

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-56	
DA Number	2020/508	
LGA	Bathurst Regional Council	
Proposed Development	135 Lot Residential Subdivision (4 Open Space Lots and 131 Residential Lots), Construction of Roads, Clearing of Vegetation and Bulk Earthworks	
Street Address	Lot 157 DP 1275358 Marsden Lane Kelso NSW 2795	
Applicant/Owner	Bathurst Regional Council (Applicant and Owner)	
Date of DA lodgement	22 December 2020	
Total number of Submissions Number of Unique Objections	Nil (0).	
Recommendation	Approval	
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 3 of Schedule 7 – “Council related development over \$5 million”	
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• State Environmental Planning Policy (Infrastructure) 2007.• State Environmental Planning Policy (Koala Habitat Protection) 2020.• State Environmental Planning Policy No 55 – Remediation of Land.• Bathurst Regional Local Environmental Plan 2014.• Bathurst Regional Development Control Plan 2014.	
List all documents submitted with this report for the Panel’s consideration	<ul style="list-style-type: none">• Draft Notice of Determination.• Plans of Proposed Development.• Map of Subject Land and Surrounding Area.• Statement of Environmental Effects (SEE).• Minimum Lot Size (LEP 2014) and Minimum Lot Frontage (DCP 2014) Compliance Tables.• Agency Submission – NSW Department of Planning Industry and Environment: Biodiversity, Conservation and Science Directorate (BCS).• Vegetation Management Plan (VMP).• Landscaping Plan Associated with Vegetation Management Plan.• Agency Submission – Essential Energy.• Biodiversity Development Assessment Report (BDAR).• Detailed Contamination Investigation.• Validation Investigation Report.• Aboriginal Heritage Information Management System (AHIMS) Search.	
Clause 4.6 requests	Nil (0).	
Summary of key submissions	Nil (0).	
Report prepared by	Neil Southorn, Director Environmental, Planning and Building Services	
Report date	1 October 2021	
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?		

	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable Not applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	No

Purpose of Report

The purpose of this report is to seek determination from the Western Regional Planning Panel of Development Application No. 2020/508 (PPSWES-56) for a 135 lot residential subdivision (4 open space lots and 131 residential lots), construction of roads, clearing of vegetation and bulk earthworks on land known as Lot 157 DP 1275358, Marsden Lane Kelso NSW 2795.

Recommendation

That the Western Regional Planning Panel grant consent to Development Consent No. 2020/508 for:

- 1. 135 Lot Residential Subdivision (4 Open Space Lots and 131 Residential Lots).**
- 2. Construction of Roads.**
- 3. Clearing of Vegetation.**
- 4. Bulk Earthworks.**

subject to conditions included in the Draft Notice of Determination (see **Attachment 1**) with any further conditions or amendments as determined appropriate by the Director of Environmental Planning & Building Services, pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979*, as amended.

Executive Summary

The proposed development includes the subdivision of one (1) lot into 135 lots, bulk earthworks, the clearing of vegetation, the construction of four (4) new roads and extensions to four (4) existing roads.

Four (4) of the proposed 135 lots will be public open space lots and the remaining 131 will be residential lots, each with an area ranging between 601.4m² and 1,174.1m².

The proposal is a Council related development (that is Council is the owner and developer of the land) with a capital investment value (CIV) of over \$5 million. The proposal is identified as Regionally Significant Development under Clause 3, Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* and accordingly, the Joint Regional Planning Panel is the consent authority.

Lot 157 DP 1275358 is currently a vacant greenfield site located on the North-Eastern periphery of the city of Bathurst, on the outskirts of established residential areas within the suburb of Kelso. There is a Council water reservoir located on adjoining Lot 155 DP 1263887, the boundaries of which will not change as part of this subdivision.

The surrounding land located to the North and East predominantly consists of rural residential land uses. Development Consent (No. 2017/212) for the established 150-lot residential subdivision located directly to the West of the subject land (known as Sunnybright Stage 1), was granted by the Western Joint Regional Planning Panel on 14 December 2017.

The land is zoned R1 General Residential and RE1 Public Recreation under *Bathurst Regional Local Environmental Plan 2014* (LEP 2014). The layout of the proposed

subdivision is generally consistent with the zone boundaries, with the exception of two proposed open space lots (Lots 2002 and 2004) which are zoned RE1 Public Recreation and R1 General Residential.

The land has primary frontage onto Marsden Lane to the North and Limekilns Road to the South and interconnects with various existing local residential roads to the West, including: Kirkland Road, Lockwood Rise, Wallace Way and Bolton Street. Lawrence Drive will be extended through the land connecting Limekilns Road to Marsden Lane.

The land contains scattered vegetation (largely exotic) and various dams which are primarily located alongside a natural drainage depression (referred to Boyd Creek Western Tributary) towards the Southern end of Lot 157 DP 1275358. The land falls predominantly towards the South-East and the natural elevation ranges between 730m AHD (North-Western corner) and 702m AHD (South-Western corner).

The natural drainage depression (non-perennial) is a tributary of Raglan Creek and subsequently, the Macquarie River. All road and interallotment drainage from the proposed subdivision will be collected and conveyed through a pit and pipe system to an open drainage channel and detention basins within the proposed open space Lots 2003 and 2004. The existing dams located in the vicinity of open space lots will be reshaped and designed to manage a 1% AEP event. From this point, stormwater will be conveyed beneath Limekilns Road and into the Boyd Creek and Raglan Creek open channel drainage reserves.

The proposed subdivision can be serviced with electricity, water supply, sewerage and stormwater reticulation through the augmentation of existing infrastructure located in the vicinity of the development site. A new Collector Road (to be known as Lawrence Drive) is proposed to be constructed alongside the Eastern boundary of the land, between Marsden Lane and Limekilns Road to service the proposed subdivision and improve access and broader connectivity throughout the growing residential areas of Kelso and Laffing Waters. The location and design of this road is generally consistent with “Map No. 4 – Kelso” of *Bathurst Regional Development Control Plan 2014* (DCP 2014).

In accordance with Clause 3.14.4.3 of *Bathurst Regional Community Participation Plan 2019* (CPP 2019), the proposed development (involving the subdivision of land zoned R1 General Residential) was not required to be placed on public exhibition or notified to surrounding landowners. Further, the proposal is not identified as advertised development under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal was referred to Essential Energy and the NSW Department of Planning, Industry and Environment (Biodiversity) and responses have been received from each of these agencies.

Pursuant to Clause 41 of the *Water Management (General) Regulation 2018* a public authority (being Council as the developer) is exempt from requiring a controlled activity approval under Section 91 of the *Water Management Act 2000* in relation to activities carried out in, on or under waterfront land. Therefore, whilst works are proposed to be undertaken within the natural drainage depression located on the land, the proposal was not required to be referred to the NSW Natural Resources Access Regulator (NRAR) as Integrated Development.

Proposed Development

The proposed development includes the subdivision of one (1) lot into 135 lots, bulk earthworks, the clearing of vegetation, the construction of four (4) new roads (identified on the plans as “Fulton Court”, “Hartigan Street”, “Kellett Close” and “Lawrence Drive”) and extensions to four (4) existing roads, including Kirkland Road, Lockwood Rise, Wallace Way and Bolton Street.

The proposed subdivision will be comprised of:

Proposed Lot No.	Description
Lots 201 – 331	131 residential allotments ranging between 601.4m ² and 1,174.1m ² in area.
Lots 2001 – 2004	Four (4) large public open space lots ranging between 1,515.7m ² and 2.08 hectares in area. Lots 2001 and 2002 adjoin existing Lot 155 DP 1263887 which contains Council's water reservoir. Lots 2003 and 2004 to contain the natural drainage depression, shared pedestrian/cycle paths and landscaping.

