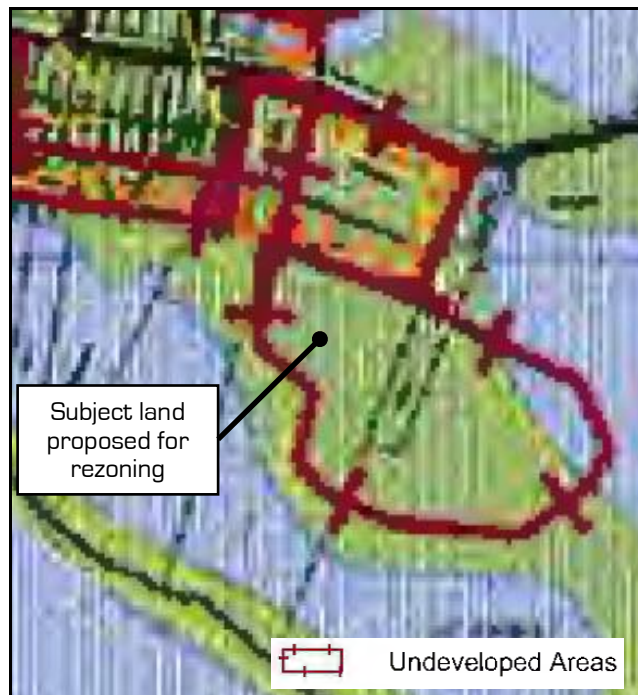


Plate 10: Undeveloped Areas taken from Map 17-4

Source: Kyogle Strategy for Closer Rural Settlement 2005

Kyogle Local Growth Management Strategy (LGMS) 2010

This Local Growth Management Strategy (LGMS) was prepared as a result of the Council resolution of March 19, 2007 and subsequent advice from the Department of Planning that all of Council's strategic work is to be consolidated into a Local Growth Management Strategy. The LGMS combines an assessment of the environmental, economic and social elements relevant to the review of the Local Environmental Plan (LEP) for the whole of the Kyogle Local Government Area (LGA).

Whilst not being identified on Figure 7 of the LGMS as a 'preferred area', the land was also not explicitly excluded from being developed for residential purposes. Justification is provided below to demonstrate the suitability of the subject land being rezoned for residential purposes in the context of the strategic framework of the LGMS:

- The proposed rezoning will offer a logical extension of the existing residential zone to enable future residential development on relatively unconstrained suitable land. The land subject to rezoning shares similar characteristics as the current R1 zoned portion which has been approved for a residential subdivision via DA2021/78. Accordingly, the proposal is consistent with the 'Settlement Planning Principles for Development' listed within the LGMS including:
 - regionally significant farmland;
 - flood prone land;
 - bushfire prone land;
 - contaminated land;
 - biodiversity and significant vegetation;
 - character, design, and form;
 - locational context (as addressed earlier including the Far North Coast Regional Strategy 2036, Draft Far North Coast Regional Strategy 2041, and the Kyogle Strategy for Closer Rural Settlement and Urban Expansion 2005);
 - Infrastructure (access and services)
- The LGMS contains a 'Land Supply and Demand Audit' which outlines how the demographic profile of the Study Area and the projected growth will be accommodated throughout the Kyogle LGA. Section 1.11.10 of the LGMS identifies the following outcomes:

"Population growth in the study area is predicted to continue. This is supported by the continuing increase in development activity, including processing and approval of development applications for the construction of a range of dwelling types throughout the Town of Kyogle and also the rural areas.

In accordance with the prediction that regionally the population will be ageing, with the 65 years and over age group being the fastest growing demographic group, this will result in a lower number of persons per dwelling, a heightened increase in pensioner rate rebates due to lesser disposable incomes, changing demands in terms of lifestyle, leisure and sporting facilities, increased demand for retirement villages, nursing and aged care facilities and medical facilities in general.

