



IRF 22/2665

## Gateway determination report – PP-2024-854

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Rezone Lots 832 & 833 DP 847683, corner Reardons Lane and Darke Lane, Swan Bay to R5 Large Lot Residential and amend the minimum lot size controls.

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 - Reports and plans supporting the proposal**

### Relevant reports and plans

Planning Proposal Ref 14/227 – April 2024

# 1 Planning proposal

## 1.1 Overview

Table 2 - Planning proposal details

<b>LGA</b>	<b>Richmond Valley</b>
<b>PPA</b>	Richmond Valley Council
<b>NAME</b>	Rezone Lots 832 & 833 DP 847683, corner Reardons Lane and Darke Lane, Swan Bay to R5 Large Lot Residential and amend the minimum lot size controls
<b>NUMBER</b>	PP-2024-854
<b>LEP TO BE AMENDED</b>	Richmond Valley LEP 2012
<b>ADDRESS</b>	corner Reardons Lane and Darke Lane, Swan Bay, Swan Bay
<b>DESCRIPTION</b>	Part of Lots 832 & 833 DP 847683
<b>RECEIVED</b>	26/04/2024
<b>FILE NO.</b>	IRF24/7366
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- rezone parts of Lots 832 and 833 DP 847683 from RU1 Primary Production to R5 Large Lot Residential; and
- amend the minimum lot size (MLS) from 40ha to 7500m<sup>2</sup>.

The planning proposal also intends to remove the subject site from the Dwelling Opportunity Map.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Richmond Valley Local Environmental Plan (RVLEP) 2012 per the changes below:

**Table 3 - Current and proposed controls**

Control	Current	Proposed
Zone	RU1	R5
Minimum lot size	40ha	7500m <sup>2</sup>
Number of dwellings	2	43

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

Lots 832 and 833 DP 847683 are located on the corner Reardons Lane and Darke Lane, Swan Bay and have a combined area of 87 hectares (Figure 1). The planning proposal applies to part these lots being a total of 43 hectares.

The property is located approximately 7 km southwest of Woodburn and 15 km west of Evans Head (Figure 2). The bulk of the land has been under sugar cane cultivation (Figure 3) and contains two dwellings and a series of sheds.

The adjoining properties are used for farming, including sugarcane and cattle grazing and there is some forest revegetation present to the east. There is an established rural residential development to the north and a quarry to the west.

The subject lots contain:

- bushfire prone land (Figure 4);
- a combination of Class 3 and 5 Acid Sulfate Soils under the RVLEP 2012 (Figure 5);
- riparian lands and watercourses under the RVLEP 2012 (Figure 6);
- Important farmland under the North Coast Regional Plan 2041 (NCRP) 2041 (Figure 7);
- Potential High Environmental Value (HEV) land under the NCRP (Figure 8); and
- flood prone land (Figures 13 and 14).

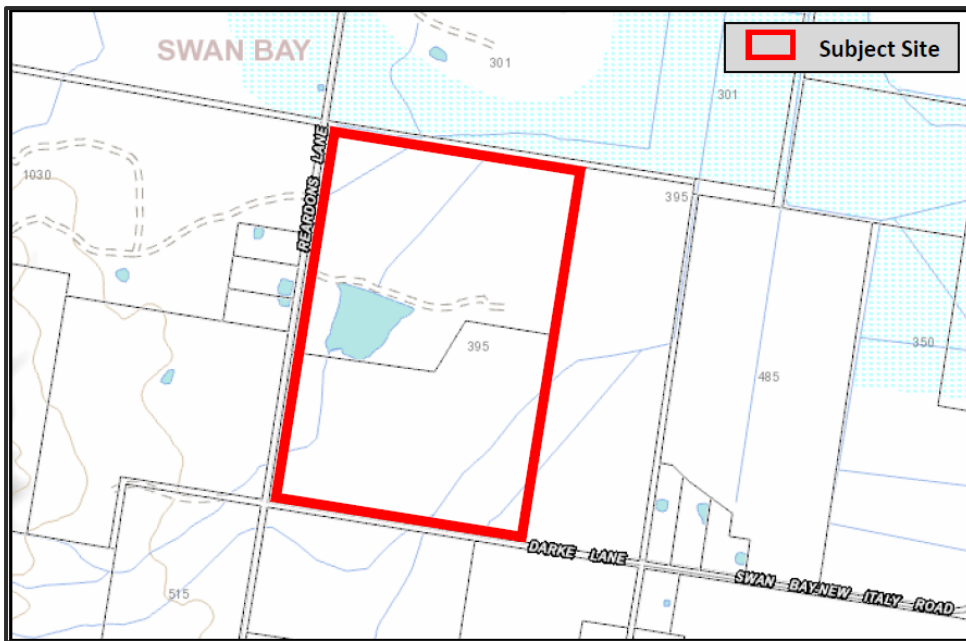


Figure 1 - Subject site (source: Planning Proposal)

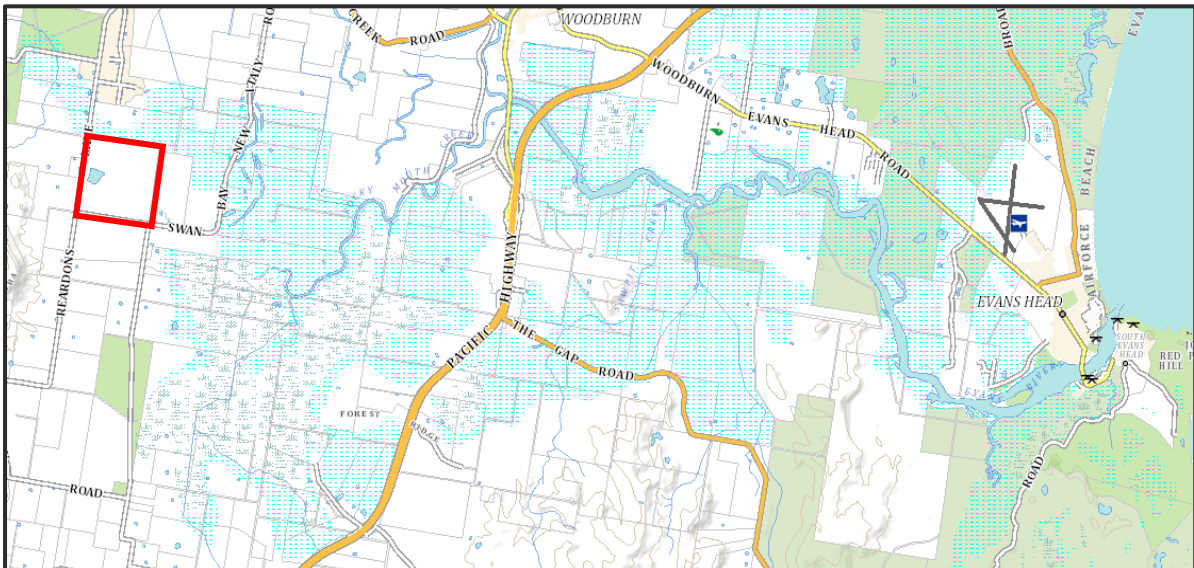


Figure 2 - Site context (source: six maps)

