

16 COMMUNITY SERVICE DELIVERY

16.1 PLANNING PROPOSAL - ASSESSMENT REPORT - RURAL RESIDENTIAL REZONING CNR REARDONS & DARKE LANES SWAN BAY

EXECUTIVE SUMMARY

Council has received a Planning Proposal application (PP2022/0001) (Portal Case No. PP-2022-502) seeking to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) by rezoning about 43ha of land at 395 Reardons Lane (corner of Darke Lane) Swan Bay to enable its subdivision into potentially 43 rural residential lots (Zone R5 Large Lot Residential) having a minimum lot size of 7500m². The residual part of the property (about 83ha) would retain Zone RU1 Primary Production with a minimum lot size of 40ha.

This proposal is supported by Council's Rural Residential Development Strategy which identifies a corridor of potential large lot residential development along sections of Reardons Lane, including this land.

Council's support for the Planning Proposal is required prior to seeking a Gateway Determination from the Department of Planning and Environment (DPE). Council may at the same time seek Local Plan-making Authority which grants Council and/or its nominee Ministerial plan making delegations to finalise the LEP Amendment subject to meeting Gateway conditions.

RESOLUTION 190722/8

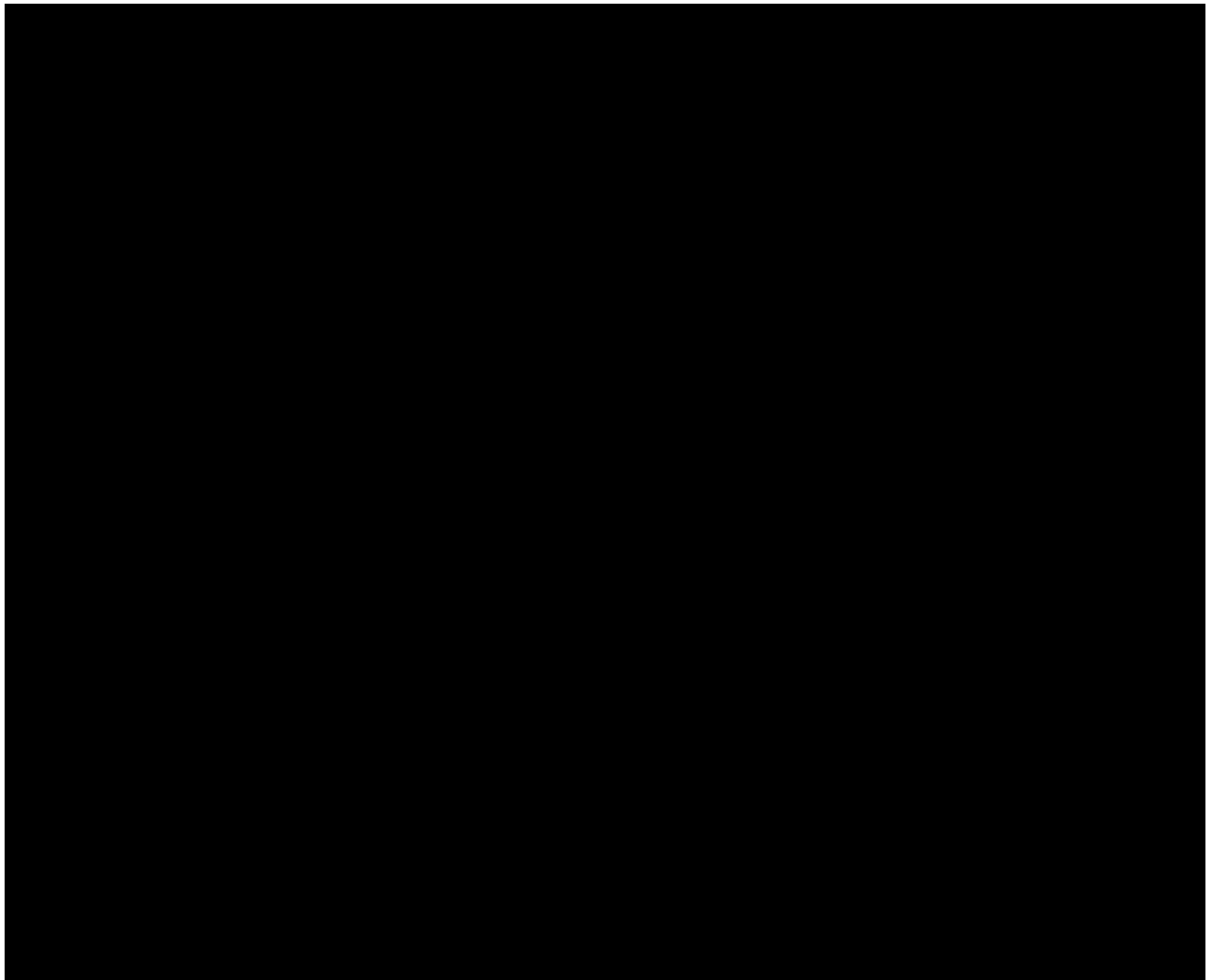
Moved: Cr Stephen Morrissey

Seconded: Cr Sam Cornish

That:

1. Council supports Planning Proposal PP2022/0001 (Portal Case No. PP-2022-502), which proposes to amend the *Richmond Valley LEP 2012*, as it applies to 395 Reardons Lane (corner of Darke Lane) Swan Bay, being Lots 831, 832 & 833 DP847683, by rezoning the land to facilitate a rural residential development;
2. PP2022/0001 be submitted to the Department of Planning and Environment for a Gateway Determination; and
3. Council seeks Local Plan-making authority for this Planning Proposal and delegate this to the General Manager.

CARRIED

17 PROJECTS & BUSINESS DEVELOPMENT

16 COMMUNITY SERVICE DELIVERY**16.1 PLANNING PROPOSAL - ASSESSMENT REPORT - RURAL RESIDENTIAL REZONING CNR REARDONS & DARKE LANES SWAN BAY**

Director: Angela Jones

Responsible Officer: Tony McAteer