The plans of the proposed development are provided in **Attachment 2**.

The Subject Land

Lot 157 DP 1275358 (approximately 19.57 hectares) is currently a vacant greenfield site located on the North-Eastern periphery of the city of Bathurst on the outskirts of established residential areas within the suburb of Kelso. The surrounding land located to the North and East predominantly consists of rural residential land uses. There is also a Council water reservoir located on adjoining Lot 155 DP 1263887, the boundaries of which will not change as part of the proposed subdivision.

The land has primary frontage onto Marsden Lane to the North and Limekilns Road to the South and interconnects with various local residential roads to the West, including Kirkland Road, Lockwood Rise, Wallace Way and Bolton Street.

Historically the land was used as an orchard, however the majority of fruit trees have been removed. The land contains scattered vegetation and various dams constructed for farming purposes which are primarily located alongside a natural drainage depression towards the Southern end of Lot 157 DP 1275358. The remnants of various windbreaks (Radiata Pine) remain along Marsden Lane and throughout the site. The land falls predominantly towards the South-East and the natural elevation ranges between 730m AHD (North-Western corner) and 702m AHD (South-Western corner).

Development Consent (No. 2017/212) for the 150-lot residential subdivision located directly to the West of the subject land (Stage 1), was granted by the Western Regional Planning Panel on 14 December 2017.

Maps of the subject land and surrounding area are provided in **Attachment 3**.

Attachments

Attachment No.	Description
1.	Draft Notice of Determination.
2.	Plans of Proposed Development.
3.	Map of Subject Land and Surrounding Area.
4.	Statement of Environmental Effects (SEE).
5.	Minimum Lot Size (LEP 2014) and Minimum Lot Frontage (DCP 2014) Compliance Tables.
6.	Agency Submission – NSW Department of Planning Industry and Environment: Biodiversity, Conservation and Science Directorate (BCS).
7.	Vegetation Management Plan (VMP).
8.	Landscaping Plan Associated with Vegetation Management Plan.
9.	Agency Submission – Essential Energy.
10.	Biodiversity Development Assessment Report (BDAR).
11.	Detailed Contamination Investigation.
12.	Remediation Action Plan (RAP).
13.	Validation Investigation Report.
14.	Aboriginal Heritage Information Management System (AHIMS) Search.

Legislative Requirements

Water Management Act 2000

Pursuant to Clause 41 of the *Water Management (General) Regulation 2018* a public authority (being Council as the developer) is exempt from requiring a controlled activity approval under Section 91 of the *Water Management Act 2000* in relation to activities carried out in, on or under waterfront land. Therefore, whilst stormwater and earthworks are proposed to be undertaken within the natural drainage depression located on the land, the proposal was not required to be referred to the NSW Natural Resources Access Regulator (NRAR) as Integrated Development.

Fisheries Management Act 1994

The proposed development includes the carrying out of stormwater management works and reshaping works within the unnamed non-perennial watercourse located on the Southern side of Lot 157 DP 1275358. However, this watercourse is identified as a first order stream (Strahler Stream Order) and is therefore not considered key fish habitat (Third Order or greater) under the Department of Primary Industries' (NSW DPI) *Fisheries NSW Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)*.

Accordingly, the proposal is not considered to be integrated development as no permits or approvals are required under Part 7 of the *Fisheries Management Act 1994*.

Section 4.15 Assessment

Section 4.15(1)(a)(i) Any environmental planning instruments

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development is listed under Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, being a Council related development with a capital investment value (CIV) of more than \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority, having functions of a consent authority under Section 4.5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

State Environmental Planning Policy (Infrastructure) 2007

Part 3 Development controls

Division 5 Electricity transmission or distribution

Subdivision 2 Development likely to affect and electricity transmission or distribution network

The proposed development includes the penetration of ground within 2 metres of an underground electricity power line and works to be carried out within 5 metres of an existing overhead electricity power line. Accordingly, the application was referred to Essential Energy under Clause 45 of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP (Infrastructure) 2007) and the following comments were received.

Essential Energy – 22 January 2021

We refer to the above matter and to your correspondence via the NSW Planning Portal seeking comment from Essential Energy in relation to the proposed development.

Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. As part of the subdivision, easement/s are to be created for any existing or new electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works team for requirements via email [contestableworks@ essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au)
3. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
4. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is

issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.

5. In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
6. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.
7. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

Essential Energy did not raise any safety concerns in relation to the proposed development within proximity to both underground and overhead electricity infrastructure. The above recommendations should be adapted as conditions of consent.

Part 3 Development controls

Division 17 Roads and Traffic

Subdivision 2 Development in or adjacent to road corridors and road reservations

Clause 102 "Impact of road noise or vibration on non-road development"

Clause 102 of SEPP (Infrastructure) 2007 is not applicable to the proposed residential subdivision as the land is not located in or adjacent to a road with an annual average daily traffic volume of more than 20,000 vehicles.

The submitted Statement of Environmental Effects (see **Attachment 4**) details that:

- Boyd Street/Limekilns Road currently experiences an average daily traffic volume of approximately 5,000 vehicles.
- Marsden Lane currently experiences an average daily traffic volume of approximately 7,000 vehicles.

Clause 104 “Traffic-generating development”

The proposed 135 lot subdivision is not identified as traffic-generating development under Clause 104 and Schedule 3 of SEPP (Infrastructure) 2007. The subject land does not have frontage to a classified road and vehicular access to the development will not be obtained from a road that connects to a classified road within a distance of 90 metres. Accordingly, the application is not required to be referred to Transport for NSW (TfNSW) for comment.

State Environmental Planning Policy (Koala Habitat Protection) 2020

The land has an area of more than 1 hectare and accordingly, *State Environmental Planning Policy (Koala Habitat Protection) 2020* (SEPP (Koala Habitat Protection) 2020) is required to be considered as part of this application.

A Biodiversity Development Assessment Report (BDAR) (prepared by OzArk Environmental and Heritage Management Pty Ltd, dated 4 September 2020) has been submitted to Council for consideration. The BDAR identifies (based on a database search and field survey) that the land is not potential koala habitat, as there are no koala feed tree species located on the site, as listed under Schedule 2 of SEPP (Koala Habitat Protection) 2020. Therefore, development consent may be granted consistent with Clause 8 of SEPP (Koala Habitat Protection) 2020 and a koala plan of management is not required to be prepared in relation to the proposal.

Note: The subject Development Application was submitted to Council prior to the commencement of *State Environmental Planning Policy (Koala Habitat Protection) 2021* (SEPP (Koala Habitat Protection) 2021). Clause 18 of SEPP (Koala Habitat Protection) 2021 states that “*a development application made in relation to land, but not finally determined before this Policy applied to the land, must be determined as if this Policy had not commenced in its application to the land.*”

State Environmental Planning Policy No 55 – Remediation of Land

Detailed Contamination Investigation

As part of the Sunnybright Stage 1 subdivision located to the West of the subject site (Development Consent No. 2017/212) a *Detailed Contamination Investigation Report* (prepared by Envirowest Consulting, dated 4 September 2017) was submitted in relation to Lot 5 DP 847225 (now Lot 155 DP 1263887 and Lot 157 DP 1275358). The Report identified that:

- The site was previously used as an orchard with a packing shed, which has since been removed from the land.
- *“A small amount of fill (up to 300mm) was identified forming a shed building pad in investigation area 1. The fill material comprised crushed granite and brownish red silty sand. Two asbestos cement fragments were identified on the surface of this area. No asbestos cement fragments were identified within the fill material. No additional fragments of asbestos were identified within this area.”*
- *“No bare areas were identified within investigation area 3. The levels of lead and OCP’s including dieldrin in the additional soil samples collected were below the adopted thresholds for residential land-use.”*
- *“One sample previously collected by SESL Australia (S7) contained levels of lead and OCP (dieldrin) above the adopted threshold for residential land-use.”*
- *“The site is suitable for proposed residential activities following remediation of lead and dieldrin impacted material.”*
- *“Remediation and validation of lead and dieldrin impacted material is required to enable the site to be suitable for proposed residential land-use. A remediation action plan is required to identify the most appropriate method of remediation.”*
- *“Any asbestos cement fragments discovered on the site should be managed with an unexpected finds protocol (Appendix 5).”*

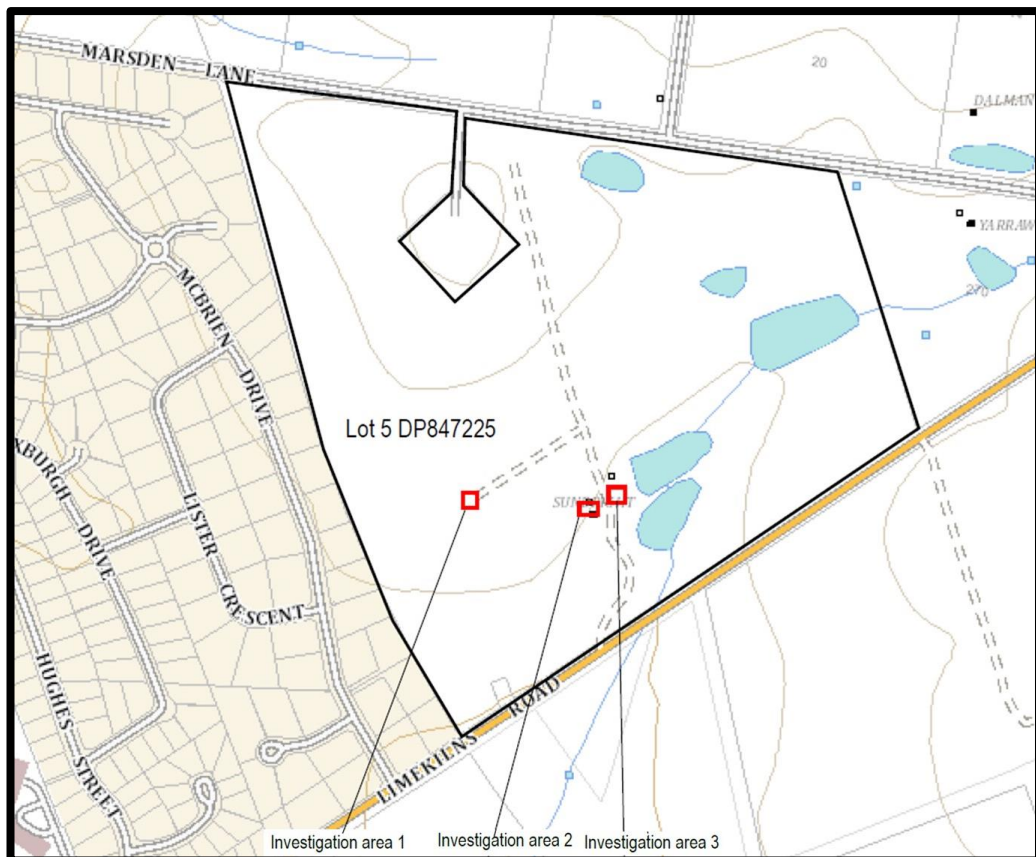


Figure 1 – Investigation Areas Map – Extract from *Detailed Contamination Investigation Report* (prepared by Envirowest Consulting, dated 4 September 2017) – Lot 5 DP 847225



Figure 2 – Overlay of Investigation Areas Map on Aerial Imagery Map – Extract from *Detailed Contamination Investigation Report* (prepared by Envirowest Consulting, dated 4 September 2017) – Lot 157 DP 1275358

Remediation Works

A subsequent *Remediation Action Plan* (RAP) (prepared by Envirowest Consulting, dated 14 September 2017) was previously submitted to Council and identified that the following remediation work would be undertaken:

- *“Lead and dieldrin impacted soil was identified in the location of S7 (Figure 2) by SESL Australia Pty Ltd. The extent of the lead and dieldrin impacted soil has been determined to be approximately 5m by 5m to a depth of 0.3m.”* The impacted area of the land will be located within the Western corner of proposed open space Lot 1007, to the North of neighbouring Lot 42 DP 1253021 (10 Bolton Street Kelso).
- *“Excavation and off-site disposal is considered the preferred option for remediation of the lead and dieldrin impacted soil. The impacted areas will be excavated and the material transported off-site for disposal. The excavations will be extended beyond the impacted areas to ensure all contaminated material has been removed. The excavation areas will be graded to conform with the surrounding landscape. This is expected to be the most timely, technically practical and cost effective method of remediation.”*
- *“The footprint of the former lead and dieldrin impacted area will be inspected and soil samples collected from the base and walls of the excavated area to ensure the lead impacted soil has been removed.”*
- *“Validation sampling of the lead and dieldrin impacted soil excavation pit will be undertaken by sampling of walls and base to confirm sufficient soil has been excavated.”*
- *“The laboratory results will be assessed against the proposed land-use of residential with access to soil (HIL A).”*
- *“Any waste that is disposed of off-site will be classified against the NSW EPA (2014) guidelines. The waste will be classified into general or restricted waste.”*
- *“The excavation pits are shallow and backfilling is not expected to be required. Any imported fill used to backfill the excavation pits will be classified as ENM in accordance with the excavated natural material order 2014.”*
- *“Remediation works will be supervised by an Environmental Scientist or other suitably qualified person and comply with EPA guidelines including Guidelines for Reporting on Contaminated Sites (OEH 2009) and Remediation of Contaminated Land State Environmental Planning Policy (SEPP55).”*

- The required works are identified as Category 2 remediation work, which does not require development consent.

Validation Investigation Report

The required remediation works were undertaken during the Stage 1 subdivision (DA2017/212) and a *Validation Investigation Report* (prepared by Envirowest, dated 5 July 2020) was submitted to Council once the works had been completed. The Report identified that:

- *“The location of the remediation pit had been filled at the time of validation assessment as part of the engineering works for the subdivision. Test pits were constructed to enable assessment of the remediation pit and collection of validation samples. The test pits indicated that up to 1.3m of fill material had been applied to the site to obtain final design levels. Material used to fill low areas were reportedly sourced from on-site. No fill was reportedly imported to the site. The fill material identified in the sampling pits was used to fill a low area as part of subdivision development. The appearance of the material was similar to that in other areas of the site.”*
- *The final excavations of the impacted soil area reportedly comprised an excavation pit measuring approximately 5m by 5m to a depth of 0.3m (approximately 7.5m³ total). Up to 1.3m of fill material comprising brown sandy clay with a clear change to natural soil comprising dark brownish grey silty clay loam was identified in the test pits (Appendix 5). No soil staining or odour was observed in the natural topsoil. The soil profile in the test pits were uniform.*
- *The excavated material was disposed at the Bathurst Regional Council Waste Management Centre with asbestos waste material excavated from additional areas across the site.*
- *All validation samples contained levels of lead and organochlorine pesticides including dieldrin less than the adopted thresholds for residential land-use.*

Therefore, based on the various contaminated land investigations previously submitted to Council, it is considered that the land has been appropriately remediated and is suitable for residential use in accordance with Clause 7 of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55).

Bathurst Regional Local Environmental Plan 2014

The land is zoned R1 General Residential and RE1 Public Recreation under *Bathurst Regional Local Environmental Plan 2014* (LEP 2014) in which the subdivision of land is permissible with consent under Clause 2.6 “Subdivision – consent requirements”.