Of the projected number of dwellings, [3,000] required to contain the population growth of 5,800 persons within the whole of the Kyogle LGA over the 25 year period to Year 2031, there needs to be 2,600 single dwellings, and 400 multi-unit dwellings, as calculated in Equation 1. It has been assumed that the rural residential and rural areas will only yield single dwellings, and as such the whole 400 multi-unit dwellings must be built within

the town of Kyogle and the villages. This will then see a housing spread as follows;

- To accommodate the additional 2,377 persons in Kyogle, an additional 1,280 dwellings, made up of 365 multi-unit plus 915 single dwellings will be built within the Town of Kyogle;*
- To accommodate the additional 314 persons in the villages an additional 165 dwellings, made up of 35 multi – unit and 130 single dwellings will be built within the Villages;*
- Assuming that all dwellings in the rural residential areas will be single dwelling, the additional 790 allotments located within rural residential estates will house an additional population of 1580 persons; and*
- The balance of the population of 1529 persons, will be accommodated in an additional 765 single dwellings to be built throughout the rural areas of the LGA.*

Section 1.12 further identifies the following with regard to the Kyogle Town Area:

The total population of the Kyogle Town, including the suburbs of Geneva and New Park was 2,798 persons at the 2006 Census. It is projected that this Urban Centre will increase by up to 85%, i.e. to 5,175 over the Strategy Timeframe. Therefore, it is projected that of the total additional dwellings, 3,000, required throughout the whole of the LGA of Kyogle, 43% of these will be required to be constructed in and around the Town of Kyogle.

In response to the above supply and demand scenario of residential land within Kyogle, development of some of the preferred areas identified within the LGMS has not proceeded and therefore the housing supply need identified within the LGMS has not been fulfilled. The rezoning of the subject land for residential purposes will therefore address the housing supply need identified within the LGMS, despite not being mapped within a preferred area within Figure 7.

The proposed rezoning will also assist in addressing the need for housing supply to support the identified ageing population. In this regard, following the rezoning of the land, the proponent intends on subdividing and in-turn delivering residential development that will be designed to accommodate seniors living which will assist in addressing the need to provide much needed housing for the ageing population.

Given the above justification, together with the information presented within the Planning Proposal, rezoning of the land for residential purposes will positively respond to and satisfy the aims of the LGMS which are based on the principles of sustainable development. The aims of the LGMS are as follows:

- i. to set aside sufficient land for a range of residential, commercial, industrial and community land uses which will cater for the projected population of the Kyogle LGA over the next 23 years to 2031.*
- ii. to provide for the planned growth of Kyogle by identifying both development constraints and development opportunities and to outline a sustainable approach to future growth.*
- iii. to regulate and facilitate growth throughout the Kyogle LGA in order to achieve a desirable built environment for a growing population and economy which protects and enhances existing and future amenity by minimizing land use conflict.*

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Comment: The Planning Proposal is consistent with the provisions of applicable State Environmental Planning Policies. An assessment of the project against these policies is provided within **Attachment 4**.

6. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 9.1 directions)?

Comment: The Planning Proposal is consistent with the provisions of applicable S9.1 Ministerial Directions. An assessment of the project against these requirements is provided at **Attachment 5**.

Section C – Environmental, Social and Economic Impact

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

The area proposed to be rezoned to R1 is not mapped as High Environmental Value Land within the North Coast Regional Plan 2036.

The Biodiversity Offsets Scheme Entry Threshold Tool (BOSET) is a test used to determine when it is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method to assess the impacts of a proposal. The BOSET

tool was accessed 22.10.21 and does not identify the area to be rezoned to R1 General Residential as containing mapped biodiversity values.

As identified above in Section 1.4, on-site vegetation consists of managed grassland within the northern R1 – General Residential zoned portion of the site whilst the RU1 rural zoned portion consists primarily of grassland reflecting the grazing use of the site.