EXECUTIVE SUMMARY

Council has received a Planning Proposal application (PP2022/0001) (Portal Case No. PP-2022-502) seeking to amend the *Richmond Valley Local Environmental Plan 2012* (the LEP) by rezoning about 43ha of land at 395 Reardons Lane (corner of Darke Lane) Swan Bay to enable its subdivision into potentially 43 rural residential lots (Zone R5 Large Lot Residential) having a minimum lot size of 7500m². The residual part of the property (about 83ha) would retain Zone RU1 Primary Production with a minimum lot size of 40ha.

This proposal is supported by Council's Rural Residential Development Strategy which identifies a corridor of potential large lot residential development along sections of Reardons Lane, including this land.

Council's support for the Planning Proposal is required prior to seeking a Gateway Determination from the Department of Planning and Environment (DPE). Council may at the same time seek Local Plan-making Authority which grants Council and/or its nominee Ministerial plan making delegations to finalise the LEP Amendment subject to meeting Gateway conditions.

RECOMMENDATION

That:

1. Council supports Planning Proposal PP2022/0001 (Portal Case No. PP-2022-502), which proposes to amend the *Richmond Valley LEP 2012*, as it applies to 395 Reardons Lane (corner of Darke Lane) Swan Bay, being Lots 831, 832 & 833 DP847683, by rezoning the land to facilitate a rural residential development;
2. PP2022/0001 be submitted to the Department of Planning and Environment for a Gateway Determination; and
3. Council seeks Local Plan-making authority for this Planning Proposal and delegate this to the General Manager.

BUDGET IMPLICATIONS

Nil

REPORT

Council has received a Planning Proposal application (PP2022/0001) (Portal Case No PP-2022-502) prepared by consultancy firm Newton Denny Chapelle and lodged on behalf of Enviro Safe Products Pty Ltd the owner of 395 Reardons Lane (corner of Darke Lane) Swan Bay comprising Lots 831, 832 & 833 DP847683 (figure 1). The planning proposal seeks to rezone the land so that part of it can be developed for rural residential purposes (figure 2).