All proposed residential allotments will be located within land zoned R1 General Residential. However, whilst all proposed open space allotments will generally be located within land zoned RE1 Public Recreation, approximately 6,197.0m² (47.2%) of proposed Lot 2002 and a small portion of Lot 2004 (approximately 395.6m² or 1.9%) will also contain land zoned R1 General Residential (see **Figure 3**).

The inclusion of additional residentially zoned land into the open space allotment surrounding the existing reservoir (Lot 2002) significantly increases the amount of open space in the area. Whilst ordinarily this area of land would be available for residential development it significantly adds to the overall amenity of the area and increases the scope to include usable recreation space in the locality. A small portion of Lot 2004 will be located on land zoned R1 General Residential as a result of the proposed road alignment for Hartigan Street, which allows for an appropriately sized and shaped residential Lot 322. Conditions of consent will be implemented to ensure that Lots 2001, 2002, 2003 and 2004 are dedicated as public open space.

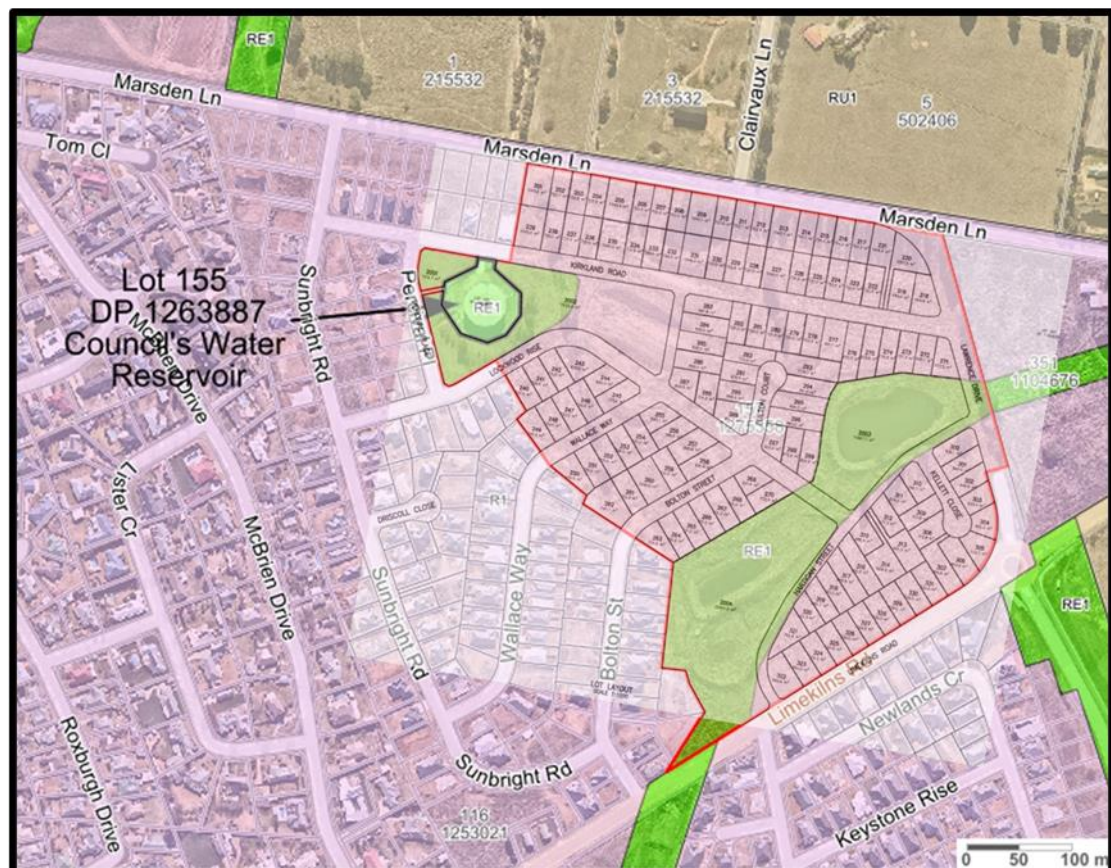


Figure 3 – Land Use Zoning Map Overlaid on Proposed Plan of Subdivision – Open Space Lots 2002 and 2004 to be Partially Located on Land Zoned R1 General Residential – Lot 157 DP 1275358

The proposed development is generally consistent with the objectives of each zone, as outlined below:

Land Use Zone	Objectives	Comment
R1 General Residential	<i>To provide for the housing needs of the community.</i>	The proposed subdivision will create 131 new residential allotments to provide for the housing needs of the community.
	<i>To provide for a variety of housing types and densities.</i>	31 of the 131 proposed residential allotments (23.7%) will be capable of supporting a dual occupancy development based on lot size. Therefore, the subdivision will provide for a variety of housing types and densities.
	<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not relevant to the proposal. A variety of non-residential land uses are currently permissible on land zoned R1 General Residential under LEP 2014.
	<i>To provide housing choice and affordability by enabling opportunities for medium density forms of housing in locations and at densities that complement the surrounding residential environment.</i>	31 residential allotments will be capable of supporting a dual occupancy development based on lot size. Therefore, the subdivision will provide housing choice and affordability by enabling medium density housing in locations and densities that complement the surrounding residential environment.
	<i>To protect and conserve the historic significance and scenic quality of the urban villages of Eglinton, Raglan and Perthville.</i>	Not relevant to Kelso.
	<i>To enable commercial development that is compatible with the amenity of the area and does not prejudice the status and viability of the Bathurst central business district as the retail, commercial and administrative centre of Bathurst.</i>	Not relevant to the proposal. A variety of non-residential land uses are currently permissible on land zoned R1 General Residential under LEP 2014.
RE1 Public Recreation	<i>To enable land to be used for public open space or recreational purposes.</i>	The proposed subdivision will create four (4) large public open space lots which can be used for open space and recreational purposes.
	<i>To provide a range of recreational settings and activities and compatible land uses.</i>	The proposed public open space lots will provide recreational settings within the surrounding residential area. Landscaping has been proposed within these spaces to encourage recreational use of the land by the community.
	<i>To protect and enhance the natural environment for recreational purposes.</i>	The natural drainage line that currently runs through the land will be appropriately located within the two public open space lots (including Lots 2003 and 2004) to protect and enhance the natural environment for recreational purposes.
	<i>To protect and conserve the historical and scenic quality of Bathurst's open space areas.</i>	The proposed subdivision will not place any adverse impact on the protection and conservation of the historical and scenic areas.

		quality of Bathurst's existing open space areas.
	<i>To provide a network of open space that encourages walking and cycling.</i>	<p>A shared pedestrian and cycle path has been proposed alongside Hartigan Street within/adjacent to open space Lots 2003 and 2004, to provide an open space network that encourages walking and cycling.</p> <p>Additionally, footpaths have been proposed throughout the subdivision to provide a pedestrian access network between Marsden Lane, Limekilns Road and Lawrence Drive and the proposed open spaces Lots 2001 to 2004.</p>

Clause 1.9A Suspension of covenants, agreement and instruments

There are no known covenants, agreements or other similar instruments (public or private) that restrict the carrying out of the proposed development on the land.

Clause 4.1 Minimum subdivision lot size

In accordance with Clause 4.1 of LEP 2014, the size of any lot resulting from subdivision must not be less than the applicable minimum lot size (MLS) of 550m². Additionally, where the land is zoned R1 General Residential, the area of any battle-axe lot created must not be less than 750m².

Allotment Type	Minimum Lot Size
All lots.	550m ² .
Battle-axe lots.	750m ² . For the purpose of calculating the size of a battle-axe lot, the area of the access handle is excluded.