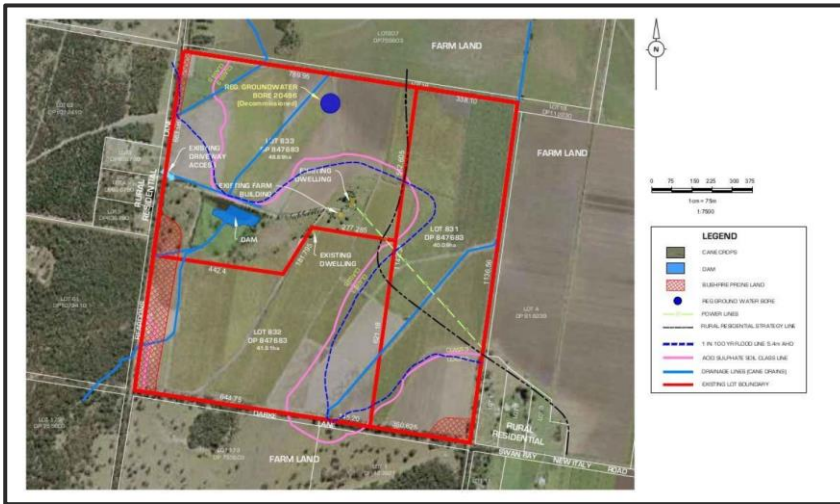


Figure 3 – Subject site showing physical constraints NOTE – Lot 831 not part of Planning proposal (source: RV Council report\_19 July 2022)

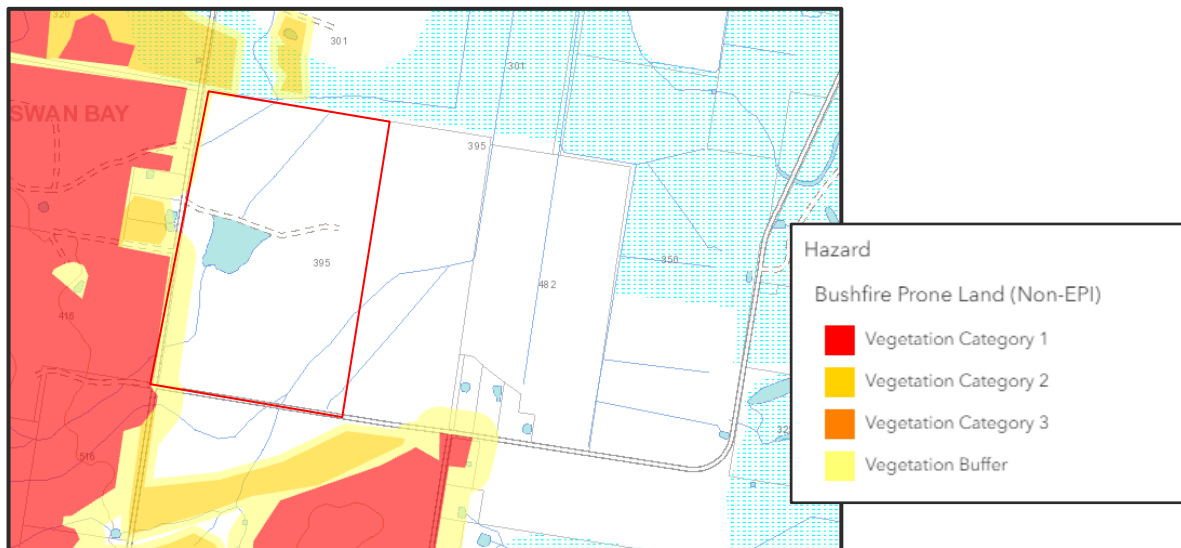


Figure 4 - Bushfire prone land Map (source: e-planning Spatial Viewer)

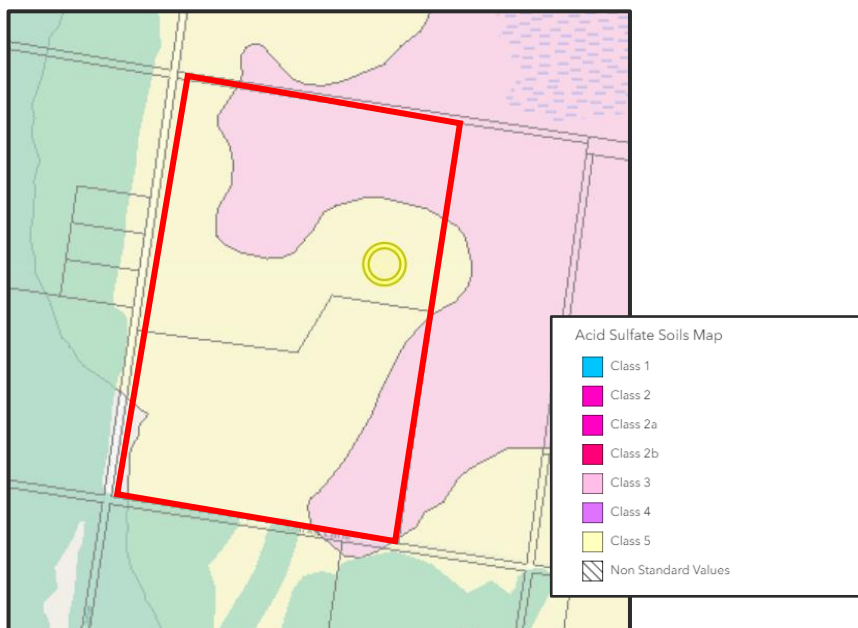


Figure 5 - Acid Sulfate Soils Map (source: e-planning Spatial Viewer)



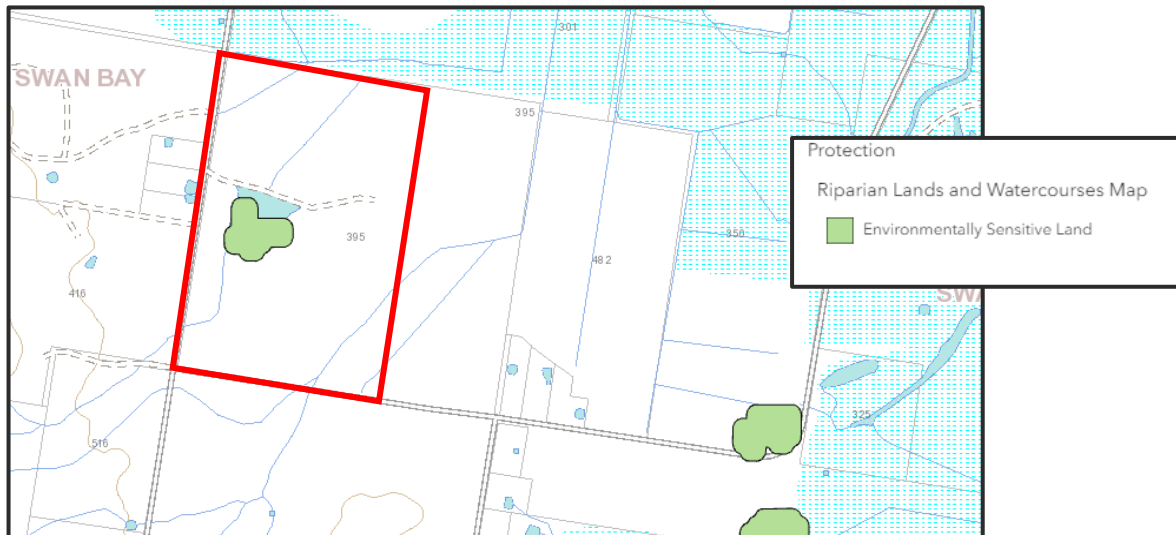


Figure 6 - Riparian Lands and Watercourses Map RVLEP 2012 (source: e-planning Spatial Viewer)

