

Planning Proposal

Rezoning at Monaltrie Lane, Wyrallah Road and Durham Road, Monaltrie

October 2023



TABLE OF CONTENTS

Executive Summary.....	2
Part 1 – Objectives or Intended Outcomes	5
Part 2 – Explanation of Provisions	5
Part 3 – Justification	6
Section A – Need for the Planning Proposal	6
Section B – Relationship to Strategic Planning Framework	7
Section C – Environmental, Social and Economic Impact	9
Section D – State and Commonwealth Interests	15
Part 4 – Maps	17
Part 5 – Community Consultation	17
Part 6 – Project Timeline	17
Conclusion.....	18

APPENDICES

Appendix 1: Assessment of compliance with State Environmental Planning Policies.....	p 18
Appendix 2: Assessment of compliance with Section 9.1 Ministerial Directions.....	p 20
Appendix 3: Planning Proposal Maps	p 28

ATTACHMENTS

Attachment 1: Preliminary Ecological Assessment - Blackwood Ecological Services, 2016	
Attachment 2: Independent Review of Koala Related Matters – Greencap, 2020	
Attachment 3: Preliminary comments - Office of Environment and Heritage, 2017	

Executive Summary

This planning proposal has been prepared in respect to land described as follows:

Lot	Deposited Plan	Address	Land area
3	1002771	57 Durham Road, Monaltrie	39.5ha
4	789389	40 Monaltrie Lane, Monaltrie	34.1ha
5	774499	70 Monaltrie Lane, Monaltrie	40.5ha
4	24529	520 Wyrallah Road, Monaltrie	47.3ha

It was initially lodged with Council in March, 2016 and considered by Council at its ordinary meeting of April 11, 2017. The Planning Proposal was not supported by Council at that time. Following the April 2017 Council meeting the landowners, at the direction of Council were requested to review the structure plan for the rezoning.

The review of the structure plan was not immediately actioned by the landowners as Council advised the landowners to wait for the conclusion of the Koala Hub Study. The study was ultimately completed in 2019. The applicants made some modifications to the proposed zoning, provided a structure plan for the site and undertook a peer review of ecological matters, specifically in relation to potential impact upon koalas. They then sought the endorsement of Council to proceed to Gateway. Council resolved on August 8, 2023 to progress the Planning Proposal to the Department of Planning and Environment for Gateway Determination.

The site has a total area of approximately 161ha. The subject land is currently Zoned RU1 Primary Production with a Minimum Lot Size applying of 40 hectares. There is no Height of Buildings control that applies to land in Zone RU1.

The Planning Proposal seeks to allow future large lot residential development of the site. This will require amendments to the Lismore LEP 2012 maps as follows:

- Change from zone RU1 to a mix of R5 and C2;
- Change in minimum lot size from 40ha to a mix of 3500m², 1ha, 3ha and 5ha; and
- Apply a maximum height of buildings of 9m across the site.

The proposed map changes are shown at Appendix 3.

The subject site is located approximately 4km south of the Lismore urban area. It has access to Lismore via Wyrallah Road and access to Goonellabah via Durham and Skyline Roads. The land is currently used primarily for grazing and rural residential purposes and accommodates three dwellings and various ancillary outbuildings and farm structures. The site predominantly cleared but also features scattered trees and patches of native and exotic vegetation. Several first order watercourses traverse the land as well as one second order watercourse. The topography of the land varies from relatively flat to slopes in excess of 30%. The elevation of the land also varies; an area of low lying land in the north-west has an elevation of around 10m AHD, central parts of the site are around 90 metres AHD. Land surrounding the subject land consists primarily of large rural lots used for grazing and residential purposes. Figure 1 below shows the site and its surroundings. Figure 2 shows the current zoning in the Lismore LEP 2012.

This report assesses the merits of the planning proposal in accordance with the Department of Planning & Environment's *Local Environmental Plan Making Guideline* (August 2023). A Gateway determination is sought pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

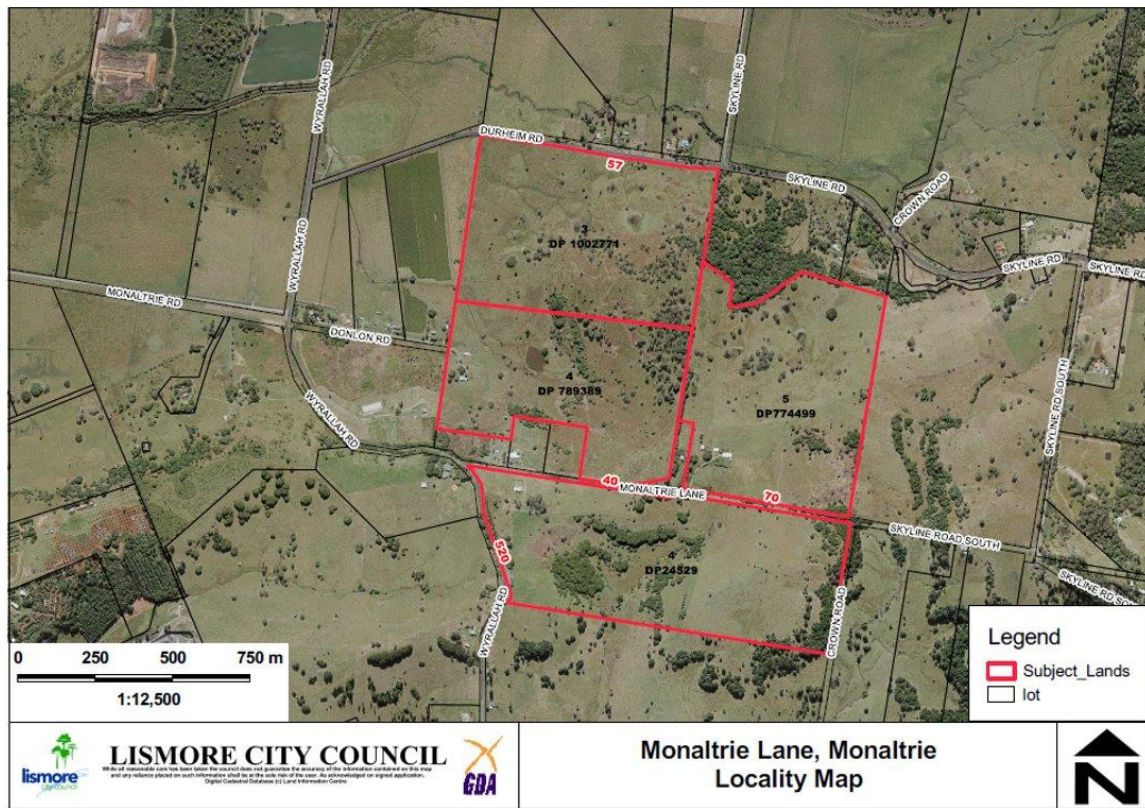


Figure 1

Aerial photograph of subject site and its surroundings

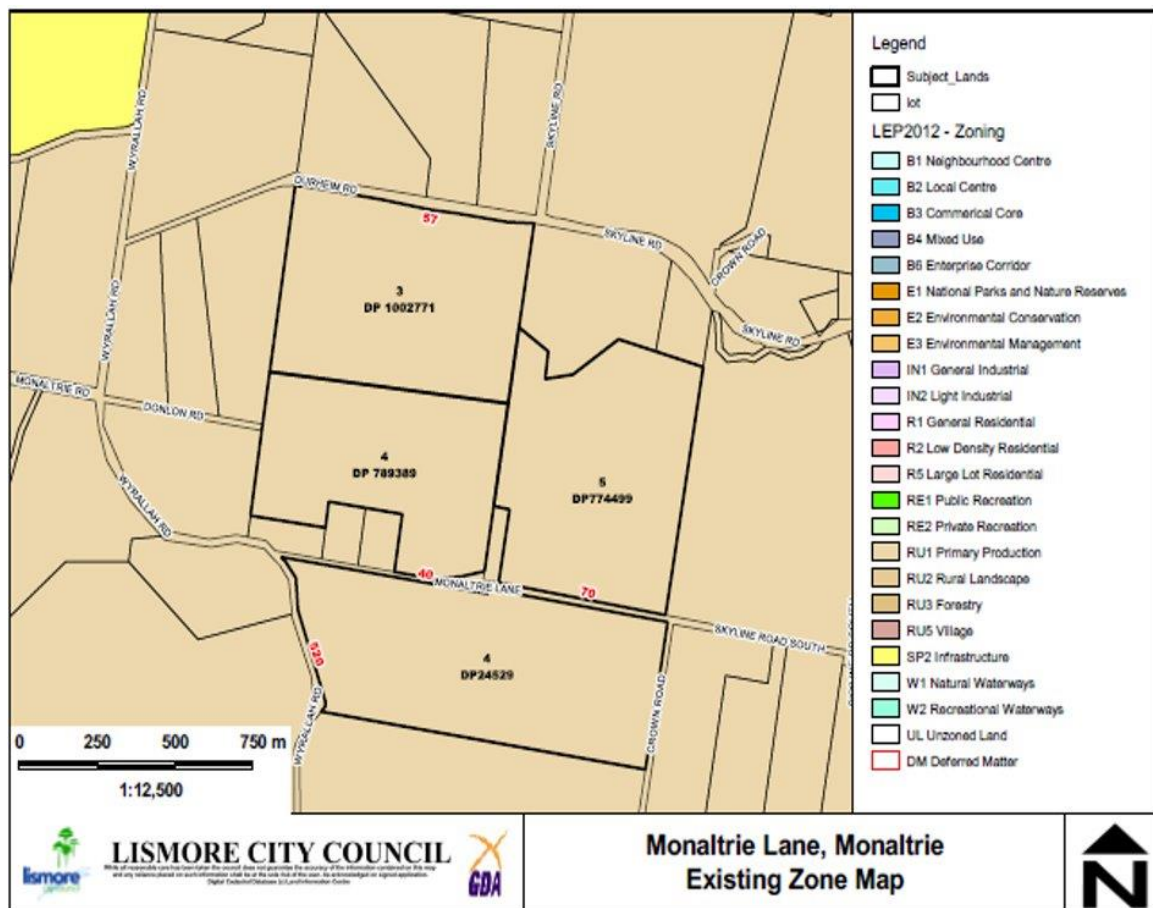


Figure 2 Current zoning in Lismore LEP 2012

Part 1 – Objectives or Intended Outcomes

Objective

The objective of this Planning Proposal is to enable future development of land at Durham Road, Wyrallah Road and Monaltrie Lane, Monaltrie for large lot residential purposes. This objective will be achieved through an amendment to the Lismore Local Environmental Plan 2012 (LEP 2012), specifically; the land zoning, minimum lot size and height of buildings maps. The proposed LEP maps are included in Appendix 3.