The area of each residential lot varies between 601.4m² and 1,174.1m², which is compliant with the relevant MLS of 550m².

Additionally, five (5) of the proposed 131 residential allotments will be battle-axe style allotments, with each having an area of between 814.0m² and 936.0m² (battle-axe handles excluded); being above the relevant MLS of 750m² for battle-axe lots.

Therefore, the proposed development complies with all relevant requirements of Clause 4.1 of LEP 2014 (see MLS compliance table in **Attachment 5**).

Clause 5.1 Relevant acquisition authority

The land is partially identified as "Zone RE1 Public Recreation and marked 'Local open space'" on the Land Reservation Acquisition Map. In accordance with Clause 5.1(2) the relevant Authority to acquire the land is Council.

The land reserved for acquisition is to be contained within proposed open space Lots 2001 to 2004 which will be dedicated to Council.

Clause 6.1 Arrangements for designated State public infrastructure

The land is partially identified as Urban Release Area under LEP 2014. On 7 July 2020, the Director-General certified in writing that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure (defined below) in relation to Lot 5 DP 847225 (now Lot 157 DP 1275358).

designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

Clause 6.2 Public utility infrastructure

Public utility infrastructure is defined under LEP 2014 as follows:

public utility infrastructure, in relation to an urban release area, includes infrastructure for any of the following—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

Conditions of consent will be implemented to ensure that each lot retains suitable connections to electricity supply services and to Council's water supply and sewerage reticulation networks, prior to the issue of any Subdivision Certificate.

Clause 6.3 Development control plan

The proposed development will generally be carried out in accordance with the staging plan and controls implemented under the provisions of *Bathurst Regional Development Control Plan 2014* (DCP 2014). See further discussion later in this report.

Clause 7.3 Airspace operations

The maximum natural surface contour identified on the land is 730m AHD and the Obstacle Limitation Surface applicable to the land is 770.0 – 779.5 AHD. It is considered that there is a sufficient surface area available to accommodate future residential development on the land, without impacting the operations of the Bathurst Airport.

Clause 7.4 Development in areas subject to aircraft noise

Clause 7.4 applies to development that is likely to be affected by aircraft noise.

7.4 Development in areas subject to aircraft noise

- (1) *The objectives of this clause are as follows—*

- (a) *to prevent certain noise sensitive developments from being located near the Bathurst Airport and its flight paths,*
 - (b) *to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*
 - (c) *to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*
- (2) *This clause applies to development that—*
- (a) *is on land that—*
 - (i) *is near the Bathurst Airport, and*
 - (ii) *is in an ANEF contour of 20 or greater, and*
 - (b) *the consent authority considers is likely to be adversely affected by aircraft noise.*
- (3) *In deciding whether to grant development consent to development to which this clause applies, the consent authority—*
- (a) *must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
 - (b) *must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*
 - (c) *must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*
- (4) *In this clause—*
AS 2021—2000 *means AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.*

In this particular case, the proposed development is located on land outside the adopted ANEF contour of 20 or greater. Notwithstanding, the *Bathurst Airport Master Plan 2013* acknowledges that properties located outside the ANEF mapping may be subject to aircraft noise. The Masterplan provides an estimate of noise levels up to the year 2033, based on the expected increase in operations.

Bathurst Airport Master Plan

6.0 AIRCRAFT NOISE

6.4 N60 AND N70 CONTOURS

The ANEF system is generally recognised as being the most technically complete description of aircraft noise in use in the Australian context and the ANEF is the only metric recognised under AS2021:2000. However, it is also widely recognised that the ANEF system is not easily translated into the important factors which affect how individuals react to aircraft noise: the number of over flights and the loudness of individual events. This is due to the way the ANEF combines the effects of loudness, duration and frequency of noise events to develop a measure of the cumulative noise dose.

‘Number above’, or ‘N’, contours illustrate the average number of events per day louder than a certain sound level. In the case of the N60, this level is 60 Db(A). The single event level of 60 Db(A) is specified in Australian Standard AS2021:2000 as the

indoor design sound level for normal domestic areas in dwellings and 70 Db(A) is the noise level at which conversation is disturbed within a house with the windows open.

Contours such as the N60s and N70s assist the community to better understand the impacts of aircraft noise by giving individuals the ability to interpret aircraft noise based on actual counts of aircraft with a noise profile greater than a certain level over a range of flight paths. The provision of 'Number Above' contours has been recently recommended by Department of Infrastructure, Transport, Regional Development and Local Government (previously the Department of Transport and Regional Services) in a discussion paper entitled Guidance Material for Selecting and Providing Aircraft Noise Information. They have also proven to be a good way to produce a 'whole of airport' picture of single event aircraft noise patterns which is easy for the general public to understand.

N70 and N60 maps for Bathurst Airport have therefore been produced based on the 2033 forecast traffic...

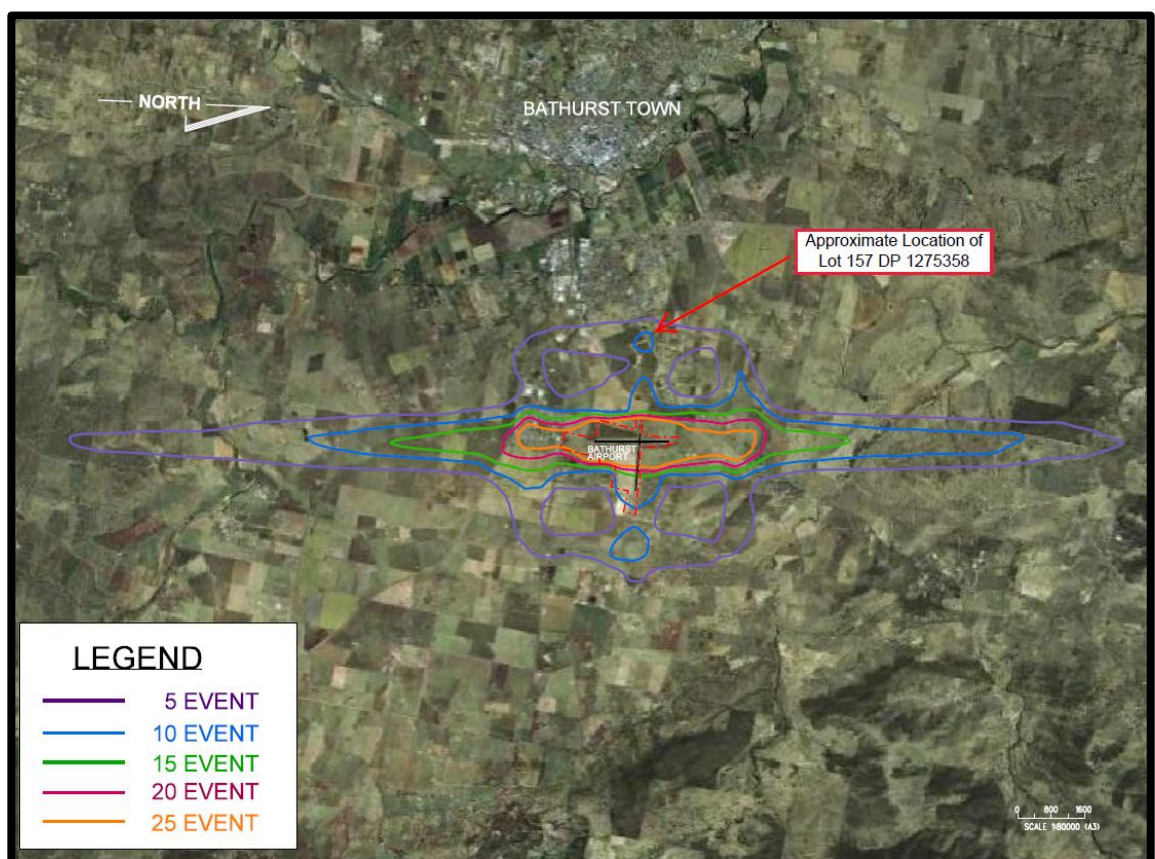


Figure 4 – 2033 N60 Contour Map – Bathurst Airport Master Plan – Lot 157 DP 1275358

The subject land is **not** identified within the N70 noise contour, however, it is largely located within the N60 contour (see **Figure 4**). The new residential allotments would experience up to 10 noise events per day based on the 2033 noise projection maps. However, this level is not considered unsatisfactory.