The property currently has a Land Zone of RU1 Primary Production (figure 3) under the *Richmond Valley LEP 2012*, with a minimum lot size of 40ha. To facilitate its development for rural residential development an amendment of the LEP will be required under Part 3 of the *Environmental Planning and Assessment Act 1979*. This process is known as the Gateway Planning process and involves assessment of proposed LEP amendments against a number of State, regional and local

plans, policies, and strategies, including Section 9.1 Ministerial Plan Making Directions and consultation with relevant Government Authorities and the community.

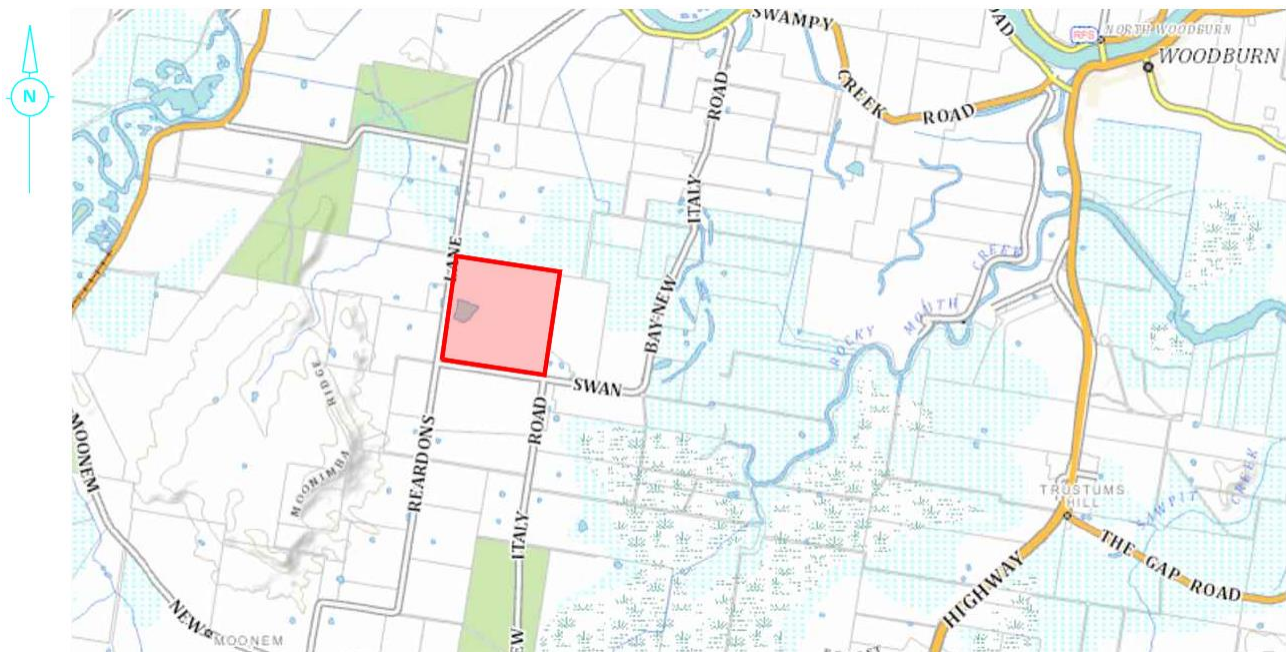


Figure 1 – Locality Plan identifying the subject land (outlined in red with shading) to the west of Woodburn on Reardons Lane Swan Bay.