Intended outcomes

- Land provision conducive for well-designed large lot residential development.
- Increased supply and diversity of residential dwellings.
- Protection of environmental assets through C2 zoning.

Part 2 – Explanation of Provisions

The proposal seeks that the Lismore LEP 2012 maps sheets LZN_006AB, LSZ_006AB and HOB_006AB be amended as follows:

- a. Amend the Land Zoning Map to change part of the subject land from RU1 Primary Production to R5 Large Lot Residential and part of the subject land to C2 Environmental Conservation
- b. Amend the Lot Size Map to change part of the subject land from 40 hectares to 3,500m².
- c. Amend the Lot Size Map to change part of the subject land from 40 hectares to 1ha
- d. Amend the Lot Size Map to change part of the subject land from 40 hectares to 3ha
- e. Amend the Lot Size Map to change part of the subject land from 40 hectares to 5ha.
- f. Amend the Height of Buildings map to change the subject land from no maximum building height to a building height of 8.5 metres for the area proposed to be rezoned to R5 Large Lot Residential

Changing the land zone to R5 Large Lot Residential in conjunction with reducing the minimum lot size will allow subdivision into large residential lots each of which can be used for a dwelling. The applicant estimates that the subject land may yield between 100 and 120 lots. The proposed maps are shown in Appendix 3.

Part 3 – Justification

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal was the result of a local land use strategy, however that strategy is no longer in effect and the land is not identified in Council's most recently adopted strategy, the Growth and Realignment Strategy 2022.

The Lismore Growth Management Strategy 2015-2035 (GMS) was adopted by Lismore City Council in May 2015 and was conditionally approved by the Department of Planning and Environment on 11 August 2015. Map 27 of the GMS (shown in figure 3) identifies the subject land as being within a 'Potential Residential Release Area'. Page 74 of the GMS states the following in relation to the Monaltrie potential release area; *'...its location makes it an appropriate location to consider for large lot residential housing.'*

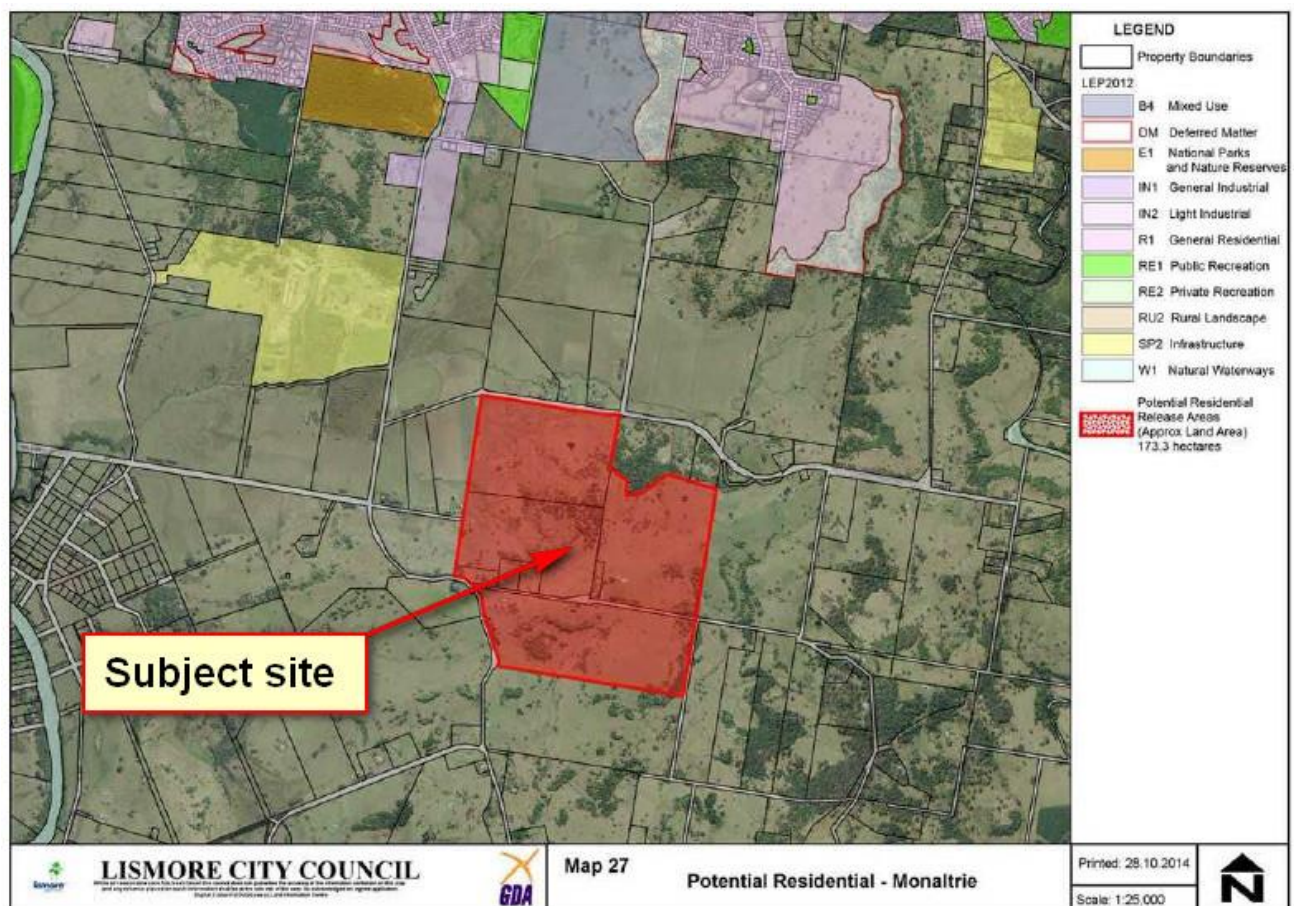


Figure 3 Subject Land shown in GMS 2015

The GMS 2015 was in force when this Planning Proposal was lodged in 2016. However, since the lodgement of the Planning Proposal Lismore's planning framework has significantly changed.

In 2020 the Local Strategic Planning Statement (LSPS) was adopted. Within the LSPS is a planning priority to consolidate growth around Lismore city, CBD and villages.

In 2022 the GMS 2015 was superseded by the Growth and Realignment Strategy 2022 (GRS). The GRS was adopted by Council in December 2022 and conditionally approved by the DPE in June 2023. In accordance with the LSPS priority of consolidating future growth around existing urban settlements, the subject site was not included in the GRS and therefore is no longer identified for residential rezoning in Council's growth strategy.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The intended outcomes are to provide for large lot residential land, improving Lismore's supply of this type of housing. For a development application to be considered for the subdivision and further development of the site, it is necessary to amend the Lismore LEP 2012 land zoning, minimum lot size and height of building maps.

Section B – Relationship to Strategic Planning Framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The Far North Coast Regional Strategy 2006-31 (FNCRS) was the overarching framework for the management of growth for the Far North Coast at the time the Planning Proposal was lodged. The FNCRS identified and promoted a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.

The FNCRS did not identify the site as a proposed future urban release area. In relation to rural settlement in non-coastal areas (all of Lismore LGA), the FNCRS stated that it should occur in accordance with existing local growth management strategies agreed to by the Department (pages 28 and 30). At the time of lodgement, the site was included in Lismore's GMS and in this regard the Planning Proposal was consistent with the FNCRS.

Since the lodgement of this Planning Proposal, the FNCRS has been replaced by the North Coast Regional Plan 2036 and again by the North Coast Regional Plan 2041.

This proposal is considered to be inconsistent with objectives 1, 3 and 18 of the North Coast Regional Plan 2041 (NCRP) as set out below.

Objective 1 sets the goal of providing well located homes to meet demand. Under this objective are the following strategies that are considered to be inconsistent with the planning proposal:

- Strategy 1.1 *"A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment."*;
- Strategy 1.4 *"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."*; and

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

As the site is no longer in a DPE approved strategy and will not contribute towards the targets set in Lismore City Council’s Affordable and Diverse Housing Strategy (2022), the proposal is not in accordance with objective 1 of the NCRP.

Objective 3 commits to the protection of regional biodiversity and areas of high environmental value. As the planning proposal is likely to have an impact upon the habit of a threatened species (koala), the proposal is inconsistent with this objective. A range of mitigation measures including the use of C2 zoning to protect areas of koala habitat and investigation as to the feasibility of establishing a Biodiversity Stewardship agreement on the site to support habitat compensation plantings are proposed to address these impacts.

Objective 18 is to plan for sustainable communities. Within this section of the Regional Plan are targeted actions that align with the Lismore RCAP (p.71), including; *“Protection and enhancement of vegetation to strengthen corridors that support koalas and other wildlife”*.

The proposal is inconsistent with this action.

Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan??

The Growth Management Strategy that was adopted and in place at the time of lodgement identified the site as a potential rural residential area.

However, as outlined in response to Q1 and Q4, the Planning Proposal is not consistent with the current planning framework, being the LSPS (adopted in 2020) and the GRS (adopted in 2022).

Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies??

All applicable state and regional plans have been discussed elsewhere within this Planning Proposal. No further studies or strategies apply.

Q6. Is the planning proposal consistent with applicable SEPPs?

A commentary of compliance of the planning proposal with the applicable SEPPs is provided at **Appendix 1**. The Planning Proposal is potentially inconsistent with the Biodiversity and Conservation SEPP.

Q7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) or key government priority?

A commentary of compliance of the planning proposal with these Ministerial Directions is provided at **Appendix 2**.

The Planning Proposal is inconsistent, or potentially inconsistent, with the following ministerial directions:

- 1.1 Implementation of Regional Plans
- 3.1 Conservation Areas
- 5.1 Integrating Land Use and Transport
- 6.1 Residential Zones
- 9.1 Rural Zones, and
- 9.2 Rural Lands

Section C – Environmental, Social and Economic Impact

Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The site contains areas of mapped primary and secondary koala habitat, as identified in Lismore Council's Comprehensive Koala Plan of Management (CKPoM) as shown below at Figure 4. The koala is listed as endangered in NSW under the Federal EPBC Act and as 'vulnerable to extinction' under the NSW Biodiversity Conservation Act, 2016.