Clause 7.5 Essential services

There are existing electricity, water supply, sewerage and stormwater reticulation services located within the vicinity of the site.

Conditions of consent will be implemented to ensure that all roads are suitably constructed and that each lot retains suitable connections to electricity services and Council's water supply, stormwater and sewerage reticulation networks, prior to the issue of any Subdivision Certificate.

Section 4.15(1)(a)(ii) Any draft environmental planning instrument

There are no draft environmental planning instruments currently applicable to the proposed development or the subject land.

Section 4.15(1)(a)(iii) Any development control plan

Bathurst Regional Development Control Plan 2014

The proposed development will generally comply with the objectives of *Bathurst Regional Development Control Plan 2014* (DCP 2014), subject to conditions of consent.

Chapter 3 – Subdivision of Land

3.3 Subdivision Requirements: All Zones

3.3.1 Electricity and telephone services

There are existing electricity supply services located within the vicinity of the site. Conditions of consent will be implemented to ensure that each lot retains suitable connections to underground electricity services, prior to the issue of any Subdivision Certificate. Additionally, street lighting will need to be provided and installed in accordance with AS/NZS 1158 "Lighting for roads and public spaces".

3.3.2 Roads

Conditions of consent will be implemented to ensure that all proposed roads are designed and constructed in accordance with the road hierarchy and classification of DCP 2014 and the requirements of Council's *Guidelines for Engineering Works*.

3.3.3 Drainage

Conditions of consent will be implemented to ensure that road and interallotment drainage is suitably designed and constructed in accordance with *Bathurst Regional Development Control Plan 2014* and Council's *Guidelines for Engineering Works*, where relevant.

The submitted Service Layout Plan, Cross-section Open Space Plan and Statement of Environmental Effects indicate that all road and interallotment drainage from the proposed subdivision will be collected and conveyed through a pit and pipe system to an open drainage channel and detention basins within proposed open space Lots 2003 and 2004. The existing dams located in the vicinity of open space lots will be reshaped and designed to manage a 1% AEP event. From this point, stormwater will be conveyed beneath Limekilns Road and into the Boyd Creek and Raglan Creek open channel drainage reserves.

As part of the assessment process, amended plans were submitted as they relate to the treatment of the open space/water course through the site. One of the key changes involved the removal of a low flow drainage pipe (20% AEP) from proposed open space Lots 2003 and 2004 and replacement with an open grass-lined drainage channel. It is considered that this amendment will significantly improve the environmental outcomes of the land and development, such as increased groundwater infiltration, improved stormwater quality, improved habitat values and local cooling effect.

However, it is also acknowledged that the removal of the low flow pipe is contrary to Council's current *Guidelines for Engineering Works* and could reduce the ease of maintenance of the land, particularly as a result of increased water infiltration at low points and waterlogged soil. The plans indicate that an area ranging from approximately 0 to 11 metres on the outer edges of Lots 2003 and 2004 will not be inundated with water during large storm events, and this interface between new residential allotments and the drainage channel could be reasonably treated and maintained (see **Figure 5**).

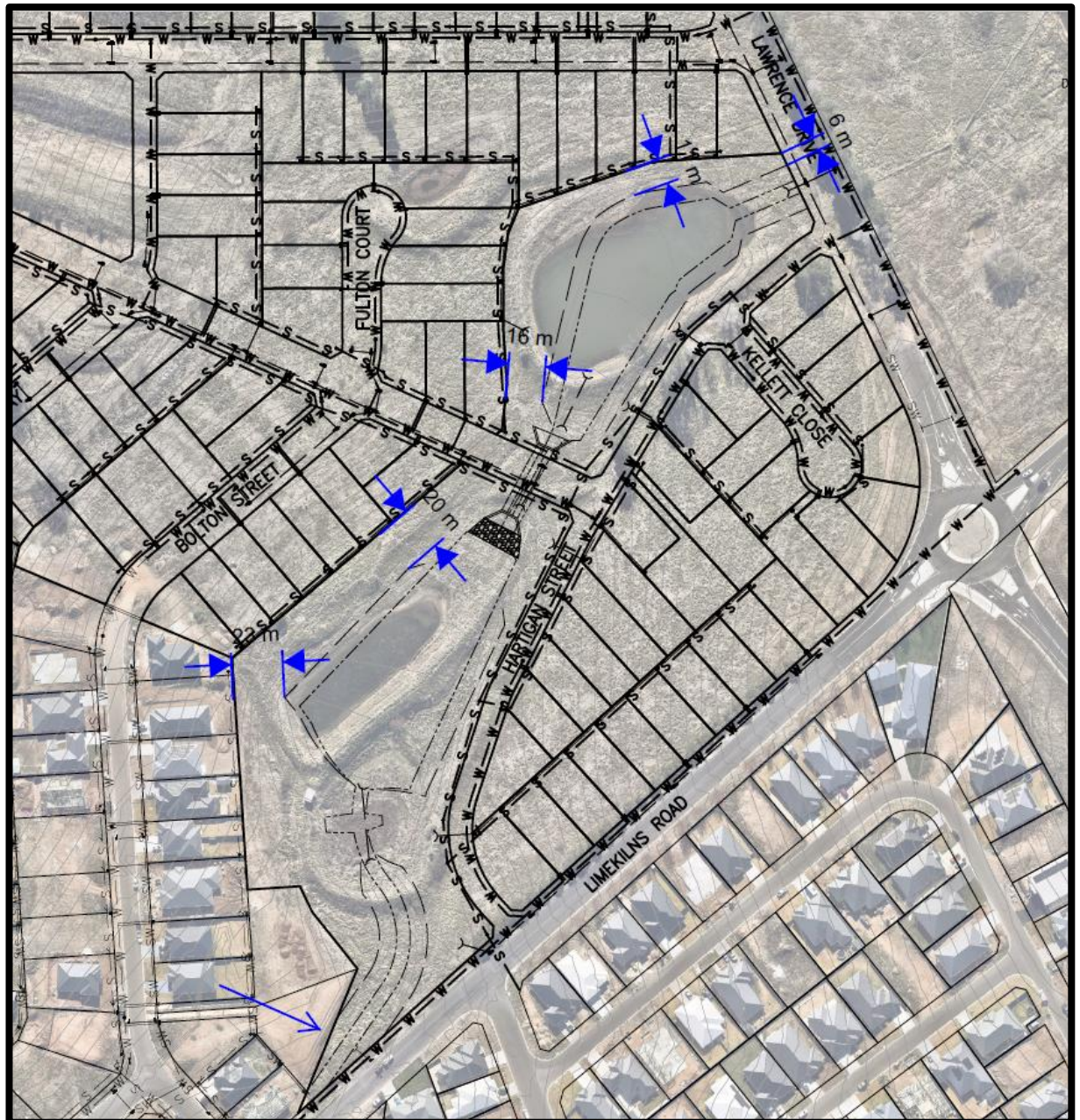


Figure 5 – Service Layout Plan for Proposed Subdivision – Estimated Distance of 0 to 11 metres Between Water Detention and Residential Lot Boundaries – Lot 157 DP 1275358

3.3.4 Reticulated water and sewer

Conditions of consent will be implemented to ensure that each lot retains suitable connections to Council's water supply and sewerage reticulation network, prior to the issue of any Subdivision Certificate.