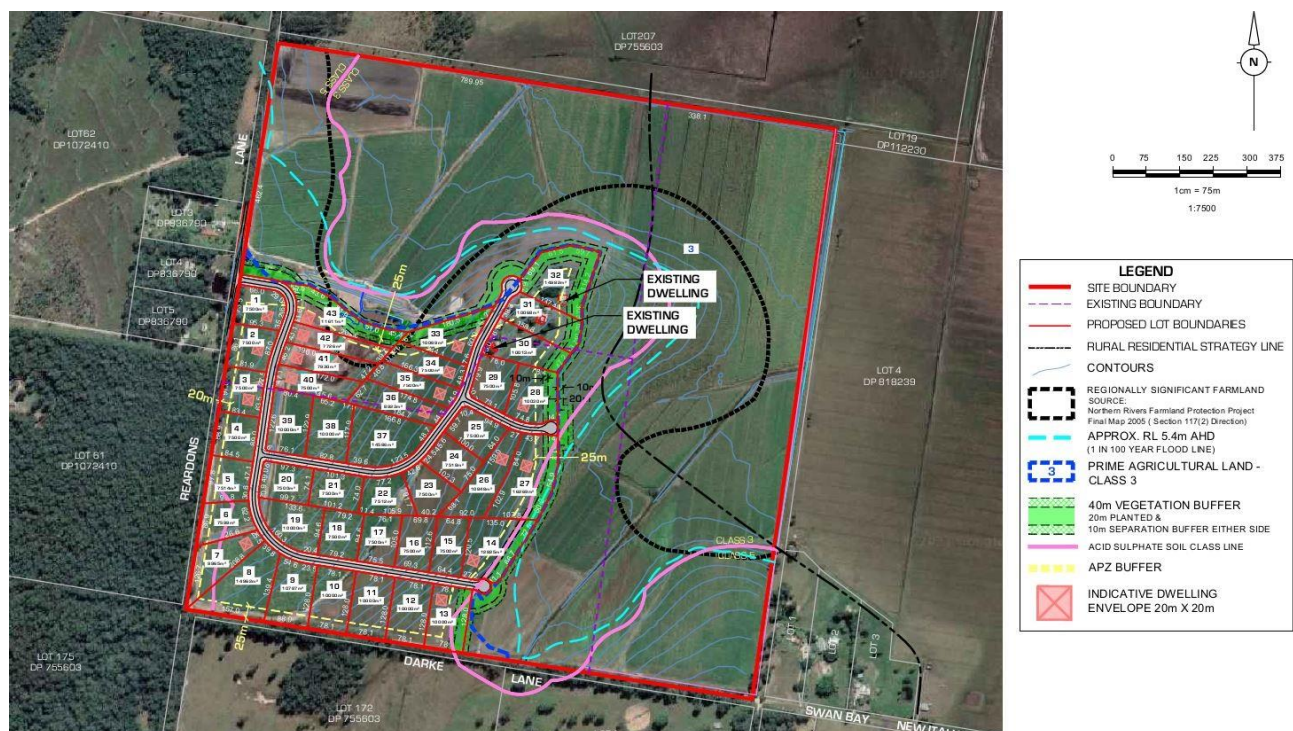


Figure 2 – Concept subdivision layout extracted from Planning Proposal PP2022/0001

Note. Layout will require changes to accommodate buffer requirements from DPI-Ag and road access requirements of NSW RFS. These can be done at the DA stage.

LEP Amendment

Planning Proposal PP2022/0001 proposes to amend the *Richmond Valley LEP 2012* by:

- amending the Land Zone Map by changing the Land Zone for about 43.3ha from Zone RU1 Primary Production to Zone R5 Large Lot Residential, and
- amending the Lot Size Map by changing the minimum lot size (MLS) for the R5 area from 40ha to 7,500m²,
(see figure 3).