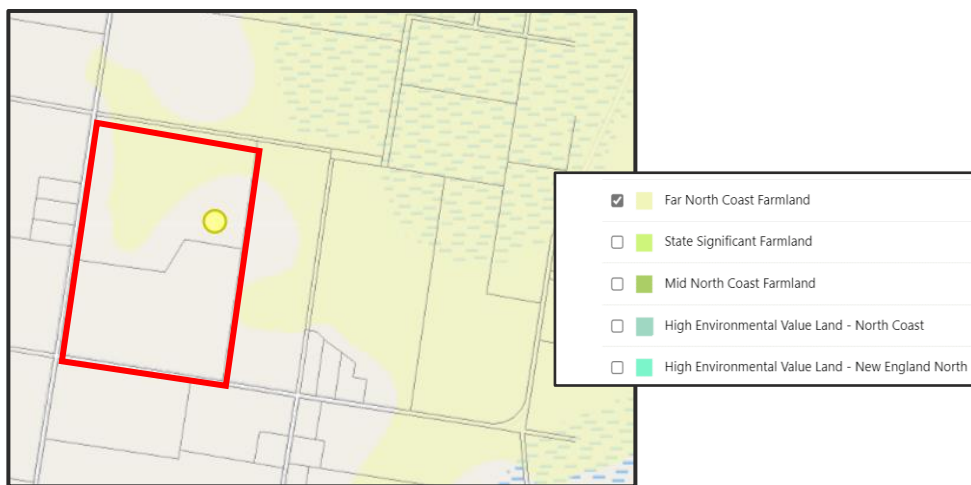


Figure 7 - Far North Coast Farmland (source: Northern Region Viewer)



Figure 8 - Potential HEV land (source: Northern Viewer)



## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning (LZN), Minimum Lot Size (MLS) and Dwelling Opportunity (DWO) maps (Figures 9, 10 & 11). These maps are considered suitable for public exhibition purposes.

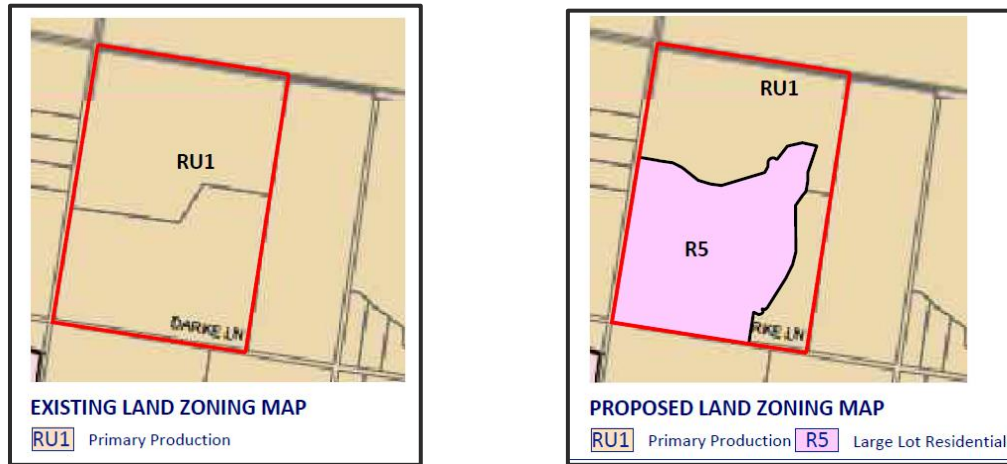


Figure 9 - Existing & Proposed Land Zoning Map (source: Planning proposal)

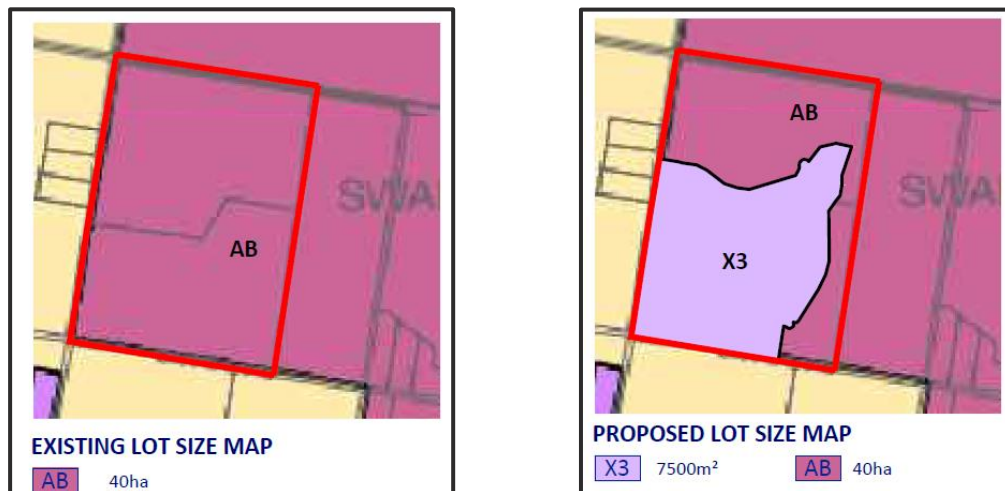


Figure 10 - Existing & Proposed Minimum Lot Size Map (source: Planning Proposal)



Figure 11 - Existing & Proposed Dwelling Opportunity Map (source: Planning Proposal)

## 1.6 Background

The planning proposal was initially lodged with Richmond Valley Council on 21 December 2015. Following submission, discussions occurred between the Department, Council, the applicant and the Department of Primary Industries – Agriculture (DPI - Agriculture). These discussions were focussed on issues relating the impact on mapped Regionally Significant Farmland, the loss of Prime Agricultural Land and land use conflict.

A second iteration of the planning proposal which considered the issues raised by agencies was submitted to the Department for a Gateway determination in early July 2022 (PP-2022-502). However, following the widespread floods in the Northern Rivers in February 2022 and release of the NSW Flood Inquiry Report on 29 July 2022, a further analysis of flooding and consideration of the flood risk profile of the proposal was required. This planning proposal was withdrawn by Council whilst the requested additional information was gathered.

On 26 April 2024, Council resubmitted the planning proposal (PP-2024-854). This planning proposal is supported by a Qualitative Flood Impact Risk Assessment.

## 2 Need for the planning proposal

The planning proposal is the result of the Richmond Valley Growth Management Strategy 2023 (GMS). The land is identified as a Large Lot Residential Investigation Area in the GMS. The GMS was approved by the Department in August 2023. Further detail in relation to the GMS is provided in Section 3.2

The planning proposal is considered to be the most appropriate means of rezoning the subject site for large lot residential development.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041 (NCRP).

It is noted the planning proposal also includes an assessment against the North Coast Regional Plan 2036. As this is no longer the relevant regional plan, this assessment will need to be removed from the planning proposal prior to consultation. A condition has been imposed in this regard.