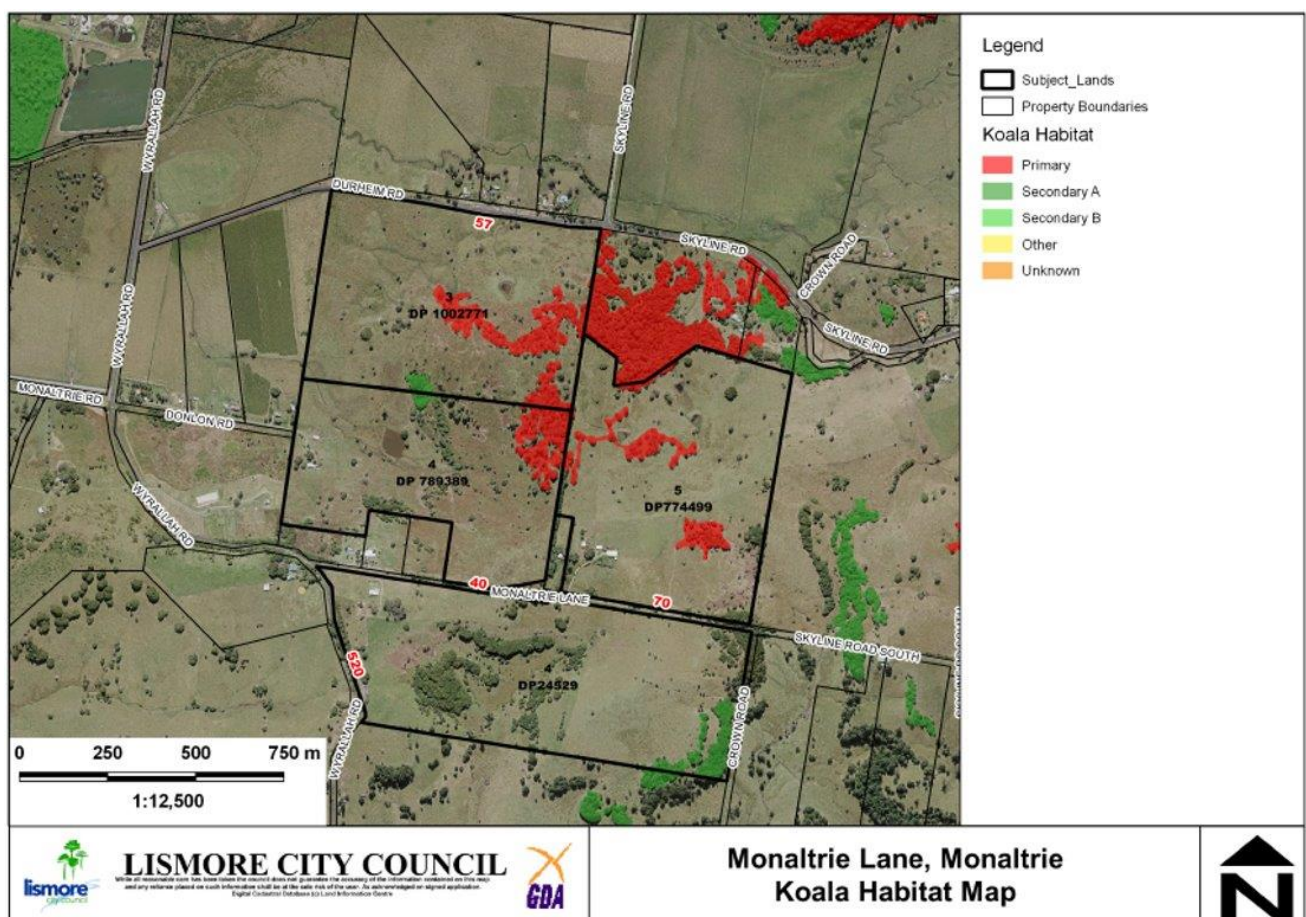


Figure 4 Koala Habitat Map

A preliminary assessment of the ecological values of the site (Blackwood Ecological Services, 2016) was prepared and submitted alongside the original proposal in 2016. It is provided as an attachment to this Planning Proposal.

Feedback from Council's ecologist and the Office of Environment and Heritage at that time suggested further work was required to be done to identify the presence and extent of Hairy Joint Grass (*Arthraxon hispidus*) and that a planning agreement or similar mechanism was incorporated to ensure revegetation was undertaken to maintain and enhance wildlife corridor function for koalas in the area. The Blackwood Ecological Services preliminary report also identifies the presences of the Rose-crowned fruit dove was recorded during a site assessment, which is listed as 'vulnerable' in NSW.

An Independent Review of Koala Matters (Greencap 2020) was supplied by the applicant which makes a range of recommendations including:

- Prohibition of dogs;
- Road speed limit of 40 km per hour where possible;
- Road design to incorporate warning signage and traffic calming measures; and
- Koala friendly fencing that enables free koala movement.

The Greencap report is also provided as an attachment. It also recommended investigations as to whether a Biodiversity Stewardship Agreement is suitable for the site and incorporation of design measure to ensure an east-west corridor is identified to facilitate koala movement to Wyrallah and Durham Roads.

The applicant has attempted to address impacts upon koalas and their habitat through the use of the C2 zoning and minimum lot size to limit the areas of future development and the mitigation measures recommended in the Greencap report. A structure plan has also been provided for the site which minimises roads in the proposed C2 areas. The proposed structure plan is shown at Figure 5.

Council's ecologist has provided detailed referral comments on the proposal, with the potential impact upon a known breeding koala population being the primary issue.

Koala habitat

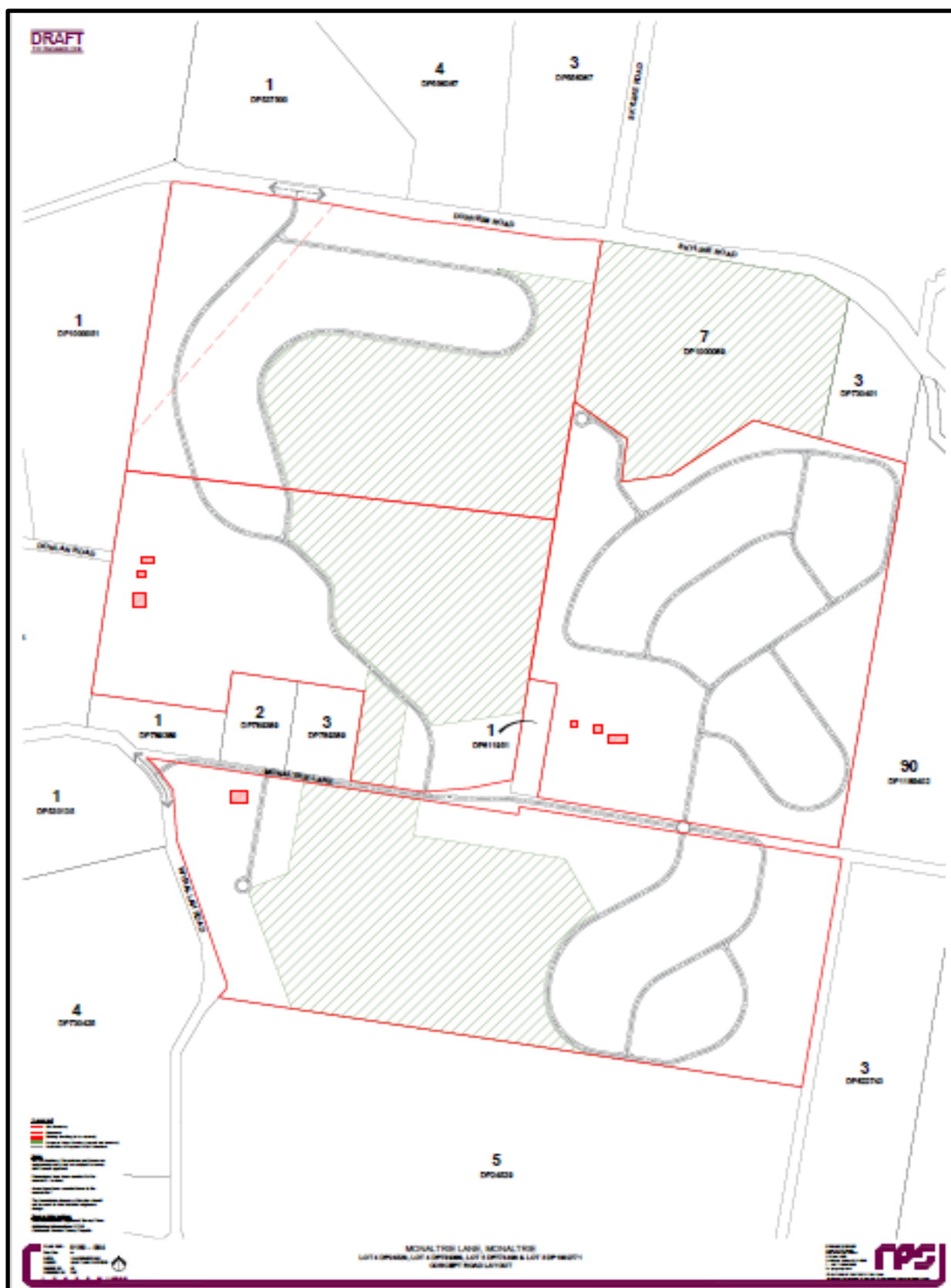
The sum of available information confirms that occupied core Koala habitat exists broadly all across the entire property; it occurs variously as patches and widespread scattered paddock trees. Some Koala habitat both primary and secondary is mapped on the Lismore Councils CKPoM mapping; It is noted that there is also a significant number of mature Koala food trees, mainly Forest Redgums, scattered throughout the property that are not recorded on the KPOM mapping. The trees in space represent an extensive area of primary koala habitat and provide for refuge, forage, connectivity and free movement east to west across the site.

The locality is a known koala population strong hold with evidence of intergenerational persistence; it is considered the population source of the Monaltrie Goonellabah, Treageagle locality.