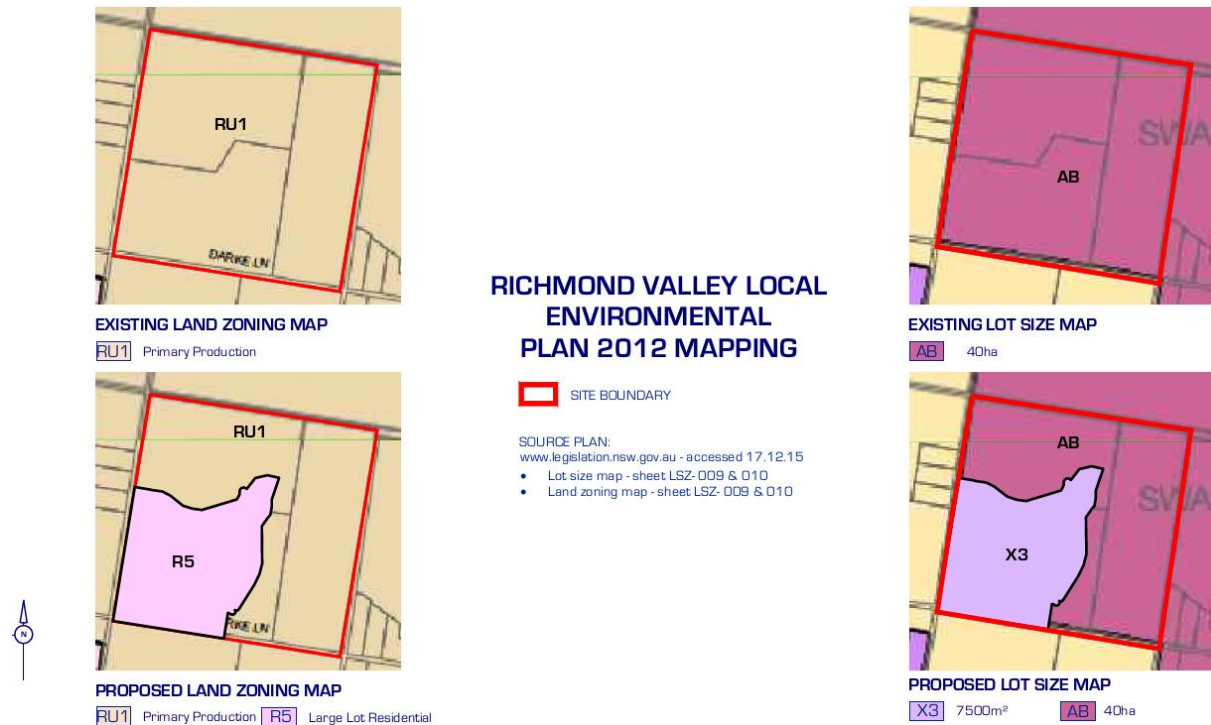


Figure 3 – Maps showing the existing Land Zone (upper left) and Lot Size (upper right) for the subject land (outlined in red) with the proposed Zone R5 Large Lot Residential and Minimum Lot Size X3 representing 7500m² (bottom left and bottom right respectively)