Domestic gardens are established on the site together with landscape vegetation surrounding the dwelling house and swimming pool and also along the eastern property boundary. Previous site inspection identified the various mix of tree species existing on the property aligning the internal driveway and also along the property frontage within the Anzac Drive road reserve. However this vegetation is proposed for removal under DA 2021/78 as illustrated in **Plate 11**. The remainder of vegetation to the south of the dwelling as illustrated below in **Plate 12** will be further investigated for retention at the development application stage.



Plate 11 – Vegetation proposed for removal via DA2021/78



Plate 12 – Vegetation potentially retained at DA stage

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

Potential environmental impacts in relation to the development have been identified and addressed below:

a. Soils - Contamination

Concerning contamination, the subject site is located within 200 metres of Swamp Paddock Dip located on Lot 1 DP 547341 (on the northern side of Anzac Drive). A preliminary contaminated land assessment was prepared by Greg Alderson & Associates and was submitted as Attachment 2 within the endorsed Statement of Environmental Effects the subject of DA 2015/72.

The report concluded that *"Based on the known history of the site, inspection of the site and sampling regime, it is concluded that further soil contamination assessment is not required in the proposed development area, and that it is suitable for the proposed residential use. NSW EPA (1995) and NEPM 1999 (2013) state that if the contaminant concentration of the site is below a threshold limit, the investigation area can be considered as uncontaminated, and this is considered to be the case on this site"*.

It is acknowledged that the previous soil sampling was conducted on the northern portion of the site as illustrated on **Plate 13**.

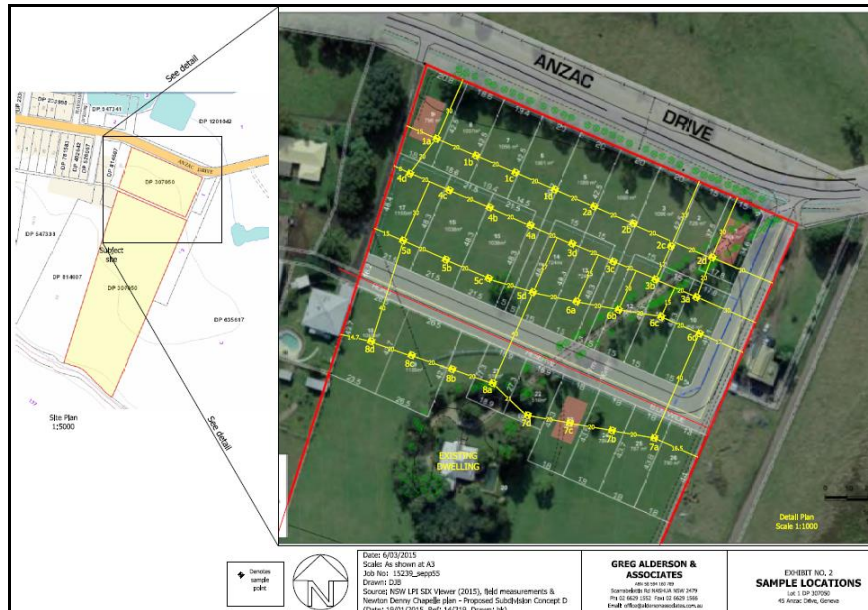


Plate 13 – Previous Soil Sampling Locations

Source – Greg Alderson & Associates Preliminary Contaminated Land Assessment
Report Number: 15239_sepp 55, Date: 4th March 2015

In accordance with the Gateway Determination conditions, a preliminary contaminated land assessment has been completed by Greg Alderson & Associates for that part of the land proposed to be rezoned and is contained within **Attachment 7**. Whilst full reference should be made to that report, it considers that the site is suitable for rezoning from rural to residential.

b. Bushfire

The subject site is not mapped as containing any bushfire hazard vegetation on Council's bushfire vegetation mapping.

c. Buffer Areas (Land Use Conflict)

Grazing lands adjoin and partly surround the subject site and will also potentially be undertaken on the balance of the land to be zoned RU1 Primary Production albeit at a low scale given the size of the land. A development application has been approved by Kyogle Council under DA 2021/78 to subdivide the R1 zoned portion of the subject land for residential purposes as outlined earlier.