The ecology referral identifies habitat loss, fragmentation, road mortality, changes in food availability and the risk of increased disease as potential impacts on koalas and their habitat. It concludes:

Potential impacts and mitigation measures

Potential impacts on biodiversity are not adequately identified in the Ecological Assessment and subsequent independent review by Greencap. Revised proposal designs submitted to council have attempted to respond to the concerns raised regarding protecting koala habit and free ranging movement of the population. Ultimately the proposed mitigation measures will continue to fall short as they continue to neglect to consider the high value of scattered paddock trees, free movement for koalas throughout the landscape. There is no substantive evidence presented that supports the long-term successful implementation of the proposed mitigation measures such as fencing and a north-south corridor.



Q9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

The planning proposal has potential to generate other environmental effects. Other considerations include:

Impacts on water quality - onsite wastewater disposal systems will need to meet Council standards. Stormwater controls (quality and quantity) will be required as part of any future subdivision.

Flooding - the north-west corner of the subject land (approximately 0.6 hectares) is predicted to be affected by the 1 in 100 year ARI flood event. This area is not proposed for rezoning. Other parts of the site are shown to be impacted by the Probable Maximum Flood (PMF) event. Any future housing will be required to be above the flood planning level. On this basis no further flood information or assessment is required.

Traffic generation - A detailed traffic impact analysis will be required post-Gateway.

Bushfire prone land – Figure 6 shows the areas of the land mapped as being bushfire prone. A bushfire hazard assessment has not been undertaken for the site. This report will be required post-Gateway and before referral to the Rural Fire Service. It would also need to address Planning for Bushfire Protection guidelines.

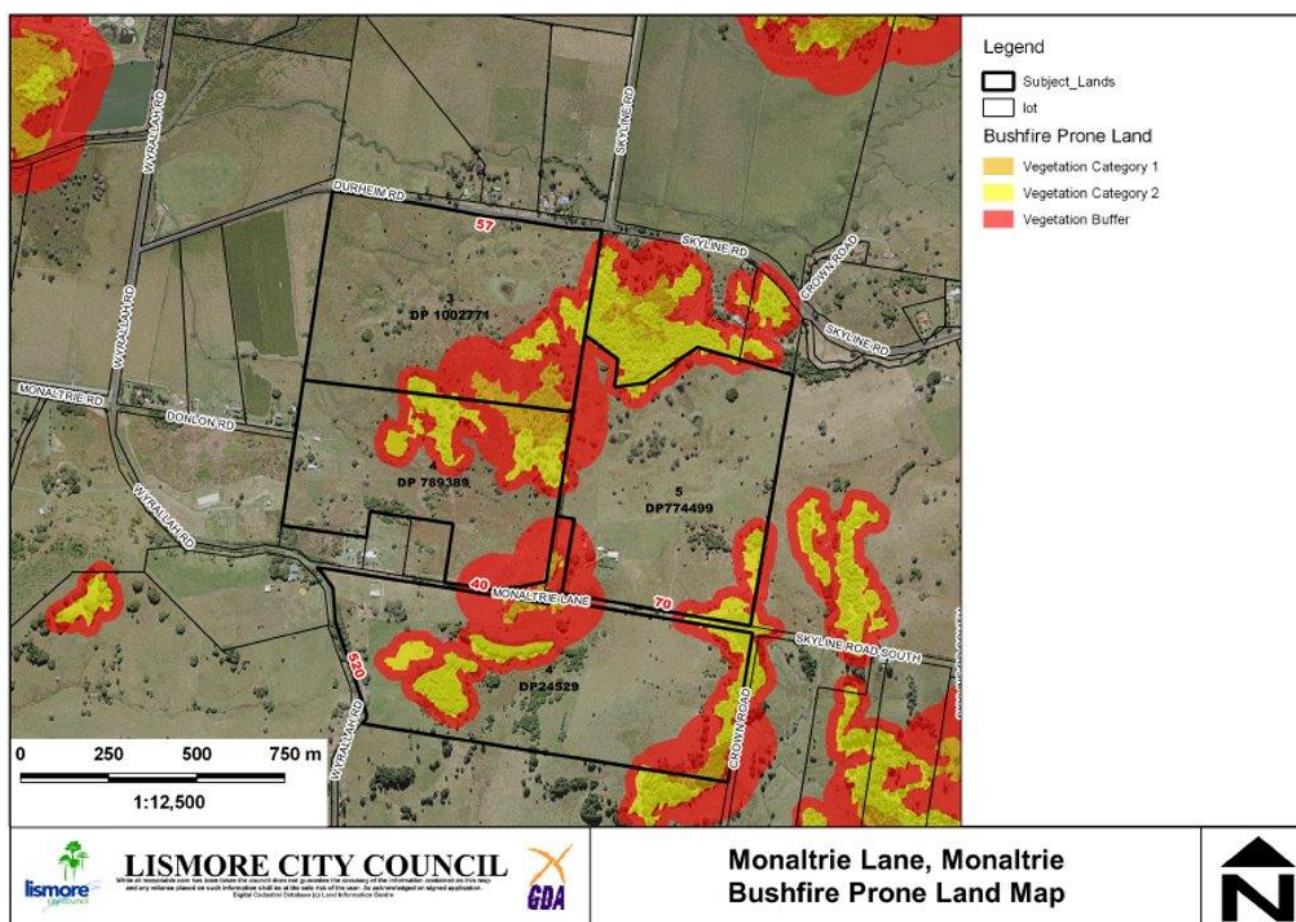


Figure 6 Bushfire Prone Land

Geotechnical instability – The slope of the land varies from level in the north east corner of the site through to a classification of ‘hilly’ (20-33%) as it rises towards the plateau. Parts of Lots 3 DP 1002771 and Lot 4 DP 789389 are identified in Council’s GIS as being potentially subject to mass movement. A preliminary geotechnical assessment was undertaken in 2016, identifying that parts of the site with a slope in excess of 25% are not likely to be suitable for rural residential use or wastewater disposal. These areas are proposed to be within the C2 zone. It is recommended that a detailed geotechnical report is submitted post-Gateway.

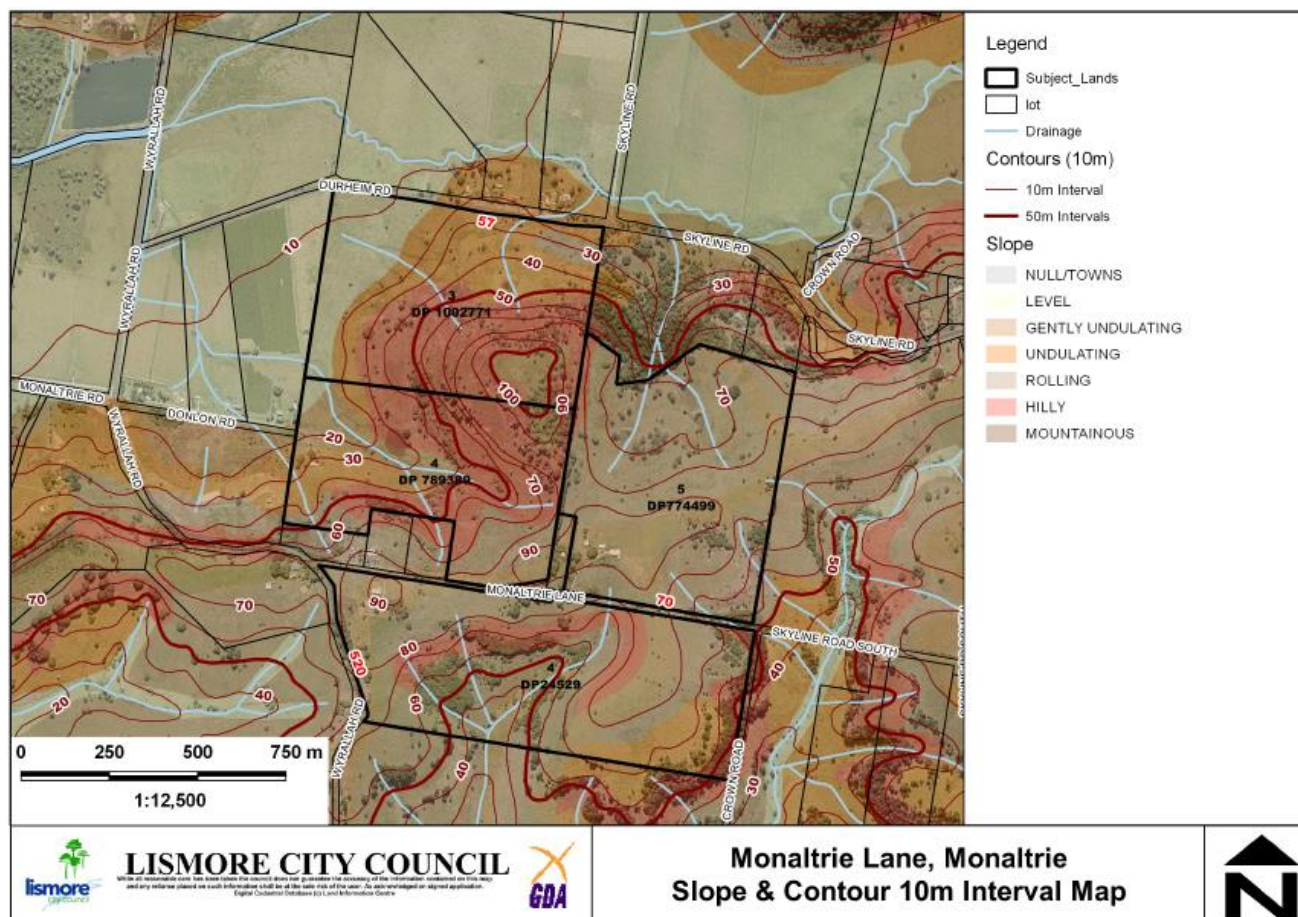


Figure 7 Topography

Contaminated Land – Historically, the site has predominantly been used for cattle grazing. It is not identified in Council’s GIS as being potentially contaminated. A preliminary contaminated land assessment has not been carried out and it is anticipated this will be required as a condition pre or post Gateway determination.

Q10. Has the planning proposal adequately addressed any social and economic effects?

Land use conflict

The subject land is surrounded and nearby to a number of rural, infrastructure and recreational land uses including:

- cattle grazing – adjoining land
- a golf driving range - corner of Durham and Wyrallah Road
- a shooting range – 700 m to the north along Wyrallah Road
- a sewage treatment plant – 700 m to the north along Wyrallah Road

Permitting rural residential development will increase the potential for land use conflict. It is recommended that a Land Use Conflict Risk Assessment (LUCRA) be prepared post-gateway should the proposal proceed. This would enable a proper consideration of potential land use conflict that may result from the planning proposal.