3.3.6 Soil and Water Management (including erosion and sediment control measures)

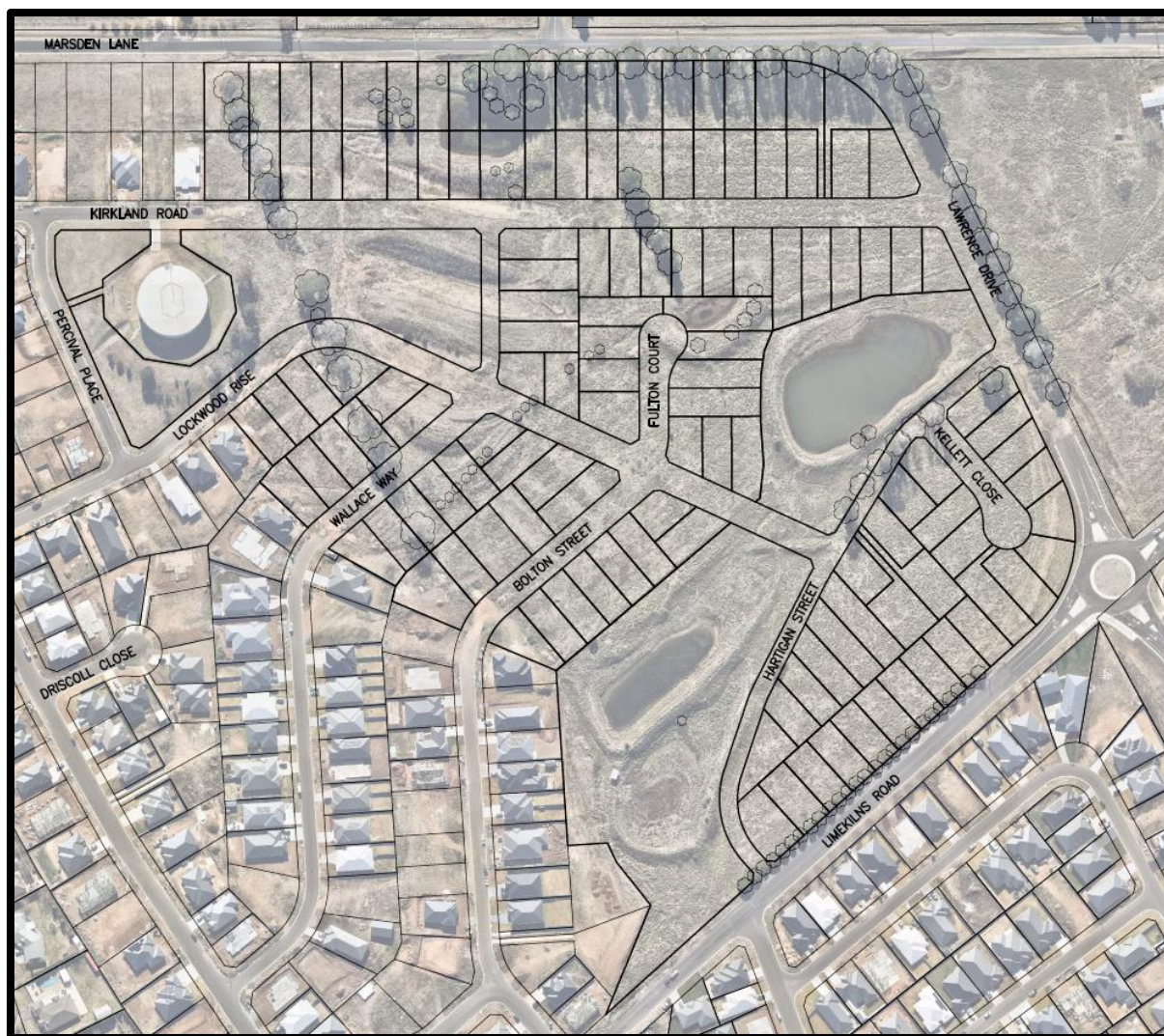
The proposed development includes bulk earthworks and the disturbance area of the proposal is more than 2,500m². Conditions of consent will be implemented to ensure

that a Soil and Water Management Plan is submitted to Council for endorsement, prior to the issue of any Subdivision Works Certificate and that all erosion and sedimentation controls are installed prior to the commencement of any works.

3.3.7 Natural environment

Clause 3.3.7(c) of DCP 2014 states that “*In urban and village locations, lots are to be designed to allow for the erection of buildings on the site with minimal or no disturbance to existing trees and landscape features.*” The proposed development includes substantial changes to the existing landscape and natural environmental features located on the land, notably including:

- The removal of a large number of existing pines (*Pinus Radiata*) and other exotic grasses, trees and shrubs (including existing Apple Trees (*Malus pumila*), African Boxthorns (*Lycium ferocissium*) and Sweet Briars (*Rosa rubignosa*)) from the land (see **Figure 6**).
- Bulk earthworks for the purpose of constructing roads, installing services and creating suitably sloped residential and recreational allotments (see **Figure 7**).
- The infilling and releveling of existing dams located on the Northern side of the land to create suitable residential allotments (see **Figure 7**).
- The reshaping and redesign of existing dams located on the South-Eastern side of the land for use as an open drainage channel and stormwater detention basins to be located within proposed open space Lots 2003 and 2004 (see **Figure 6** and **Figure 7**).



Legend:

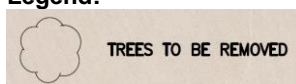


Figure 6 – Vegetation Layout Plan – Significant Number of Trees to be Removed, with the Exception of Existing Trees Surrounding Council's Water Reservoir



Legend:

Elevations Table			
Number	Minimum Elevation	Maximum Elevation	Color
1	-1000.000	-5.000	Magenta
2	-5.000	-4.000	Red
3	-4.000	-3.000	Orange
4	-3.000	-2.000	Yellow-Orange
5	-2.000	-1.000	Yellow
6	-1.000	-0.001	Light Yellow
7	-0.001	0.001	Light Green
8	0.001	1.000	Light Cyan
9	1.000	2.000	Light Blue
10	2.000	3.000	Blue
11	3.000	4.000	Dark Blue
12	4.000	5.000	Purple
13	5.000	6.000	Brown
14	6.000	1000.000	Black

Figure 7 – Bulk Earthworks Plan Overlaid on Aerial Image – Existing Dams on Northern Side of Land to be Infilled and Levelled for Residential Allotments and Existing Dams on the South-Eastern Side to be Reshaped for Stormwater Management – Lot 157 DP 1275358

As discussed further under Chapter 9 “Environmental Considerations” of DCP 2014 below, the Biodiversity Development Assessment Report (BDAR) submitted with this Development Application makes the following key findings in relation to the current environmental condition of the land:

- The land has historically been subject to intensive agricultural disturbance.
- Native species are nowhere dominant on the subject land.
- The land is largely comprised of introduced pasture and planted woodlots of exotic species.
- The site does not contain any identifiable native plant community type.
- Three (3) threatened flora species had a **low** likelihood of occurring on the land.
- Sixteen (16) threatened fauna species had a **high** likelihood of occurring on the land and two (2) threatened fauna species had a **low** likelihood of occurring on the land.
- No (0) aquatic ecological communities had the potential to occur on the land, largely due to the ephemeral nature of the natural drainage line and associated dams.
- No (0) threatened ecological communities had the potential to occur on the land.
- The proposed development is not likely to significantly affect threatened species.