**Table 4 - Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 1: Provide well located homes to meet demand	The planning proposal is considered to be consistent with this objective as the subject site is located outside the environmentally sensitive coastal strip. The subject land has also been identified in an approved strategy endorsed by the Department.
Objective 3: Protect regional biodiversity and areas of high environmental value	There is potential HEV located adjacent to the edge of Darkes Lane being the southern border of the subject site. Consultation has been undertaken with the Division of Biodiversity and Conservation Science (BSC, formerly BCD) in relation to the proposal. BCS has not raised any concerns on the basis the entire property has been significantly modified and used for sugar cane farming purposes. As such, the planning proposal is considered to be consistent with this objective.

<p>Objective 4: Understand, celebrate and integrate Aboriginal culture</p>	<p>The planning proposal is not supported by an Aboriginal Cultural Heritage Assessment but rather a letter from the Bogal Local Aboriginal Land Council (LALC) in 2007 stating that they have no objection to the proposed rezoning. A recent search of Aboriginal Heritage Information Management System (AHIMS) did not identify any Aboriginal sites or places within 50 metres of the subject lands.</p> <p>Given the length of time that has elapsed since the 2007 LALC consultation, it is recommended that consultation again be undertaken with the LALC. Until consultation has occurred, this objective will remain unresolved.</p>
<p>Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change</p>	<p>The subject land is flood prone and contains multiple sugar cane drains which have the potential to increase flooding of the site. The Richmond Valley local government area is a high-risk flood catchment. The planning proposal is supported by a Qualitative Flood Impact and Risk Assessment (FIRA). This is discussed further in Section 4 of this report.</p> <p>The planning proposal nominates the extent of the proposed R5 zone aligns with the 1% Annual Exceedance Probability (AEP) flood level and all indicative house sites within the proposed lots are located above the 1% AEP (Figure 12). Council has advised the minimum habitable floor levels to achieve the flood planning level should be 5.9m AHD.</p> <div data-bbox="427 904 1166 1429" data-label="Figure"> </div> <p><b>Figure 12 - Design Peak Flood Levels - 1% AEP event (source: FIRA - BMT Consulting P/L)</b></p> <p>During the Probable Maximum Flood (PMF) flood event part of the land is affected by high hazard (H3 to H5 with a max of H6 on the eastern lots). BCS has recommended that appropriate measures and building design restrictions should also be applied to lots that may be subject to PMF events and overland flood impacts as well as consultation with NSW State Emergency Service (SES) in relation to evacuation. The planning proposal does not consider what appropriate building measures may entail or how they could be achieved in the context of the recommendations of the FIRA and that these are matters that can be addressed at the development application stage.</p> <p>Consistent with the risk-based approach to planning decisions detailed in Planning Circular PS 24 - 001, the Department has discussed with Council removing those areas affected by the high flood hazard in the PMF event. These discussions have not been reflected in the planning proposal. Further detail is contained in Section 4.</p>

	<p>The land is mapped as containing bushfire prone land comprising the vegetation buffer along the south western boundary. The accompanying Bushfire Assessment report has determined the proposed rezoning is appropriate in the bush fire hazard context. Nonetheless, consultation is required with the NSW Rural Fire Service (NSW RFS) to confirm the suitability of the proposal and to satisfy Ministerial Direction 4.3 Planning for Bushfire Protection.</p> <p>Until consultation has been undertaken with the NSW SES in relation to flooding and NSW RFS in relation to Bushfire, it is considered that the planning proposal is inconsistent with this objective of the NCRP.</p>
Objective 8: Support the productivity of agricultural lands	<p>The subject land is identified by the Mid North Coast Farmland Protection Project as Regionally Significant Farmland. Consistent with Strategy 8.1, the majority of the planning proposal area avoids land mapped as important farmland. The exception being a small area extending into the northern edge and areas of vegetation buffer on the perimeter. A condition is recommended to require removal of land affected by high hazard in a PMF flood event. This will result in there being no important farmland located within the planning proposal area.</p> <p>The planning proposal is also supported by a Land Use Conflict Risk Assessment (LUCRA) which considers the potential for the proposal to increase land use conflict with surrounding agricultural land uses and makes recommendations to minimise adverse impacts.</p> <p>DPI - Agriculture has reviewed the second planning proposal (PP-2022-502) prior to lodgement and indicated it is consistent with discussions that have occurred with the applicant and Council. It is recommended however further consultation be undertaken with DPI- Agriculture as a condition of the Gateway determination to confirm the suitability of the proposal.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 5 - Local strategic planning assessment**

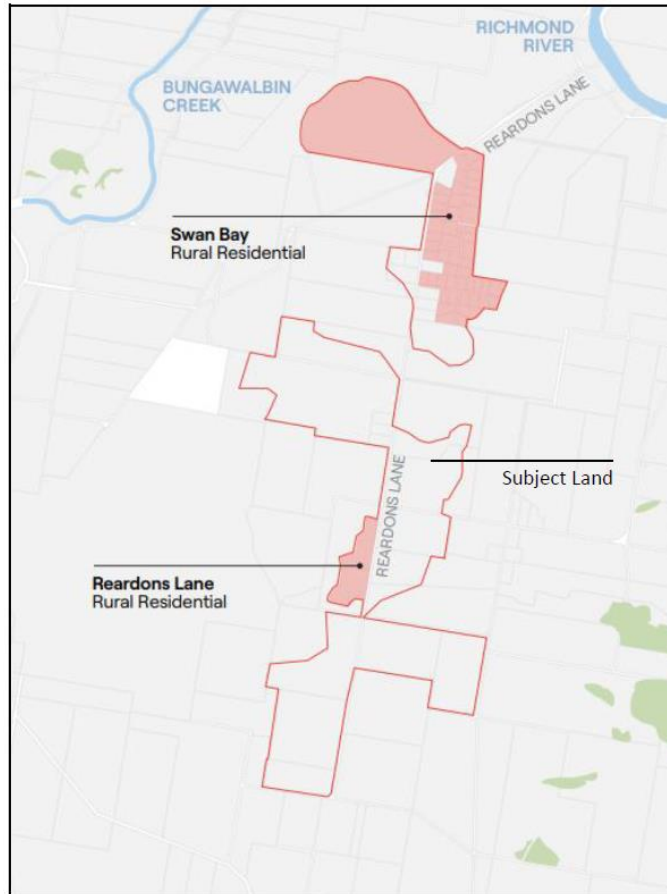
Local Strategies	Justification
Richmond Valley Local Strategic Planning Statement 2020 (LSPS)	<p>The planning proposal is consistent with Council's LSPS. In particular the following Planning Priorities and Actions are relevant:</p> <ul style="list-style-type: none"> <li>Planning Priority 1 – Have well planned and designed space to grow; <ul style="list-style-type: none"> <li>Action 1.2 Deliver sustainable, well planned, safe, healthy and efficient housing and settlement areas through healthy urban design and hazard avoidance / management.</li> </ul> </li> <li>Planning Priority 7 – Protect productive agricultural land and significant resources: <ul style="list-style-type: none"> <li>Action 7.3 Avoid creating land use conflict which could impact upon the future viability of productive rural lands, including significant farmland, and significant mineral and extractive resources.</li> </ul> </li> </ul>

Richmond Valley Growth Management Strategy 2023 (GMS)

The Richmond Valley GMS was approved by the Department on 3 August 2023. The land is identified in the GMS as a Large Lot Residential Investigation Area (Figure 12).