Based on the land use conflict risk assessment submitted with the approved development application, NDC are of the view that future residential development on the proposed rezoned land can co-exist with surrounding land uses in a compatible manner without the need to implement a vegetated buffer.

d. Cultural Heritage

An AHIMS database search identifies no record of an Aboriginal site or places within a 50 metre radius of the subject site. The AHIMS search is contained within **Attachment 2** of this report.

The subject land is not identified as containing an item of heritage or as being located within a heritage conservation area pursuant to Schedule 5 of the Kyogle Local Environmental Plan 2012 and associated mapping [004CA].

e. Stormwater Drainage

Stormwater drainage for the development will be considered and addressed post Gateway determination within detailed designs at the future development application and construction stages.

f. Landscape and Visual Value

As addressed earlier in Section 1.5, the proposed residential rezoning is considered well integrated with the visual and landscape value of the immediate catchment and in this respect is considered a suitable form of development on the land.

g. Flooding

As identified earlier, all future dwelling sites within the proposed R1 zone will be located above the Flood Planning Level, PMF Level, and increases in flood levels due to climate change. The internal road system will also be above these flood levels.

Flood warnings, evacuation, and access routes have been addressed earlier in this report, and will be available for future development of the site in the event of a flood.

h. Coastal Hazards

The subject site is not located within a coastal zone defined by Chapter 2 of the Resilience and Hazards SEPP 2021.

i. Agriculture

Whilst no specific agricultural assessment has been prepared at this stage, the Planning Proposal does not propose to rezone State or Regionally Significant farmland identified within the Northern Rivers Farmland Protection Project Final Map 2005. The rezoning will involve 'Other Rural Land' with the regionally significant farmland contained within the residue lot.

The proposal does not involve rezoning land identified as Important Farmland under the North Coast Regional Plan 2036.

A small area (1,000m²) will be retained within the RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

j. Geotechnical Assessment

Geotechnical assessment can be completed post gateway if conditioned as part of the Gateway Determination, or alternatively at the development application stage.

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

The rezoning of the land for residential purposes will have positive social and economic effects, and in particular the development of the land for housing will assist in meeting regional dwelling targets identified within the NCRP 2036. Significant community benefit associated with the proposed development will be found in the provision of additional housing to service the future ageing population needs of the Kyogle LGA as discussed earlier.

The additional following social and economic benefits will also be provided:

- **Creation of local employment opportunities through new jobs and multiplier effect on the local economy** – The construction of the subdivision and future residential development will provide an increase in local employment opportunities that will have flow-through effects through tradespeople to suppliers and capacity for increased retail expenditure.
- **Increase in housing supply and choice** – The creation of additional lots will in-turn enable the construction of additional dwellings which may be either owner occupied or leased thereby contributing to the housing stock within the existing Kyogle urban catchment area.
- **Demand for community services in the locality** – It is envisaged that the future residential occupation of the land will increase the demand for services in the locality by virtue of the resultant increase in population. The subject site is accessible and within good proximity to Kyogle which contains a diverse range of community facilities together with retail, administrative, health, education, transport, open space and sporting services.

Utility services are further discussed below under Question 10.

No social impacts are envisaged in regard to cultural heritage matters having regard to the information provided above under Question 8 – d. Cultural Heritage.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

a. Water, Sewer, & Drainage

The Planning Proposal involves a relatively modest 'infill' development within the existing village of Geneva. No significant impacts are expected with respect to State and Commonwealth infrastructure services.

With respect to local service infrastructure, the subject land is located immediately adjoining an urban environment and is in close proximity to reticulated water, sewer, telecommunications, electricity and stormwater drainage networks.