Indigenous Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) database did not reveal any records of Aboriginal sites or places on the subject land or adjoining land. The site is not mapped as containing any Aboriginal or European cultural heritage items or values and is not listed in Schedule 5 Environmental heritage of the Lismore LEP 2012. The applicant has not submitted an assessment of Aboriginal cultural heritage but did inspect the site with the Ngulingah LALC (NLALC) sites officer on 17 August 2016. NLALC advised that it considered the site unlikely to have Aboriginal significance and the proposed development is not likely to have Aboriginal heritage impacts. However, Council's Cultural Heritage Contractor has advised that, due to the ridge top location and vantage points to nearby known elevated culturally important places (such as Parrots Nest, Wilsons NR, North Lismore Plateau, The Pinnacle, Nightcap Range, Wollumbin summit), it is probable that the site may have cultural landscape significance irrespective of having no recorded Aboriginal sites or places of significance.

The site may also include traditional pathway routes amongst the ridge complex linking the areas of Tregeagle, Wyrallah and Tucki Tucki to the south east to the Wilson River flats to the north-west around what is now Lismore CBD. These localities contain both recorded and unrecorded (but known) Aboriginal Sites. The subject site may also be part of a possible route from the lowlands of Wyrallah and Monaltrie to the south and west to the culturally significant (but unrecorded) Wilsons Nature Reserve and Girards Hill to the north-west, as well as the plateau of Goonellabah to the north.

It is therefore appropriate that an Aboriginal Cultural Heritage Assessment be prepared post-Gateway.

Economic impact

Any development that may potentially result as a consequence of the Planning Proposal will likely generate a positive economic effect through the subdivision and then residential development phase. The increased large lot residential land that would result from the planning proposal would positively contribute to Lismore's identified housing supply.

Farmland

None of the land is mapped as Regional or State Significant Farmland under the Northern Rivers Farmland Protection Project 2005. The site is mapped as being Class 4 and 5 agricultural land with two small areas of Class 3 agricultural land on the western edge of the site. The land is only suitable for grazing, and due to the steep slope and surface rock present over a substantial part of the site, is difficult to maintain quality pasture over parts of the site. The development of the land for large lot residential purposes will not substantially reduce the agricultural potential or production of the locality or region.

Overall, no significant adverse social or economic effects are anticipated as a result of this planning proposal.

Section D – State and Commonwealth Interests

Q11. Is there adequate public infrastructure for the planning proposal?

Roads and traffic

The subject land has road frontage to Durham Road, Monaltrie Lane and Wyrallah Road. The applicant's preliminary site design shows likely site access will be achieved from Wyrallah and Durham Roads. Council's Engineer has assessed the proposal and advised that a detailed traffic impact assessment should be undertaken for both Wyrallah Road and Durham Road including intersection analysis for both post-Gateway.

On-site sewage management

A preliminary assessment of the potential of the site to accommodate on-site wastewater management was submitted with the planning proposal. This assessment found that a substantial part of the site is highly constrained for on-site wastewater disposal. Council's Environmental Health Officer has reviewed the report and advised that it is sufficient to enable assessment of the planning proposal at pre-Gateway stage. The proposed minimum lot sizes for the R5 zone areas appears to be sufficient in principle to deal with on-site wastewater. Council's Environmental Health Officer has recommended a more detailed assessment can be provided at the DA stage once a more detailed structure or subdivision plan of the site has been developed.

Potable Water

No reticulated water is available to the site. On site tanks for each dwelling are the anticipated source of potable water.

Electricity Supply

Existing houses on the site are serviced by overhead power lines. An overhead 66kV transmission line traverses Lot 3 DP 1002771. No issues are anticipated with the provision of electricity. Essential Energy have requested that Council advise them when land is proposed for rezoning so that any network upgrades can be planned for.

Developer contributions

A section 94 contributions plan for Lismore LGA was adopted by Council in 2014. A revision of that plan is currently underway. Contributions for public infrastructure will apply to any new lots created once the LEP has been amended.

Q12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Commonwealth public authorities have not been formally involved in this planning proposal as it is yet to receive a Gateway determination. At this early stage it appears unlikely that there will be any issues of interest to Commonwealth authorities other than CASA (in relation to Lismore Airport).

The site is not affected by Lismore airport noise but is within mapped area for Obstacle Height Limitation Surfaces and the PANS-OPS surfaces for the airport. It is recommended that both CASA and the Lismore airport manager be consulted on this planning proposal pre-Gateway determination.

The planning proposal was previously referred to the Office of Environment and Heritage in December 2016 after a request from that agency for early referrals of Planning Proposals.

Preliminary OEH comments and a staff assessment are provided in Table 1. The full response from the OEH can be found at attachment 3.

Table 1 Preliminary Comments from Office of Environment and Heritage

OEH Comments	Staff Response
<p><u>Hairy Joint grass</u></p> <ul style="list-style-type: none"> Targeted surveys to determine the presence, location and extent of Hairy Joint-grass in the planning areas should be undertaken during the growth season of this species. If subsequent targeted surveys identify Hairy Joint-grass in the planning area then land containing this species should be included within an E2 zone. 	<ul style="list-style-type: none"> The requirement of an additional survey of the site for Hairy Joint-grass conducted at the appropriate time of year (generally late spring – autumn) is supported and is recommended as a condition of any Gateway determination. Council's ecologist considers that Hairy Joint-grass generally persists well under a regime of cattle grazing and can be out-competed by exotic grasses if active management is not undertaken when grazing is removed. If a population of Hairy Joint-grass is found to occur at the site, appropriate long-term management for this species in this case may be to retain this area within the existing RU1 zoning and to retain the current land use (cattle grazing). Neither a C2 zone nor a R5 zone may be appropriate but this will depend on the extent of any such areas if they occur on the site at all. The proposed zone of any area can be determined when further information is available. The additional information and the Planning Proposal will be referred to the Biodiversity Conservation Division (BCD) of DPE for further comment prior to any public exhibition.
<p>All areas of high conservation value in the planning area identified in the ecological assessment should be zoned E2 – Environmental Conservation. (Now Zone C2).</p>	<p>The applicant has modified the proposal the proposal so that areas of high conservation value are designated as C2.</p>
<p>In circumstances where areas of high ecological value are to be located within an R5 zone the impacts of future residential development should be offset using an appropriate offsetting biometric such as the BioBanking Methodology as part of the planning proposal.</p>	<p>Any Koala habitat that is to be removed for the development (would largely be limited to removal of isolated Forest Red Gum trees) will be appropriately compensated for through Council's Comprehensive Koala Plan of Management for South-east Lismore. This compensatory plantings/ habitat rehabilitation (directed by a VMP) will be required to be</p>

	undertaken within gaps within the proposed C2 zone.
The planning proposal should be revised to include an area to be revegetated for maintaining and enhancing east-west wildlife corridor function through the planning area. The nominated wildlife corridor area should be subject to an appropriate mechanism, such as a planning agreement, to protect remnant native vegetation in that area and facilitate future native vegetation enhancement to improve and sustain wildlife corridor function	A structure plan has been provided by the applicant and shown at Figure 5. The green hatched areas are the proposed koala corridor which generally aligns with the proposed C2 Zoned areas. Further mechanisms suggested by OEH to protect and enhance native vegetation and the wildlife corridor function of the site will need to be addressed as a condition of any Gateway determination.
The planning proposal should consider alternate flood evacuation routes for future residents if required.	The need for an alternative vehicle access for flood evacuation purposes is not considered necessary by Council.
The planning proposal does not raise any concerns with regard to Aboriginal cultural heritage at this stage.	Noted.

It is proposed that the authorities listed below are consulted in relation to this planning proposal should it proceed to gateway:

- Rural Fire Service
- Department of Primary Industries
- DPE's Biodiversity Conservation Division
- CASA
- Lismore Airport Manager

Part 4 – Maps

Appendix 3 contains the existing and proposed LEP Maps.

Part 5 – Community Consultation

Council will conduct community consultation in accordance with any Gateway determination. Public exhibition will be undertaken in accordance with the DPE *Local Environmental Plan Making Guideline – August 2023* and Council's Community Participation Plan.

Part 6 – Project Timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

Plan Making Steps	Estimated Timeframe
Submit Planning Proposal to DPE	October 2023
Gateway Determination Issued (or not supported)	November 2023

Amend Planning Proposal report in accordance with Gateway and seek additional technical reports as required.	December 2023
Commence agency consultation	February 2024
Commence Public Exhibition	March 2024
Consideration of submissions	April 2024
Report to Council – agency consultation and submission analysis	May 2024
Submission to Department for finalisation	June 2024
Gazettal of LEP amendment	July 2024

Conclusion

This planning proposal seeks to amend Lismore LEP 2012 to permit large lot residential subdivision of land at Durham Road, Wyrallah Road and Monaltrie Lane, Monaltrie as outlined in this report.

It is noted that the planning proposal is inconsistent with several Ministerial Directions and objectives of the North Coast Regional Plan 2041. The proposal is also inconsistent with Planning Priority 1 of the Lismore Local Strategic Planning Statement (2020) and is not identified within the Growth and Realignment Strategy (2022). The Planning Proposal was originally lodged with Council in 2016 and was consistent with the Planning framework at that time.

A report was presented to Lismore councillors in August 2023, with the staff recommendation not to progress the planning proposal. However, this view was not supported by the elected Council, which resolved that;

1. *officers finalise the Planning Proposal and submit it to the Department of Planning and Environment for Gateway Determination*
2. *proceed to public exhibition of the Planning Proposal, in accordance with any requirements of a Gateway determination*
3. *officers report back to Council upon conclusion of the public exhibition*

Lismore Council is therefore seeking a Gateway Determination in accordance with the resolution of Council.