When the GMS was approved by the Department, Council was informed that any future planning proposal for land identified in the strategy would need to address various matters, such as:

- site-specific development constraints;
- land suitability and consistency with the NCRP 2041; and
- applicable SEPPs and relevant section 9.1 Directions.



**Figure 12 - Swan Bay and Reardons Lane Rural Residential Lands (source: Richmond valley GMS)**

The planning proposal is consistent with the GMS and site specific studies have been prepared to accompany the proposal to address the relevant site constraints.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with all relevant section 9.1 Directions except as discussed below:



Table 6 - 9.1 Ministerial Direction assessment

Direction	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Unresolved	The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. The planning proposal is inconsistent with this Direction as discussed in section 3.1 of this report. Until these matters have been addressed, the inconsistency with this Direction will remain unresolved.
1.4 Site Specific Provisions	Gateway conditioned for consistency	<p>The planning proposal is inconsistent with this Direction as it has included a conceptual subdivision plan as an attachment to the planning proposal.</p> <p>To address the inconsistency with this Direction, it is recommended that a condition is imposed on the Gateway determination to require the plan be removed prior to consultation.</p>
3.2 Heritage Conservation	Unresolved	<p>This Direction states that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance.</p> <p>The planning proposal is supported by a letter from the Bogal LALC dated 2007. It is recommended that further consultation be undertaken with the LALC to enable a contemporary review to be undertaken and up to date response provided. Until this has been undertaken, consistency with this Direction remains unresolved.</p>
4.1 Flooding	Unresolved	<p>This Direction applies to a planning proposal that creates, removes or alters a zone or provision that affects flood prone land.</p> <p>There are 17 lots proposed in a future subdivision of the land that are significantly or fully inundated during the PMF. The proposed lots subject to PMF inundation are also classified as high hazard (H3 to H5 with a max of H6 on the eastern lots). It is recommended those areas affected by high flood hazard are removed from the planning proposal.</p> <p>Until the planning proposal has been updated and consultation has been undertaken with the NSW SES, consistency with this Direction remains unresolved.</p>
4.3 Planning for Bushfire Protection	Unresolved	The proposal is inconsistent with this Direction as it applies to land mapped as bushfire prone land. The Direction provides that the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination is issued. Until this consultation has occurred, the consistency of the proposal with the Direction remains unresolved.

4.5 Acid Sulfate Soils	Justified	The land subject to this planning proposal is affected by acid sulfate soils (Figure 5). The inconsistency with this Direction is considered to be of minor significance as the revised development footprint has been reduced to elevated portions of the subject site such that the proposed works will not disturb acid sulfate soils. In addition, the potential for development to disturb, expose or drain acid sulfate soils and cause environmental damage is a consideration at the development application stage under clause 6.1 of the Richmond Valley LEP 2012.
8.1 Mining, Petroleum Production and Extractive Industries	Unresolved	<p>The proposal is inconsistent with this Direction as it will prohibit the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials.</p> <p>It is recommended that consultation is undertaken NSW Mining, Exploration and Geoscience to confirm the suitability of the proposal. The proximity of the land to the Moonimba Quarry will also be a consideration for this agency.</p> <p>Until consultation has been undertaken the consistency with this Direction remains unresolved.</p>
9.1 Rural Zones	Justified	<p>This Direction states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>The inconsistency of the planning proposal with this Direction is justified as the subject site is identified in a Department endorsed GMS.</p>
9.2 Rural Lands	Justified	<p>The Direction applies when a planning proposal will affect land within an existing or proposed rural or conservation zone, including alteration of any existing rural or conservation zone boundary, or that changes the existing minimum lot size on land within a rural or conservation zone.</p> <p>Any inconsistency with this Direction is considered to be justified as:</p> <ul style="list-style-type: none"> <li>○ the planning proposal has considered the objectives of the Direction and will not have a major detrimental impact on agricultural land as detailed further in Section 4; and</li> <li>○ the subject land is identified in a strategy approved by the Department.</li> </ul>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.



## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 7 - Environmental impact assessment**

Environmental Impact	Assessment
Biodiversity	<p>The planning proposal is not accompanied by a Biodiversity Assessment. however it does refer to a draft Flora and Fauna Assessment that was prepared in 2008.</p> <p>Whilst the subject land contains a very minor area identified and mapped as potential HEV under the NCRP (albeit on the very southern boundary of the site), consultation with BCS has indicated that whilst the original flora and fauna assessment supporting proposal is now out of date, recent aerial imagery and photographs indicate that the entire property has been modified and used for can farming purposes, so no issue is raised in regard to potential HEV /biodiversity matters.</p>
Agriculture	<p>As discussed in section 1.6 of this report, DPI – Agriculture and the former Department of Planning and Environment raised concerns in relation to the initial proposal about the loss of Prime Agricultural Land, impacts on Regionally Significant Farmland and loss of sugar cane farmland to the industry.</p> <p>It is considered these issues have now resolved due to a reduction to the planning proposal area. The revised concept layout will now avoid important farmland.</p> <p>The planning proposal is supported by a letter from Allen and Associates – Agriculture and Property Management Specialists which details the discussions held between the applicant and DPI – Agriculture regarding the loss of Prime Agricultural Land and potential impacts on the sugar cane industry in the area. In relation to this, the letter provides the following comments:</p> <ul style="list-style-type: none"> <li>• At the time of writing (2017) the letter indicates that the sugar cane lands directly adjacent to the east of the site have not been utilised for sugar cane production for 6 or more years and that the site is not therefore surrounded by sugar cane lands and has no immediately adjacent sugar cane land next to any portion of the site's boundary.</li> <li>• The site is characterised by poorer forest soils which are capable of only low intensity agricultural pursuits such as grazing or forestry. Lands immediately to the west and south of the site are also poor-quality agricultural lands that have a low potential for higher agricultural pursuits than low intensity grazing.</li> <li>• Sugar cane planting on the proposed area to be rezoned ceased in 2014 due to being unproductive. Rezoning of the site will not cause fragmentation of the sugar cane production landscape as the site is not situated within the wider sugar producing lands; rather it is situated on the edge.</li> <li>• Previous and current production figures clearly demonstrate that the site has a significantly lower sugar cane production potential than average farms in the area. It is not anticipated therefore that the level of sugar cane production that will be lost as a result of the planning proposal will affect the Industry's critical mass requirement</li> </ul>