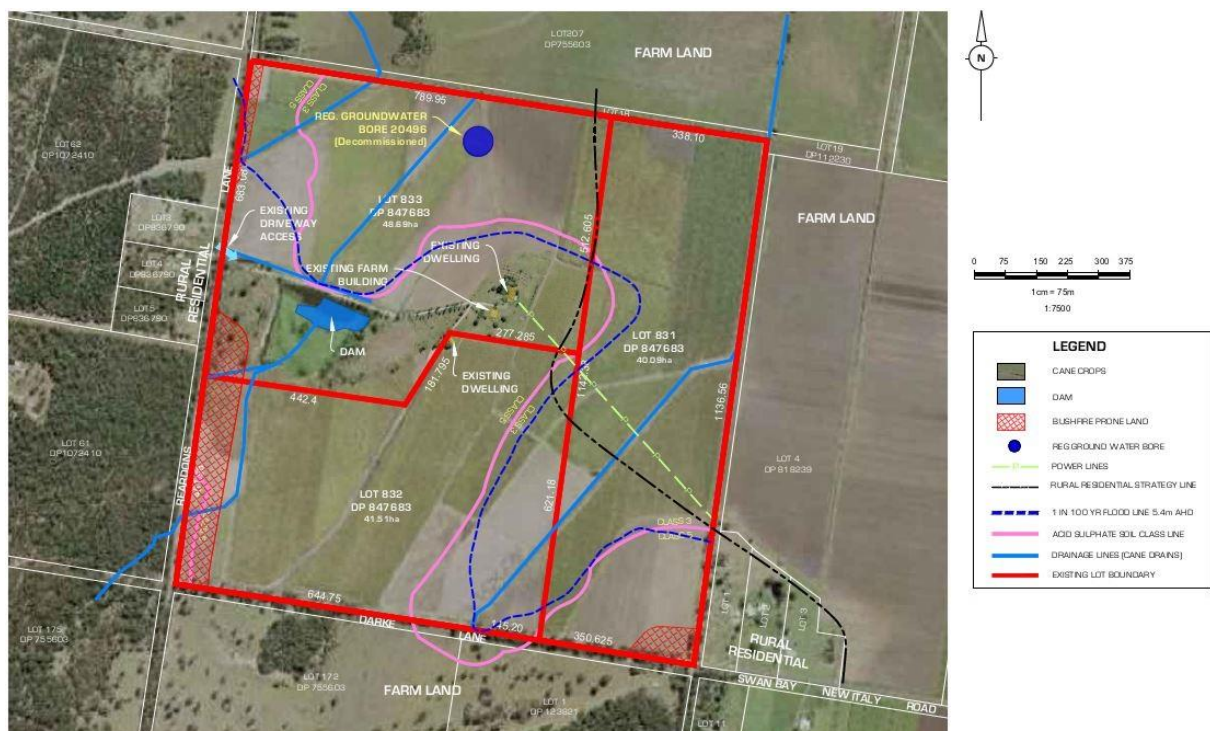


Figure 4 – Site Analysis for 395 Reardons Lane Swan Bay, extracted from Planning Proposal.

Consideration of Strategic Policies and Land Suitability

The Planning Proposal has been prepared in accordance with the DPE *Local Environmental Plan Making Guideline (2021)*. In preparing the planning proposal, consideration was given to the land's suitability against State, regional and local plans, policies and strategies, and Section 117 Ministerial Plan Making Directions. No inconsistencies were found in this regard.

Richmond River Rural Residential Development Strategy

Most of the land is mapped within the boundary of a potential rural residential release area under the *Richmond River Shire Rural Residential Development Strategy* (figure 5). Notwithstanding, areas mapped as having rural residential development potential are required to avoid constrained land. The following table provides commentary on constraints to be avoided by the Strategy-

Constraint	Comments
<ul style="list-style-type: none"> land classified as prime crop or pasture land, 	<p>The land has historically been cropped for sugar cane. Furthermore, a large part of the land is mapped as Significant Farmland under the DPE's Farmland Protection Project.</p> <p>There is potential for all or part of this land to be considered prime crop or pasture land. The proponent engaged Allen & Associates (Agricultural & Property Management Consultants) to evaluate the land's agricultural potential. Areas of significant farmland and prime crop or pasture land were identified, and the proposed development footprint was reduced to avoid those areas.</p> <p>The proponent engaged with the Department of Primary Industries-Agriculture and has obtained in-principle approval for the modified development footprint.</p>
<ul style="list-style-type: none"> flood prone land, 	<p>Part of the land, outside the proposed development footprint, is known to be flood prone. The 1%AEP flood level (1 in 100 year ARI flood level) + Climate Change is 5.4m AHD over this land. Therefore, the Flood Planning Area (FPA) is that area below 5.9m AHD (ie this level is the minimum level for dwelling habitable floor levels).</p> <p>The development footprint and potential dwelling envelopes are all proposed to be outside (above) the Flood Planning Area.</p>
<ul style="list-style-type: none"> land with steep slopes, 	<p>The LEP Land Slip Risk Map does not identify any slopes greater than 15 degrees (30%) on the property.</p>
<ul style="list-style-type: none"> land susceptible to coastal erosion and inundation, 	<p>The property is outside the coastal zone.</p>
<ul style="list-style-type: none"> difficult land for effluent disposal, 	<p>A wastewater assessment by Tim Fitzroy & Associates was supplied with the Planning Proposal.</p> <p>The report describes soils in the development footprint as being typically duplex in nature predominantly being a medium clay (A horizon) over a medium to heavy clay (B horizon). The heavy clays make the soils unsuitable for traditional trench disposal systems as permeability is extremely low and effluent disposal fields would be excessive in length making distribution very difficult.</p> <p>Assessment of the land's effluent disposal capabilities using (as a minimum standard) a low-tech secondary treatment solution (a baffled septic tank fitted with an outlet filter, reedbed (or sand filter) and sub surface irrigation area) was undertaken. The results of this assessment indicate that a 5 bedroom household would require a Land Application Area (LAA) of 461m², and that the smaller lot size (7,500m²) will</p>