APPENDIX 1

Assessment against State Environmental Planning Policies

State Environmental Planning Policy	Requirements	Compliance
<p>SEPP Biodiversity and Conservation 2021</p> <p><i>(Previously Koala Habitat Protection 2020 and 2021 and others)</i></p>	<p>Chapters 3 and 4 Koala habitat protection provides for CKPOMs.</p>	<p>Consistent pending further investigation.</p> <p>The Comprehensive Koala Plan of Management for South East Lismore applies to the land.</p> <p>The site is mapped as containing areas of primary and secondary koala habitat. Areas of the subject land that contain breeding Koala colonies are proposed to be rezoned to C2 Environmental Conservation and will not be subject to residential development.</p> <p>An area of approximately 7ha of primary koala habitat is mapped on the adjoining land to the north.</p> <p>Further assessment is required in accordance with the provisions of the CKPOM.</p>
<p>SEPP Resilience and Hazards 2021</p> <p><i>(Previously Remediation of Land (55), Coastal Management and Hazardous and Offensive Development (33))</i></p>	<p>4 Remediation of Land</p> <p>The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—</p> <ul style="list-style-type: none"> by specifying when consent is required, and when it is not required, for a remediation work, and by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and by requiring that a remediation work meet certain standards and notification requirements 	<p>Pending investigation.</p> <p>A preliminary contaminated land assessment has not been undertaken. It is recommended an assessment be undertaken post-Gateway determination.</p>
<p>SEPP Transport and Infrastructure</p> <p><i>(Previously Infrastructure and others)</i></p>	<p>No specific requirement regarding rezoning land.</p>	<p>Consistent.</p>

State Environmental Planning Policy	Requirements	Compliance
<p>SEPP Primary Production</p> <p><i>(Previously Primary Production and Rural Development and other)</i></p>	<p>2 Primary Production and rural development</p> <p>The aims of this Chapter are as follows—</p> <ul style="list-style-type: none"> (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts, (e) to encourage sustainable agriculture, including sustainable aquaculture, (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture, (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors. 	<p>Consistent.</p> <p>The site is mapped as being Class 4 agricultural land. Due to its agricultural class, lot size and topography the subject site is considered to have limited agricultural potential. No part of the site is identified as 'Regionally Significant Farmland' under the Northern Rivers Farmland Protection Project 2005.</p> <p>The site was identified in the Lismore Growth Management Strategy 2015-2035 as being 'potential residential release area'. In developing the GMS Council had regard to the Rural Planning Principles of the SEPP. The identification of the land as potential residential land is considered to be an orderly and economic use of the land.</p> <p>A Land Use Conflict Risk Assessment will be prepared post Gateway determination to ensure that development of the land will not result in land use conflict that cannot be resolved.</p>

APPENDIX 2

Assessment against section 9.1 Ministerial Directions

Ministerial Direction	Requirements	Compliance
1. Planning Systems		
1.1 Implementation of Regional Plans	Planning Proposals must be consistent with a Regional Plan released by the Minister for Planning.	Inconsistent. The Planning Proposal is inconsistent with objectives 1, 3 and 18 of the NCRP as explained in response to Q3 of this report.
1.2 Development of Aboriginal Land Council land	Not applicable	Not applicable.
1.3 Approval and Referral Requirements	A Planning Proposal should not contain provisions requiring concurrence, consultation or referral of a Minister or public authority without approval from the relevant Minister or public authority; and the Director General of the Department of Planning. It must not identify development as designated development unless justified.	Not applicable. No such provisions are proposed.
1.4 Site Specific Provisions	A Planning Proposal to allow a particular land use to be carried out must either; (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	Not applicable.
1. Planning Systems – Place Based		
1.5 – 1.22	Not applicable	Not applicable
3. Biodiversity and Conservation		
3.1 Conservation Zones	(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards	Potentially Inconsistent The Planning Proposal has identified a portion of the land that is environmentally sensitive and as such is seeking to zone this as C2 Environmental Conservation. However the impact of future residential development on

Ministerial Direction	Requirements	Compliance
	that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands"	land directly adjacent to the proposed C2 zones is considered to be potentially significantly harmful and is not expected to sufficiently facilitate the protection and conservation of environmentally sensitive areas in accordance with cl (1) of this direction. The areas proposed for C2 zoning contains primary koala habitat. The structure plan shows a road dissecting the proposed koala corridor and the ongoing impact of residential development (traffic, pets, pools, fences etc) presents a significant risk for the koala population in this area.
3.2 Heritage Conservation	Planning proposal must incorporate provisions for conservation of European and Aboriginal heritage items or places.	Pending further investigation. No items or sites of European cultural heritage are known to occur on the subject land. Assessment of Aboriginal cultural heritage values required and to be carried out post gateway.
3.3 Sydney Drinking Water Catchments	Not applicable	Not applicable
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	A planning proposal that introduces or alters an C2 Environmental Conservation or C3 Environmental Management zone or an overlay and associated clause must apply that proposed C2 Environmental Conservation or C3 Environmental Management zone, or the overlay and associated clause, in line with the Northern Councils E Zone Review Final Recommendations	Consistent The C2 <i>Environmental Conservation</i> zone is proposed for the portion of land containing Key Threatened Species Habitat, in accordance with table 1 of the Northern Councils E Zone Review Final Recommendations.
3.5 Recreation Vehicle Areas	Not applicable	Not applicable
3.6 – 3.10	Not applicable	Not applicable
4. Resilience and Hazards		

Ministerial Direction	Requirements	Compliance
4.1 Flooding	This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	Consistent. A small part of the land is identified as being flood prone. This portion of the land is not proposed to be rezoned.
4.2 Coastal Management	This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.	Not applicable
4.3 Planning for Bushfire	A Planning Proposal in bush fire prone land: (a) Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination and prior to community consultation. (b) Have regard to Planning for Bush Fire Protection 2019. (c) Restrict inappropriate development from hazardous areas. Ensure bush fire hazard reduction is not prohibited within the APZ.	Pending consultation with RFS. This Direction applies to the planning proposal as some of the subject land is mapped as bushfire prone land. Advice from the RFS will be sought post-gateway.
4.4 Remediation of Contaminated Land	This direction applies when a planning proposal authority prepares a planning proposal that applies to: (a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997, (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out, (c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land: i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and ii. on which it would have been lawful to carry out such development during any period in respect	Pending investigation If progressed, a contamination assessment will be carried out following gateway determination.

Ministerial Direction	Requirements	Compliance
	of which there is no knowledge (or incomplete knowledge).	
4.5 Acid Sulfate Soils	This direction applies when a planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils.	Not applicable..
4.6 Mine Subsidence and Unstable Land	Applies to mine subsidence areas Applies to areas identified as unstable.	Pending investigation Further assessment of geotechnical stability required.
5. Transport and Infrastructure		
5.1 Integrating Land Use and Transport	<p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).</p> <p><i>Improving Transport Choice</i> (p34) states “New residential areas should:</p> <ul style="list-style-type: none"> • adjoin or be within the existing urban footprint or located on new public transport corridors — pockets of development should not be isolated, except in the short-term — this includes staged release areas ‘ • be substantially within five kilometres of an existing or programmed railway station or equivalent mass transit node, such as a transitway stop, served at least every 15 minutes in the peak hour, and conform to the accessibility criteria outlined above.” 	<p>Potentially Inconsistent.</p> <p>The site is not adjoining the existing urban footprint, not on a new public transport corridor and is not substantially within 5km (along a road network) of a railway station as required under the DUAP 2001, noting that there is no active railway service in the Lismore area. The site is within 5km of the 683 bus which services Lismore, Lismore Heights and Southern Cross University.</p> <p>Development of the subject site will mean additional households accessing services and facilities in the Lismore and Goonellabah urban centres via private vehicle use.</p>
5.2 Reserving Land for Public Purposes	A Planning Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Director General of the Department of Planning.	Not applicable.
5.3 Development Near Regulated Airports and Defence Airfields	This direction applies to all relevant planning authorities when preparing a planning proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.	<p>Pending investigation</p> <p>Part of the subject site is located within 4km of the Lismore Airport.</p> <p>The western part of the site is within the 4km Obstacle Aircraft Buffer. The site is not within the mapped runway approaches and the proposed</p>

Ministerial Direction	Requirements	Compliance
		<p>maximum height of buildings provision means that future development is not likely to create an obstacle for aircraft using the airport. The site is not mapped as being within any ANEF contours.</p> <p>If progressed, the proposal should be referred to the airport authority post gateway.</p>
5.4 Shooting Ranges	This direction applies to all relevant planning authorities when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	<p>Pending investigation. Part of the subject land is within 500 metres of a shooting range which is located to the north on Wyrallah Road. It is recommended a Land Use Conflict Risk Assessment be prepared and submitted post-gateway should the proposal proceed to ensure proper consideration of potential impacts from, and on, the shooting range.</p>
6. Housing		
6.1 Residential Zones	<p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <p>(a) broaden the choice of building types and locations available in the housing market, and</p> <p>(b) make more efficient use of existing infrastructure and services, and</p> <p>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design.</p> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <p>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>(b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>Potentially Inconsistent. This Planning Proposal would broaden the choice of building types available in the housing market. The proposal provides for large lot residential lots that may attract new residents to the area. The lots would accommodate on-site wastewater disposal and rainwater harvesting and would not rely on infrastructure and servicing needs.</p> <p>The proposal does not reduce the consumption of land and associated urban development on the urban fringe.</p>
6.2 Caravan Parks and Manufactured Home Estates	Not applicable	Not applicable
7. Industry and Employment		

Ministerial Direction	Requirements	Compliance
7.1 Business and Industrial Zones	Not applicable	Not applicable
7.2 Reduction in non-hosted short-term rental accommodation period	Not applicable	Not applicable
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	Not applicable
8. Resources and Energy		
8.1 Mining, Petroleum Production and Extractive Industries	Not applicable	Not applicable
9. Primary Production		
9.1 Rural Zones	A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	<p>Inconsistent. This Planning Proposal seeks to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential.</p> <p>As the site is no longer within a DPE approved local strategy nor in accordance with the adopted Regional Plan it is not considered to be justifiably inconsistent.</p>
9.2 Rural Lands	<p>1. A planning proposal must:</p> <p>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</p> <p>(b) consider the significance of agriculture and primary production to the State and rural communities</p> <p>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</p> <p>(d) consider the natural and physical constraints of the land, including but not limited</p>	<p>Inconsistent</p> <p>The site is not in accordance with the NCRP and does not align with (1)(a) of this direction.</p> <p>The environmental values of the existing koala habitat may not be sufficiently protected and therefore the proposal is potentially inconsistent with (1)(c) of this direction.</p> <p>The rezoning of this site will lead to fragmented rural land contrary to (2)(a) of this direction. However, in accordance with (1)(b), the significance of the agricultural value has been considered.</p>

Ministerial Direction	Requirements	Compliance
	<p>to, topography, size, location, water availability and ground and soil conditions</p> <p>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</p> <p>(f) support farmers in exercising their right to farm</p> <p>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</p> <p>(h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</p> <p>(i) consider the social, economic and environmental interests of the community.</p> <p>(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:</p> <p>(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses</p> <p>(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains</p> <p>(c) where it is for rural residential purposes:</p> <p>i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres</p> <p>ii. is necessary taking account of existing and future demand and supply of rural residential land</p>	<p>The subject land is mapped being primarily Class 4 and 5 agricultural land. Almost all of the site consists of slopes greater than 10%. It is considered that the land has limited agricultural potential. Therefore, if supported, the Planning Proposal would not substantially reduce the current and potential agricultural opportunities in the locality.</p>
9.3 Oyster Aquaculture	Not applicable.	Not applicable.
9.4 Farmland or State and Regional Significance on the NSW Far North Coast	<p>A planning proposal may be inconsistent with the terms of this direction only if council can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the planning proposal is consistent with:</p> <p>(a) the North Coast Regional Plan 2036, or</p>	<p>Consistent.</p> <p>None of the subject site is identified as State or Regionally Significant Farmland by the Northern Rivers Farmland Protection Project 2005.</p>

Ministerial Direction	Requirements	Compliance
	(b) Section 4 of the report titled Northern Rivers Farmland Protection Project - Final Recommendations, February 2005, held by the Department of Planning and Environment.	