	<p>Given the period of time that has elapsed since the original application was received by Council and therefore the dated nature of supporting information (such as the letter detailed above) it is considered appropriate further consultation be undertaken with DPI – Agriculture.</p>
Flooding	<p>The subject site contains flood prone land. The site also contains sugar cane drains and a large dam mapped as 'wetland' on the Riparian Lands and Watercourses Map under the RVLEP 2012.</p> <p>The planning proposal is supported by a FIRA. This assessment is based on data from the Richmond Valley Flood Study (September 2023) which has looked at flood behaviours for a range of AEP and PMF events across the Richmond Valley, of which the subject site is included.</p> <p>The FIRA has determined the following:</p> <ul style="list-style-type: none"> <li>• Land lying below 5m AHD to be retained as farmland.</li> <li>• Of the 43 proposed lots in the future subdivision (Figure 13):             <ul style="list-style-type: none"> <li>○ all are flood-free up to and including the 1% AEP;</li> <li>○ 11 are slightly or partially inundated during the PMF event; and</li> <li>○ 17 are significantly or fully inundated during the PMF event.</li> </ul> </li> <li>• With regard to flood hazard:             <ul style="list-style-type: none"> <li>○ the proposed lots subject to PMF inundation are classified as high hazard (H3 to H5 with a max of H6 on the eastern lots).</li> </ul> </li> <li>• Access to the proposed subdivision will be via Reardons Lane which is:             <ul style="list-style-type: none"> <li>○ flood free up to and including the 0.2% AEP; and</li> <li>○ inundated with a H4 to H5 flood hazard during the PMF event.</li> </ul> </li> <li>• Proposed evacuation routes are (Figures 7 and 8):             <ul style="list-style-type: none"> <li>○ north bound via Reardons Lane (routes include Northbound 1 &amp; 2) – not viable during a major flood and is cut off during the 1% AEP event;</li> <li>○ east via Darke Lane and then South via Swan Bay (Eastbound 1) – New Italy Road – during a PMF event this route is classified as H5 but is flood free up to and including the 1% AEP; and</li> <li>○ south bound via Reardons Lane (routes include Southbound 1 &amp; 2) - Southbound 1 provides the only flood free route during a PMF event.</li> </ul> </li> <li>• The flood warning time for a Richmond River flood is typically 3-4 days.</li> <li>• Filling or building structures has the potential to alter the flood behaviour during the PMF event.</li> <li>• Recommended risk treatment options include:             <ul style="list-style-type: none"> <li>○ setting all habitable floor levels above the PMF flood level and with commensurate design and construction;</li> <li>○ providing secondary flood emergency access at the south-west corner of the site (flood-free during a PMF event);</li> <li>○ making the primary flood emergency response strategy off-site evacuation; and</li> <li>○ developing a detailed flood emergency response plan to outline triggers and procedures for initiating off-site evacuation.</li> </ul> </li> </ul>

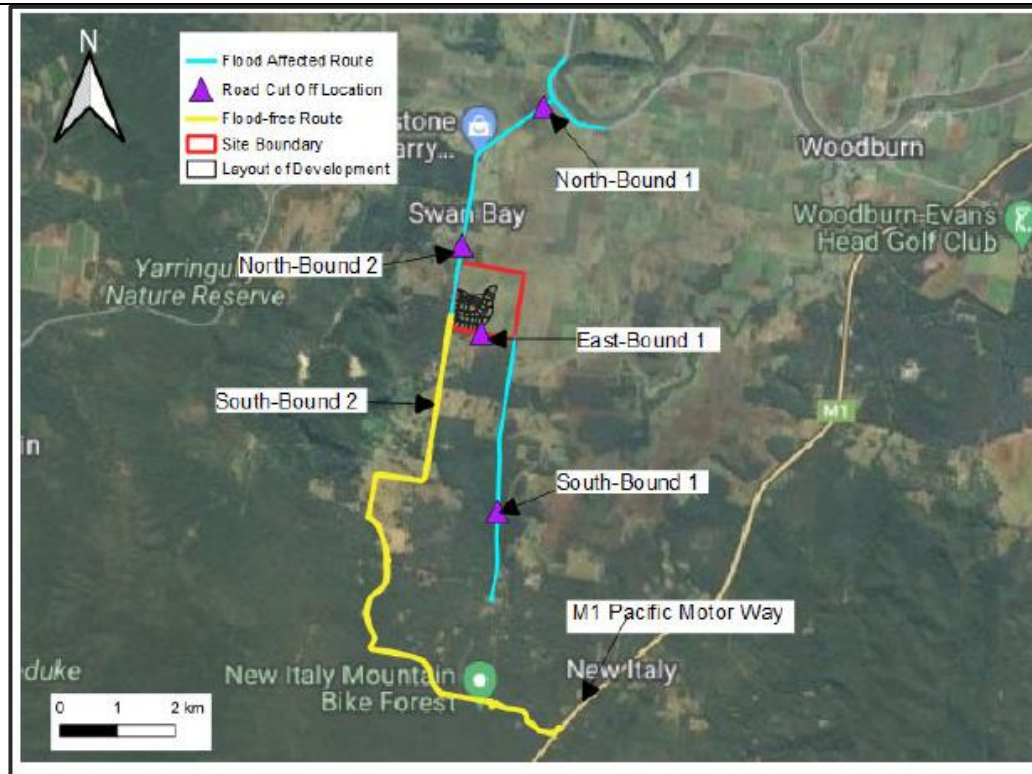
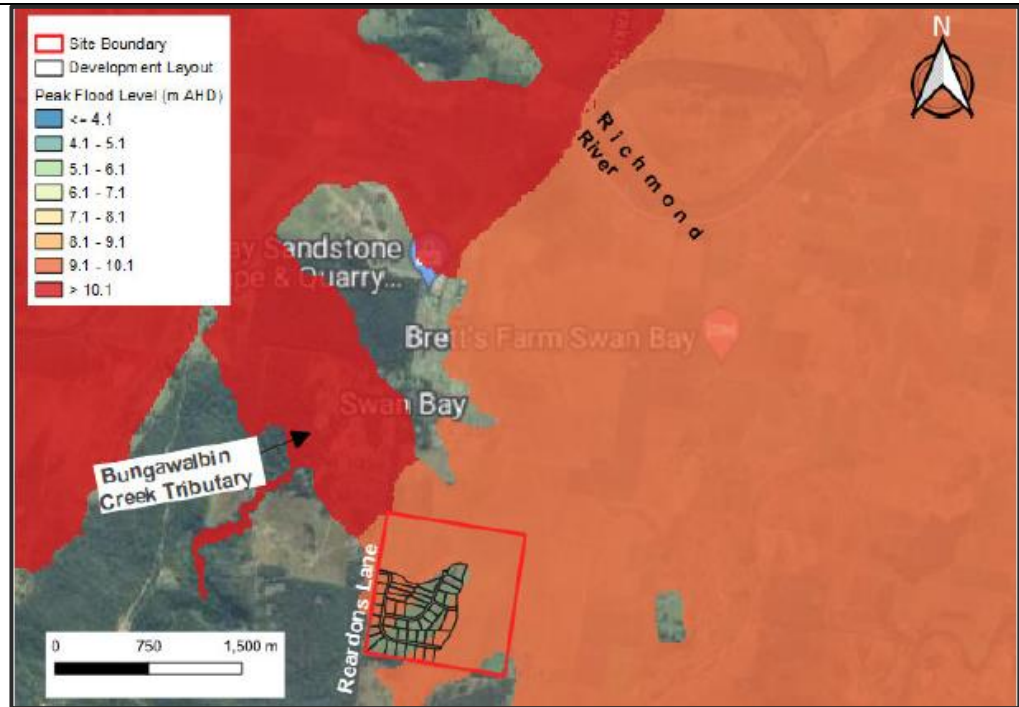


Figure 14 - Regional evacuation routes and road cut off locations (source: FIRA – BMT Commercial P/L)

Evacuation Route	5% AEP	1% AEP	PMF
North-Bound 1	3 to 5 days	5 to 6 days	9 days
North-Bound 2	Flood-free	2 days	8 days
East-Bound 1	Flood-free	Flood-free	6 days
South-Bound 1	3 days	4 to 5 days	8 days
South-Bound 2	Flood-free	Flood-free	Flood-free

Figure 15 - Periods of Inundation at road cut off locations (source: FIRA - BMT Commercial P/L)



**Figure 13 - Design Peak Flood Levels - PMF event (source: QFIRA - BMT Commercial Australia P/L)**

As discussed in previous sections of the report, advice was sought from BCS following preparation of the FIRA. BCS in their response recommended that prior to issuing subdivision development consent:

- advice be sought from SES on planning for flood evacuation; and
- appropriate measures and building design restrictions be applied to lots that may be subject to PMF events and overland flood impacts.