Following rezoning, any future subdivision will need to secure connection to the reticulated water and sewer networks. Further investigations and designs will be completed with regard to water supply and sewer to service the development post Gateway determination and/or at the development application stage. Further investigation will also address the requirements of stormwater drainage for the development.

b. Electricity Supply

Consultation will be required to be undertaken with the relevant authority to ensure power supply is adequate to meet the needs of the development at cost to the proponent.

c. Telecommunications

Consultation will be required to be undertaken with the relevant authority to ensure telecommunication capacity is adequate to meet the needs of the development at cost to the proponent.

d. Roads

A development application has been approved by Kyogle Council under DA 2021/78 to subdivide the R1 zoned portion of land, and for the construction of a new road to provide access into the development from Anzac Drive. The new road within the approved subdivision development will be extended in the future to service the area to be rezoned.

Access will be addressed via an engineering services report that can be prepared post Gateway Determination or alternatively at the Development Application stage.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Condition no. 3 of the Gateway Determination requires consultation with the following public authorities/organisations:

- Department of Primary Industries – Agriculture
- Department of Planning and Environment – Floodplain Management Division
- State Emergency Service
- Northern Rivers Reconstruction Corporation
- NSW Mining, Exploration and Geoscience
- Gugin Gudduba Local Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.

The Planning Proposal has been updated to address the flooding matters raised by the NSW BLD, and the NSW SES.

The Planning Proposal has also been updated to address the NSW DPI concern. In this regard, a small area (1,000m²) will be retained within RU1 Primary Production Zone above the 1 in 100 year flood line to provide for a future livestock refuge in the event of a flood.

Part 4: Mapping

The following changes are proposed to the mapping within the Kyogle Local Environmental Plan 2012.

- **Land Zoning Map (Sheet LZN_004CA)** – Application of an R1 – General Residential Zone in accordance with **NDC Plan 5**. The RU1 Primary Production zone has been retained to cover the remaining land.
- **Lot Size Map (Sheet LSZ-004C)** – Application of a 500m² minimum lot size for the area of land proposed to be rezoned in accordance with **NDC Plan 5**. The 40 hectare minimum lot size has been retained to cover the remaining land.
- **Height of Buildings Map (Sheet HOB_004CA)** – Application of a 9 metre maximum building height for the area of land proposed to be rezoned in accordance with **NDC Plan 5**.

This Planning Proposal includes a locality plan and aerial photo which clearly identifies the subject site.

Part 5: Community Consultation

The Gateway Determination specifies the community consultation that must be undertaken on the Planning Proposal. In this regard, the Planning Proposal must be made publicly available for a minimum of 20 working days. The Gateway Determination does not require a public hearing to be held.

Part 6: Project Timeline

Plan Making Step	Estimated Completion
Council Resolution	Completed
Gateway Determination	Completed (21/09/22)
Update of Planning Proposal	31 October 2022
Government Agency Consultation	2 December 2022
Review of Planning Proposal in response to Government Agency Feedback	16 December 2022
Public Exhibition	6 January – 20 February 2023
Submissions Assessment	31 March 2023
Post-exhibition Evaluation	28 April 2023
Council adopt Planning Proposal	8 May 2023
Submission of Endorsed LEP to DPIE for finalisation	31 July 2023
Anticipated date plan is made (if delegated)	1 September 2023
Forwarding of LEP Amendment to DPIE for notification (if delegated)	4 September 2023

REFERENCES

- A Guide to Preparing Planning Proposals: NSW Planning and Environment 2018
- North Coast Regional Plan 2036
- Draft North Coast Regional Plan 2041
- Kyogle Local Strategic Planning Statement (LSPS) 2020
- Kyogle Community Strategic Plan 2016 - 2026
- Kyogle Strategy for Closer Rural Settlement and Urban Expansion (March 2005)
- Kyogle Local Growth Management Strategy 2010
- Kyogle Local Environmental Plan 2012
- Kyogle Floodplain Risk Management Study 2009
- Kyogle Floodplain Risk Management Plan 2009
- Kyogle Flood Study 2004
- Managing Flood Risk Through Planning Opportunities – Guidance On Land Use Planning In Flood Prone Areas
- Designing Safer Subdivisions – Guidance On Subdivision Design In Flood Prone Areas