APPENDIX 3 - Maps

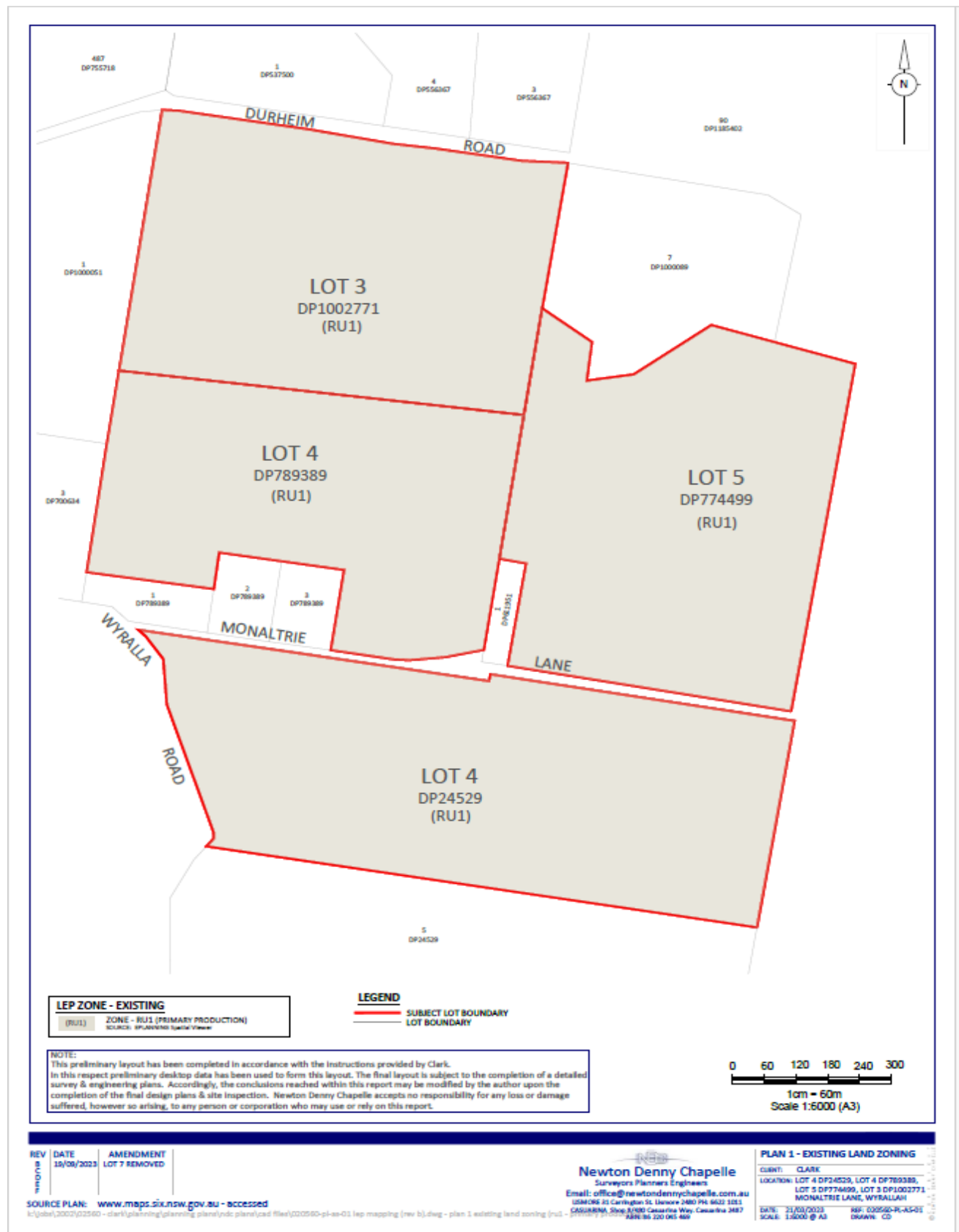


Figure 8: Existing Land Zoning

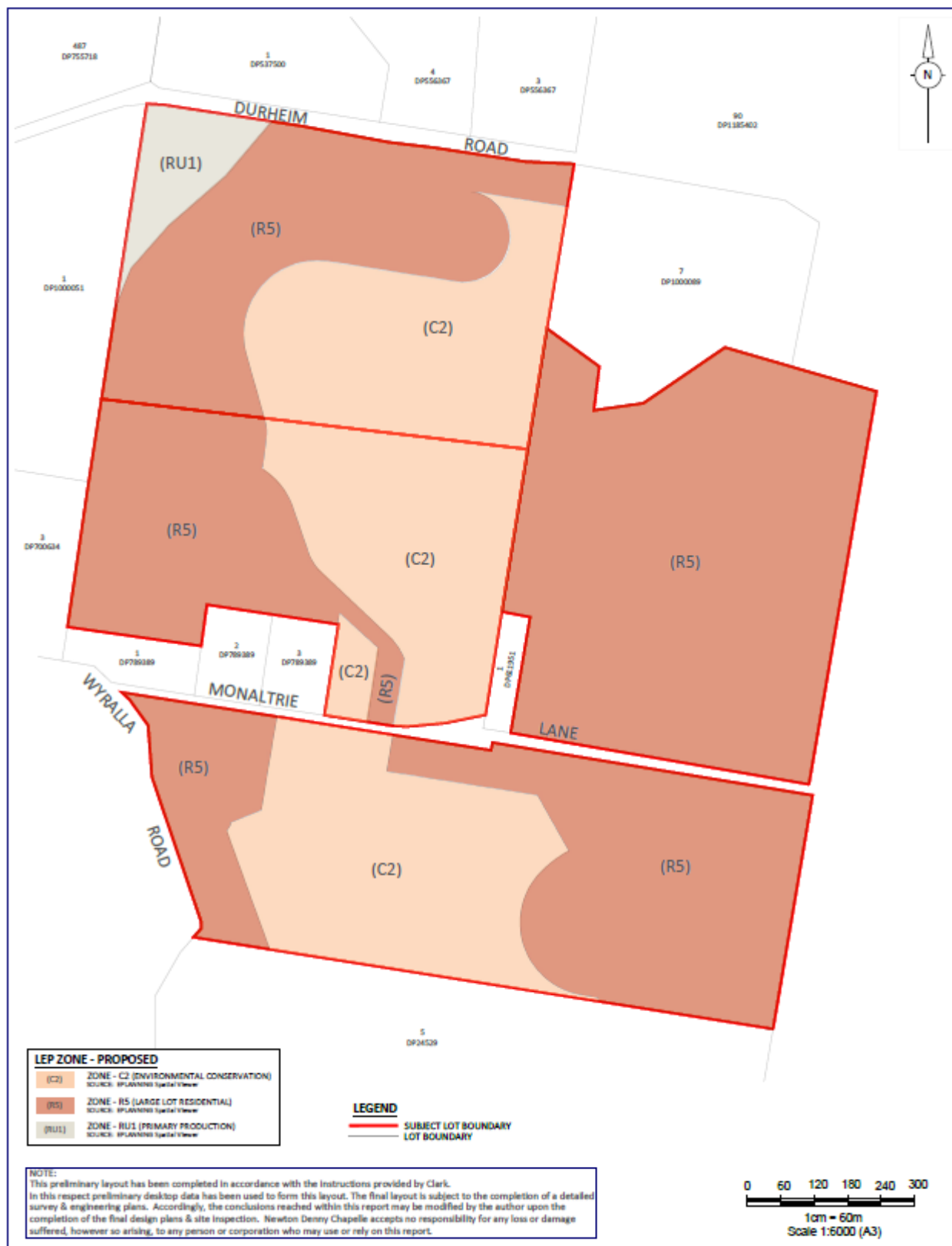


Figure 9: Proposed Land Zoning

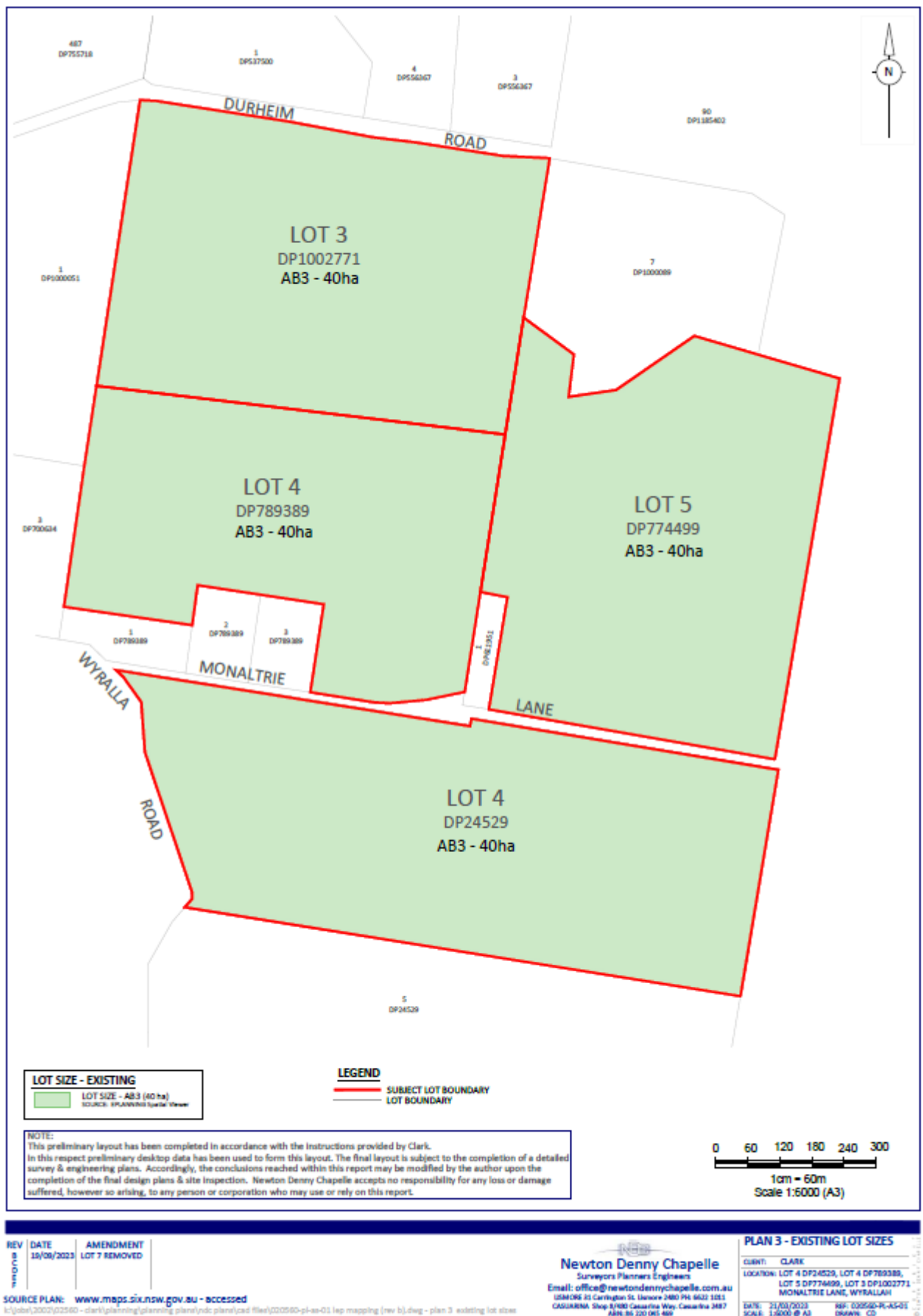