The planning proposal does not commit to or provide an indication of possible future measures or building design restrictions that could be implemented to address flood risk at the development application stage in response to these comments.

The general flood hazard vulnerability curve designates a H5 hazard to be unsafe for vehicles and buildings require special engineering design and construction. H6 is not suitable for people, vehicles or buildings. The Department discussed removal of the land affected by a high hazard during a PMF event with Council to manage flood risk. Council initially agreed to this approach; however the submitted proposal does not reflect those conversations.

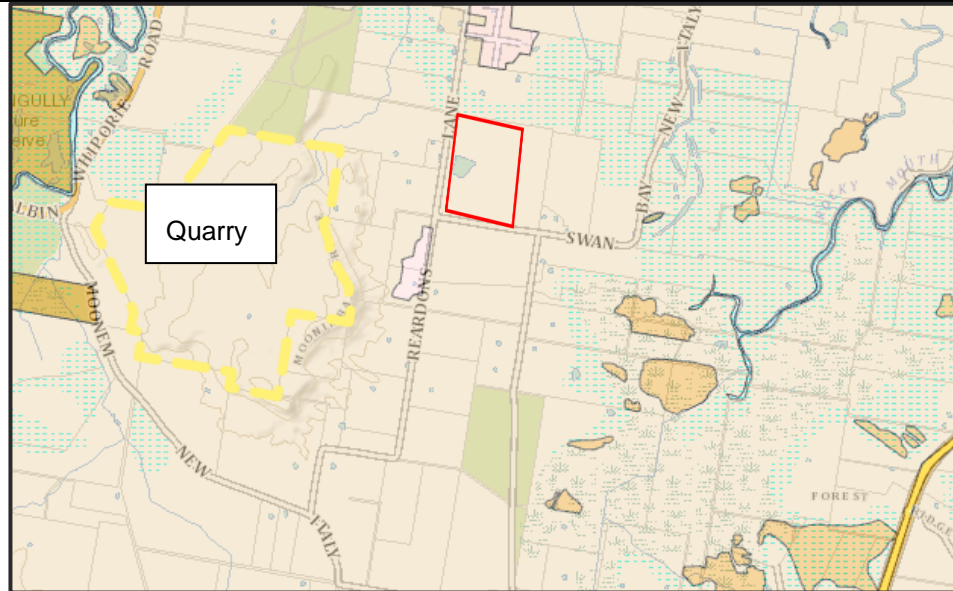
When considering the BCS comments in the context of the findings of the FIRA, specifically that filling or flow obstruction (including building structures), should be avoided as it has the potential to alter the flood conditions within the lots impacted by a high flood hazard, it is not known whether the proposal is likely to result in significant increase to life in other parts of the catchment in a PMF flood event or that safe occupation can be achieved. The FIRA identifies it is necessary to undertake a detailed flood modelling to demonstrate future works will not cause an adverse flood impact to adjoining properties.

Consistent with Planning Circular PS 24-001 Update on addressing flood risk in planning decisions that planning decisions should be based on a balanced consideration of the merits, risks and impacts of a given proposal, and that appropriate measures are in place to limit impacts to an acceptable level and achieve a tolerable flood risk level for flood-affected proposals. It is recommended that the Gateway is conditioned to remove the land affected by high hazard in the PMF flood event.

	It is also recommended that consultation be undertaken with the NSW SES as recommended by BCS.
Acid Sulfate Soils	The subject land contains a combination of Class 3 and 5 Acid Sulfate Soils under the RVLEP 2012. While disturbance of these soils may occur in future development on the site, RVLEP 2012 contains suitable provisions (clause 6.1) to ensure that this matter can be appropriately addressed at the Development Application stage.
Bushfire	<p>The subject land is mapped as bushfire prone containing a small pocket of 'Vegetation Buffer on the south western boundary of the site (Figure 3).</p> <p>The planning proposal is supported by a Bushfire Assessment report (Planning proposal Attachment 3) and has determined that the proposed rezoning is appropriate in the bush fire hazard context. Bush fire mitigation and management measures for the future development can be adequately addressed with the proposal having the ability to comply with PBP2019 subject to the recommendations within the report and proposed performance solutions to be prepared and assessed at subdivision development application stage. The indicative lot layout and proposed MLS is considered appropriate to accommodate the Asset Protection Zones (APZ) within future subdivisions.</p> <p>Consultation is required to be undertaken with the NSW RFS in to satisfy Section 9.1 Direction 4.3 Planning for Bushfire Protection.</p>
Contaminated land	The planning proposal is supported by a preliminary Site Contamination Investigation (PSI). The report concludes that "Based on the outcomes of this PSI there is no impediment to approval of planning proposal for the proposed rezoning from RU1 Primary Production to R5 Large Lot Residential. Further investigation in accordance with the EPA sampling guidelines is required prior to the issue of a subdivision certificate for large lot residential use."
Geotechnical	The planning proposal identifies a geotechnical assessment is required to be undertaken to confirm the suitability of the land for future residential development within the area proposed to be rezoned to R5 Large Lot Residential. Specifically, the assessment will need to take into consideration the areas around the farm dam that have been subject to previous filling.
Aboriginal and cultural heritage	<p>The planning proposal is supported by correspondence from the Bogal LALC (2007) stating that they have no objection to the proposed rezoning. An AHIMS Search conducted in 2022 also shows that no Aboriginal sites or places are recorded in or near the subject land.</p> <p>Given the length of time that has elapsed since the original consultation with the LALC, it is considered appropriate consultation is undertaken with the relevant LALC.</p>
Landuse conflict	<p>The subject site is currently used for agricultural purposes and is surrounded predominantly by land uses that comprise cattle grazing activities, sugar cane cropping, rural residential development, rural dwellings, forest vegetation, rural industry and a quarry.</p> <p>The planning proposal is supported by a LUCRA. The assessment considers the following activities associated with the subject land and land in the surrounding area, as having a moderate risk of potential landuse conflict:</p> <ul style="list-style-type: none"> <li>• sugar cane plantation;</li> <li>• exposure;</li> <li>• run-on and Upslope Seepage Site Drainage and Water pollution;</li> <li>• agricultural Chemical Spray Drift;</li> <li>• odour; and</li> </ul>