Constraint	Comments
	<p>have sufficient area to effectively assimilate this wastewater and have sufficient land area available for a secondary (reserve) area should the primary disposal area fail.</p> <p>Unfortunately, the report has not assessed whether there could be effluent disposal issues for the 4 lots located over what was a former farm dam, and which has been drained and filled in recent years.</p> <p>In the main, the report demonstrates the land's capability for effluent disposal on a reduced lot size of 7,500m². Therefore, this reduced minimum lot size is supported. The farm dam constraint will require additional consideration by the proponent, but this can be done concurrent with other post Gateway assessments.</p>
<ul style="list-style-type: none"> land identified for future urban release, 	<p>There are no future urban growth areas within the vicinity of this property.</p>
<ul style="list-style-type: none"> land close to existing intensive land-uses and contaminated sites 	<p>There are no intensive land-uses or contaminated sites within the vicinity of this property although the development footprint adjoins sugar cane cropping. A Land Use Conflict Risk Assessment has recommended a minimum 200m buffer between rural dwellings and sugar cane cropping, however, advocates for the use of a 40m wide environmental buffer to reduce the separation to about 50m. This reduced environmental buffer has been used in the concept subdivision layout.</p> <p>Land Use Conflict and buffering will be referred to the Department of Primary Industries-Agriculture for comment. In the past, DPI-Ag has indicated 50m buffers are insufficient for cropping land. They have instead suggested a minimum buffer of 300m as referenced in the <i>Buffer Zones to Reduce Land Use Conflict with Agriculture – An Interim Guideline 2018</i>. As such the subdivision layout provided may need to be amended at the DA stage to accommodate greater buffers if required by DPI-Ag.</p>
<ul style="list-style-type: none"> land having environmental significance. 	<p>There are no identified environmentally sensitive areas or areas of High Environmental Value (HEV) habitat on the property.</p> <p>A Bushfire Assessment was prepared for the development. It recommends minimum Asset Protection Zones (APZ for 29kW/m²) ranging from 20 to 25m around nominated dwelling envelopes, although all lots are to be managed as APZs.</p> <p>RFS has provided comments to the proponent on the subdivision layout and requires a second access to be provided to a public road. Provision has been made for a fire trail to Darke Lane from the south-eastern cul-de-sac. The subdivision layout may need to be further modified at the DA stage to incorporate RFS requirements.</p> <p>No acid sulphate soil has been identified within the footprint of the development.</p>