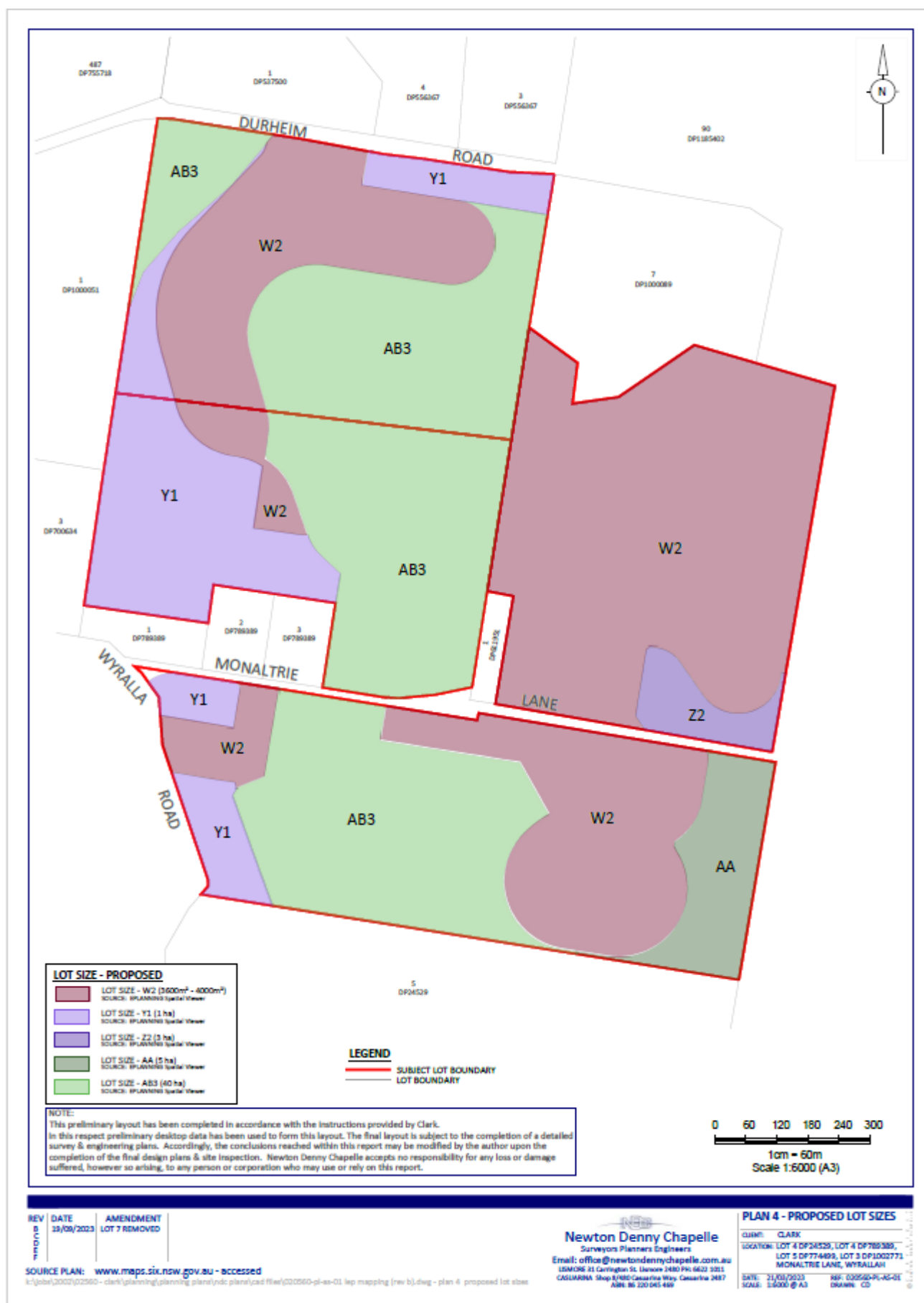


Figure 10: Existing Minimum Lot Size



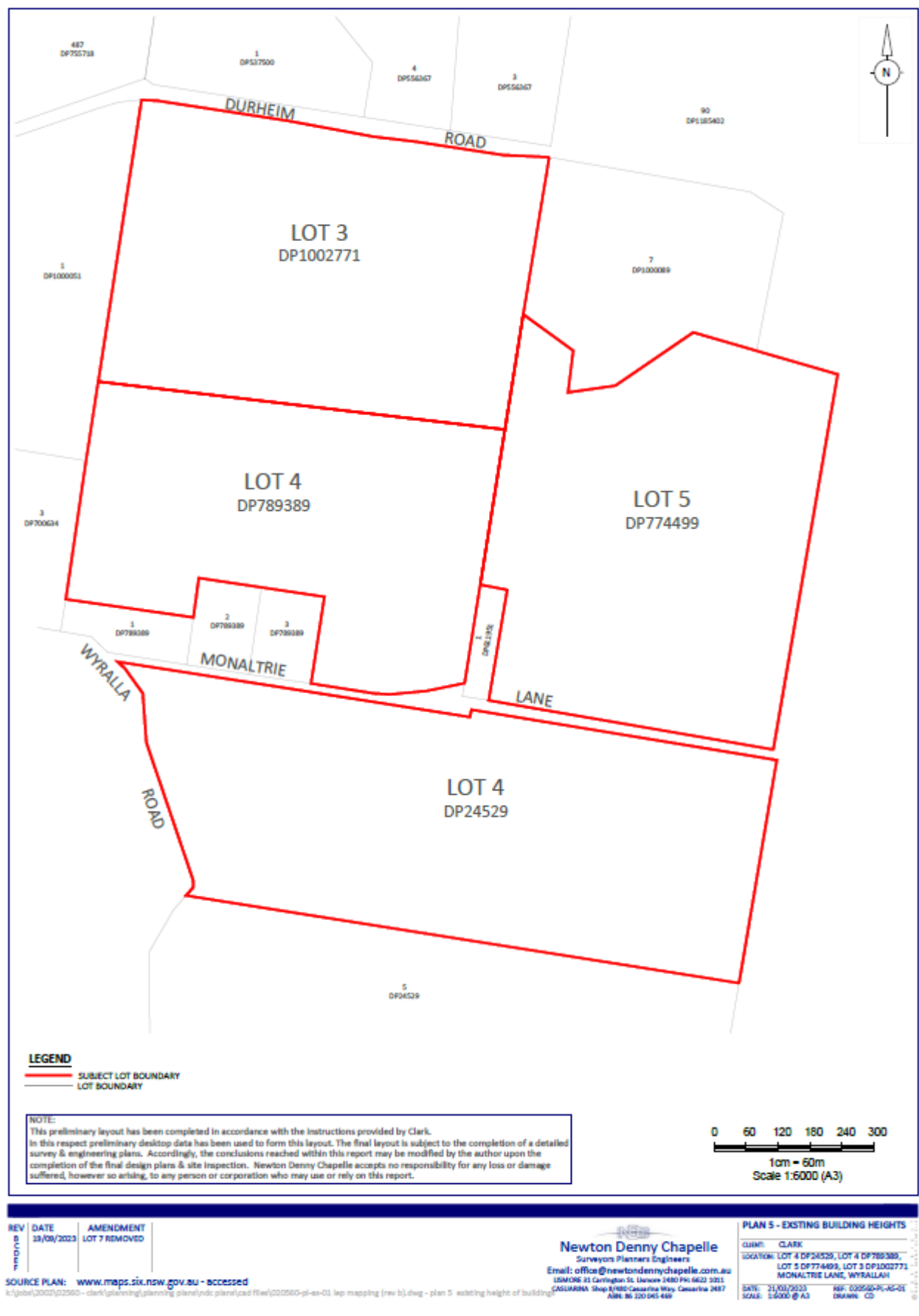


Figure 12: Existing Height of Building



Figure 13: Proposed Height of Buildings