	<ul style="list-style-type: none"> <li>• dust.</li> </ul> <p>The LUCRA states that the subject site is suitable for the proposed development for the following reasons:</p> <ul style="list-style-type: none"> <li>• Aerial agricultural spraying is known to occur in the area.</li> <li>• Given the adjacent land use consists of ground cropping and limited boom spray application and consequently the relatively low height at which spray is released, the risk of spray drift is reduced;</li> <li>• Low intensity cattle (beef) grazing to the south east, offer little potential risk of conflict;</li> <li>• Given the intermittent and transient nature of farm noise sources (tractors and other machinery) coupled with the ample proposed allotments (0.75 to 1.62ha) noise decay through distance attenuation only, will be sufficient to reduce noise impacts to a negligible level at the nearest affected residences. Standard (Category 1) building design will be sufficient to afford acoustic protection to residents; and</li> <li>• Cane firing is managed by experienced cane farmers and limited to an average of 2.20 hours per season.</li> </ul> <p>The LUCRA recommends that the following recommendations be included as part of any future development of the subject site:</p> <ul style="list-style-type: none"> <li>• A vegetated buffer with a minimum total width of 40 m is to be installed on the subject site along the northern and eastern boundary (with further detail regarding tree type/species, height; and planting distance included in the LUCRA).</li> <li>• The preparation of a Soil and Water Management Plan for the construction and operation phases of the development and management of stormwater run-off is required to minimise the potential for erosion and sedimentation, nutrient runoff and pollution of the farm dam.</li> <li>• Secondary treated effluent is to be applied a minimum of 40m setback from the dam, any gully or drain.</li> </ul> <p>Moonimba Quarry (approved by Richmond Valley Council under DA2015.0069) is located on Lot 193 DP 755603 – Bungawalbin Whiporie Road, Bungawalbin which is located to the west of the subject site (Figure 16).</p> <p>The planning proposal states that a review of the Noise Impact Assessment associated with the DA identified a range of best management practices with respect to operational noise to minimise noise emissions of the quarry expansion, and also various mitigation measures to reduce impacts of road traffic noise in respect to properties along Reardons Lane.</p> <p>It is recommended that consultation is undertaken with NSW Mining, Exploration and Geoscience (NSW MEG) due to the proximity of the quarry to the subject site and to confirm the suitability of the proposal.</p>
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**Figure 16 - Lot 193 DP755603 - Site of Moonimba quarry (source: e-planning Spatial Viewer)**

Visual impact	<p>The landscape and visual character of the locality is rural and rural residential. The predominant land uses comprise cattle grazing activities, sugar cane cropping, rural residential development, rural dwellings, forest vegetation, rural industry and a quarry. The subject land is not considered to be highly sensitive or significant in the local visual context.</p> <p>Whilst surrounding landuse is predominantly used for agricultural production, land zoned R5 Large Lot Residential is located in close proximity to the subject site directly to the north and south. In the majority, the proposed subdivision will avoid land mapped as Regionally Significant Farmland and Prime Agricultural Land. A LUCRA has determined that the site is suitable for the proposed development.</p>
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## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 8 - Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The proposal is not expected to have any adverse social impacts. The proposal will rezone land identified in the Richmond Valley GMS for large lot residential purposes. The subject land is in close proximity to the existing centres of Casino, Woodburn, and Evans Head with existing large lot residential development also located in close proximity to both the north and south of the subject land. Issues of landuse conflict and impact on agricultural land have been addressed elsewhere in this report.</p> <p>The rezoning of the subject land will enable the construction of new dwellings and as such have a positive social impact by providing additional housing opportunities.</p> <p>Broadly, regional NSW and in particular the Northern Rivers area is experiencing high levels of housing stress and additional housing in planned locations is an appropriate approach to assisting with addressing the issue.</p>



Economic	Economically, it is expected that the proposal will also have a positive impact by releasing more land for the construction of new dwellings in the Richmond Valley LGA. The multiplier effect associated with increased population is also expected to benefit businesses in the Casino area. Reports accompanying the planning proposal show that loss of the land to sugar cane production will have little economic impact overall.
Traffic	<p>The Planning proposal is not supported by a traffic assessment.</p> <p>The FIRA recommends the provision of a secondary emergency access road above the PMF flood event level at the south-west corner of the site with the exact location to be determined at the development Application stage.</p> <p>It is recommended that consultation is undertaken with Transport for NSW (TfNSW) to confirm the suitability of the proposal.</p>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 9 - Infrastructure assessment**

Infrastructure	Assessment
Local infrastructure	<p>Sewerage infrastructure is not available in the locality. A wastewater feasibility assessment has confirmed the subdivision may be serviced by on-site wastewater systems.</p> <p>Reticulated water services are not available in the locality. It is anticipated that water storage tanks will be provided to each future dwelling house in order to harvest roof water as the primary means of providing a domestic potable water supply and also water for fire-fighting purposes.</p> <p>Electricity and telecommunications are available in the locality and this issue would be addressed at the Development Application stage.</p> <p>The planning proposal identifies road connections to Reardons Lane to service the lots. It is recommended consultation undertaken with TfNSW.</p>
State Infrastructure	The planning proposal has not identified any requirement for state infrastructure.

## 5 Consultation

### 5.1 Community

Council have proposed an exhibition period of 20 days in line with a standard planning proposal. This timeframe is considered suitable and forms part of the conditions of the Gateway determination.

### 5.2 Agencies

Council have nominated the following agencies for consultation:

- NSW SES; and

- NSW RFS

It is recommended the following agencies also be consulted on the Planning proposal and given 30 working days to comment:

- DPI – Agriculture;
- TfNSW ;
- LALC; and
- NSW MEG.

## 6 Timeframe

Council has not proposed a specific time frame to complete the LEP.

The Department recommends a time frame of 6 months which is consistent with timeframes recommended by the LEP Plan Making Guidelines (August 2023) for Standard Planning proposals. A 6 month completion date is also in line with the Department's commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

It is recommended that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal brings forward for rezoning land identified in the Richmond Valley Growth Management Strategy as suitable for large lot residential development.
- The planning proposal will deliver new dwellings which will assist in boosting both local and regional housing supply.
- The planning proposal will result in positive social and economic benefits for the Richmond Valley Local Government Area.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- remove those parts of the land affected by a high flood hazard (H5 and H6) in the PMF event;
- delete all text discussing the NCRP 2036;
- include an updated project timeline and consultation timeframe; and
- remove the conceptual subdivision layout - Map Plan 4.

## 9 Recommendation

It is recommended the delegate of the Secretary:

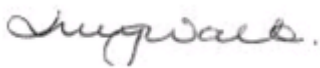
- **agree** that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions, 4.5 Acid Sulfate Soils, 9.1 Rural Zones and 9.2 Rural Lands are minor or justified; and
- **note** that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.2 Heritage Conservation, 4.1 Flooding, 4.3 Planning for Bushfire Protection and 8.1 Mining, Petroleum Production and Extractive Industries are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to agency and community consultation, the planning proposal is to be updated to:
  - remove those parts of the land affected by a high flood hazard (H5 and H6) in the Probable Maximum Flood event;
  - delete all text discussing the North Coast Regional Plan 2036;
  - include an updated project timeline and consultation timeframe; and
  - remove the conceptual subdivision layout - Map Plan 4.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - Department of Primary Industries – Agriculture
  - Transport for NSW
  - Local Aboriginal Land Council
  - Mining, Exploration and Geoscience
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. The LEP should be completed within 6 months of the Gateway determination date.

Given the nature of the Planning proposal, Council should not be authorised as the local plan making authority.



20-06-2024

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(Signature)

\_\_\_\_\_  
(Date)

Lucy Walker  
Manager, Local Planning and Council Support  
Hunter and Northern Region



21/6/24

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(Signature)

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Gina Davis  
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