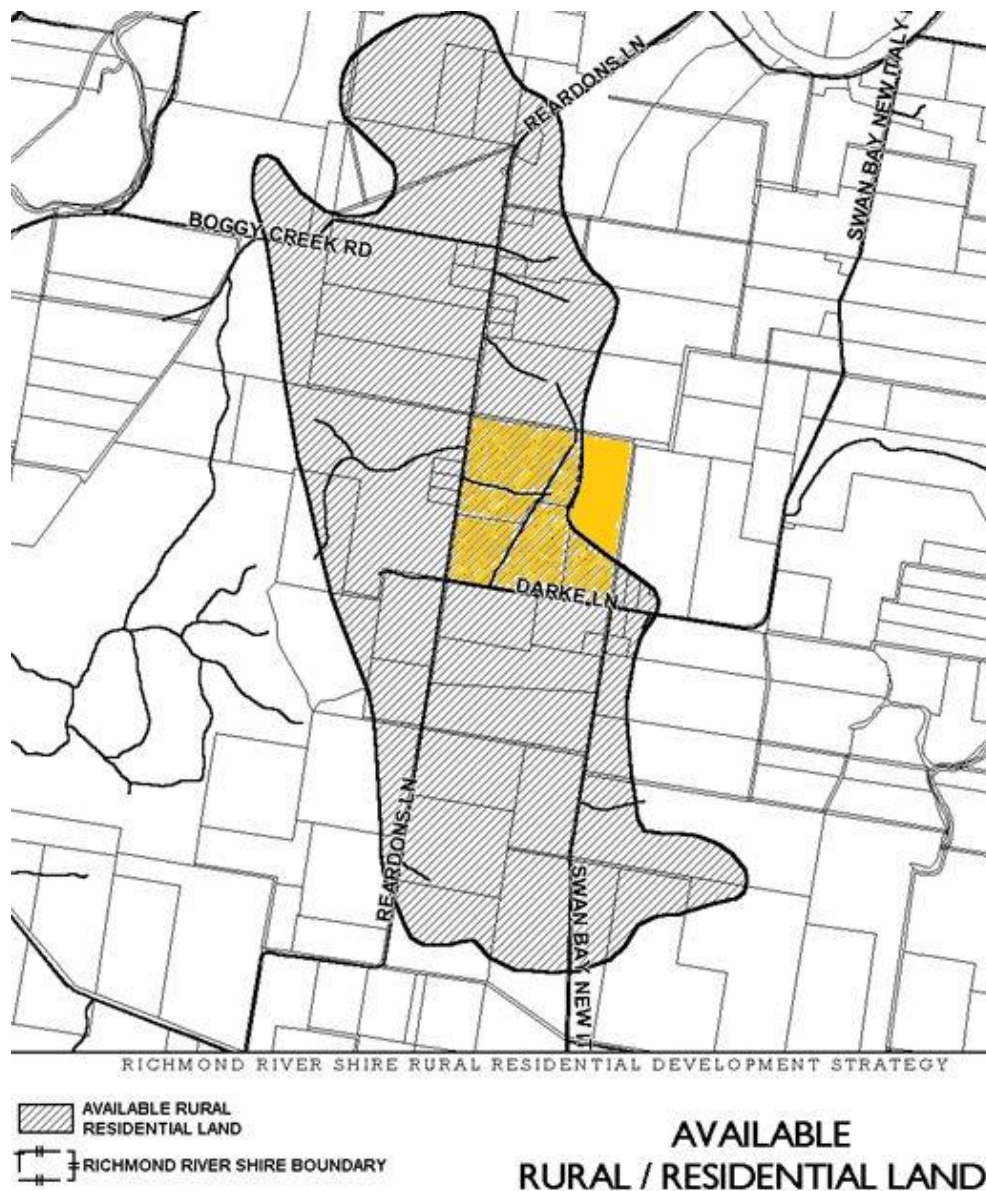


Figure 5 – Extract from Rural Residential Development Strategy for the Woodburn Catchment.

A number of supporting documents have been prepared by specialist consultants to support the planning proposal. These reports included-

- Onsite Wastewater Land Capability Assessment – produced by Tim Fitzroy & Associates (10 February 2022)
- Bush Fire Assessment Report – produced by Bushfire Certifiers (8 December 2021)
- Land Use Conflict Risk Assessment – produced by Tim Fitzroy & Associates (10 February 2022)
- Acid Sulphate Soils Assessment – produced by Tim Fitzroy & Associates (10 February 2022)
- Preliminary Site Contamination Report – produced by Tim Fitzroy & Associates (10 February 2022)
- Agricultural Land Assessment – produced by Allen & Associates (30 November 2017)

In addition to the above studies the following documents were supplied to support the Planning Proposal-

- Aboriginal Heritage Information Management System (AHIMS) search results – showing there to be no recorded items or places of Aboriginal Cultural Heritage on this land
- Correspondence from Bogal Local Aboriginal Land Council (15 March 2017) - declaring that a physical search of the property was undertaken by representatives of Bogal. Due to disturbance caused by past and present land activities the area assessed provided limited opportunity to find anything of cultural significance.

CONSULTATION

This Planning Proposal has been in the scoping phase since 2016. During that time the proponent has engaged with the Department of Primary Industries–Agriculture (re significant farmland and prime crop or pasture land concerns) and NSW Rural Fire Service (re bushfire planning) and obtained their in-principle support.

Formal engagement with these agencies plus Transport for NSW (re traffic generating developments), Biodiversity Conservation Division (re flooding & biodiversity) and NSW Heritage (re Aboriginal Cultural Heritage) will be required during the engagement phase of the Planning Proposal, along with community engagement as per conditions contained within the Gateway Determination.

CONCLUSION

Planning Proposal PP2022/0001 has been lodged with Council seeking to rezone 395 Reardons Lane Swan Bay to facilitate a 43-lot rural residential development plus a residual lot that will continue to be cropped.

The Planning Proposal is supported by the *Richmond River Shire Rural Residential Development Strategy* and is consistent with State, regional and local plans, policies and strategies, as well as Section 9.1 Ministerial Plan Making Directions.

It is recommended that Council supports the planning proposal to commence the Gateway Planning process. It is further recommended that Council seeks Local Plan-making Authority to assume the Minister's Plan Making functions for this planning proposal, and delegate that authority to the General Manager.

ATTACHMENT(S)

Nil