Sixteen (16) threatened fauna species were identified as having a high likelihood of occurring on the land, including several bird species, the Yellow-bellied Sheath-tail-bat (*Saccolaimus flaviventris*) and the Green and Golden Frog (*Litoria aurea*). However, the “Test of Significance” (5 Part Test) provided within the BDAR determined that the proposed changes to the natural landscape are not expected to place any significant impact on those species or their habitat, largely due to the following reasons:

- | | |
|---|--|
| • The species does not occur on the subject site. | Green and Golden Bell Frog. |
| • There is no habitat on the subject site for this species. Water bodies on the site are already fragmented from areas of suitable habitat by urban development. | Green and Golden Bell Frog. |
| • Habitat on the subject site is only likely to be suitable for vagrants of the species. It is not suitable breeding habitat and is unlikely to support important numbers during non-breeding season. | Blue-billed Duck (<i>Oxyura australis</i>), Freckled Duck (<i>Stictonetta naevosa</i>), Glossy Ibis (<i>Plegadis falcinellus</i>). |
| • The removal of all ephemeral surface water on the site will act to further fragment the aquatic habitat in the area. The marginal | Blue-billed Duck, Freckled Duck, Glossy Ibis, Sharp- |

nature of the water bodies on the site will likely limit the severity of this impact.	tailed Sandpiper (<i>Calidris acuminata</i>), Curlew Sandpiper (<i>Calidris ferruginea</i>), Latham's Snipe (<i>Gallinago hardwickii</i>).
<ul style="list-style-type: none"> Similar habitat occurs throughout the Bathurst rural area and any modification of the subject site is not likely to impact the long-term viability of the species population. 	Blue-billed Duck, Freckled Duck, Glossy Ibis.
<ul style="list-style-type: none"> Habitat on the subject site may provide marginal foraging habitat only. Modification of the subject site will not impact on any breeding population of Spotted Harriers. 	Spotted Harrier (<i>Circus assimilis</i>).
<ul style="list-style-type: none"> Similar rural, non-native habitat is extensive throughout the Bathurst rural area. Modification of the subject site will not significantly reduce the available habitat in the area for this species. 	Spotted Harrier, Little Eagle (<i>Hieraaetus Morphnoides</i>), Black Falcon (<i>Falco subniger</i>).
<ul style="list-style-type: none"> The subject site is already fragmented and isolated from other areas by urban development on the outer suburbs of Bathurst. 	
<ul style="list-style-type: none"> Habitat on the subject site may provide marginal foraging habitat for this species. 	Little Eagle, Black Falcon.
<ul style="list-style-type: none"> While large planted exotic trees may provide some nesting opportunities, no potential nests were recorded during the field survey, despite dedicated searches. 	
<ul style="list-style-type: none"> Habitat on the subject site may provide short-term habitat for vagrant individuals. It is not habitat that is suitable for overwintering of significant numbers of this migrant species. 	Sharp-tailed Sandpiper (<i>Calidris acuminata</i>), Curlew Sandpiper (<i>Calidris ferruginea</i>), Latham's Snipe.
<ul style="list-style-type: none"> Similar habitat is available within the local area, including protected wetlands such as the Macquarie River. Modification caused by this proposal will not affect the species population within the local area. 	Sharp-tailed Sandpiper, Curlew Sandpiper, Latham's Snipe.
<ul style="list-style-type: none"> Large, planted exotic conifer trees at the subject site's boundaries potentially provide roosting habitat. However, no breeding habitat exists on the subject site, with minimal foraging resources associated with the site. 	Barking Owl (<i>Ninox connivens</i>), Powerful Owl (<i>Ninox strenua</i>).

- | | |
|---|---|
| <ul style="list-style-type: none"> • Removal of potential roosting trees will not impact on the lifecycle of the species. | |
| <ul style="list-style-type: none"> • No population of Barking Owls was detected despite dedicated searches for roosting sites. | Barking Owl,
Powerful Owl |
| <ul style="list-style-type: none"> • The species is likely to occur throughout extensive areas of similar habitat within the local area. Any impact to the species within the subject area is not likely to impact on the species so as to place it at risk of local extinction. Significant roosting habitat exists in the surrounding areas but does not exist at the site. The species is capable of covering a large range to feed each night. There is a potential that the species may feed over the site, particularly over the dams on site. | Yellow-bellied
Sheath-tail-bat. |
| <ul style="list-style-type: none"> • The habitat being modified by the proposal is not important to the long term survival of the species. Existing habitat within the study area is already fragmented by previous clearing and development. | Yellow-bellied
Sheath-tail-bat,
Rainbow Bee-eater
(<i>Merops ornatus</i>),
Flame Robin
(<i>Petroica phoenicea</i>) |
| <ul style="list-style-type: none"> • The species is likely to occur throughout extensive areas of similar habitat within the local area. Any impact to the species within the subject area is not likely to impact on the species so as to place it at risk of local extinction. At completion of development, open space areas that form part of the proposal will continue to provide habitat for the species. | Rainbow Bee-eater. |
| <ul style="list-style-type: none"> • The subject site does not provide suitable breeding habitat. The species may occasionally forage on the site over winter during postbreeding dispersal, however surrounding landscape provides abundant similar habitat and green spaces that will form part of the proposed development will also continue to provide foraging habitat for this species. | Flame Robin. |
-
- No surface bushrock exists on the site, that will be removed as part of the proposal.
 - There is not native vegetation or remnant trees located on the site.
 - The site is already severely impacted by grazing, with rabbits present.
 - There are no appropriate hollow-bearing trees on the site.
 - Native plant communities do not exist on the subject land.
 - Exotic perennial grasses are already established at the site.

- Removal of dead wood currently present on the site as well as additional dead wood resulting from tree clearing will occur. However, it is not likely to have a significant impact on any specific species or have a significant regional impact.

Additionally, a Vegetation Management Plan (VMP) has been submitted to Council (discussed further under Chapter 13 “Landscaping and Greening” of DCP 2014 below) which aims to *“address issues relating to vegetation removal and provide advice and plans for new vegetation and subsequent landscape design, to support urban biodiversity and create a pleasant environment for the future residents of Sunnybright Estate. This VMP also aims to provide strategies for vegetation management in relation to stormwater and runoff, particularly as this relates to temporary site stabilization using natural means (i.e. revegetation of exposed areas); and, meeting water quality objectives in downstream Macquarie River, within the Macquarie-Bogan catchment, through long-term site stabilisation and filtration of runoff by vegetation.”*

The VMP proposes that a significant number of native trees and shrubs (55 upper stratum plants (trees), 4,900 mid stratum plants, 19,000 grasses and groundcovers and 26,000 “swampy meadow” grasses, rushes and groundcovers) be planted within proposed open space Lots 2003 and 2004, adjacent to the natural drainage line/detention basin. The BDAR identifies that this native planting has the potential to improve the native habitat quality of the site beyond current or recent levels, particularly given that the exotic pines currently dominating the site have limited habitat value.

Further, the development incorporates the use of an open drainage channel and detention basins along the existing natural drainage line within open space Lots 2003 and 2004, as an alternative to a low flow pipe. This stormwater management practice will result in improved environmental outcomes for the land and development, such as: increased groundwater infiltration, improved stormwater quality, improved habitat values and local cooling effect.

Subject to the implementation of conditions of consent to ensure that all works proposed within the VMP, Service Layout Plan and the mitigation measures recommended in the BDAR are carried out, albeit subject to more detailed design, the proposed development will comply with the objectives of Chapter 3 of DCP 2014 (as below). Whilst the proposal includes the removal of trees and dams identified in Clause 3.3.7(c) of DCP 2014 it is nonetheless supported in this case.

3.3.8 Landscaping

The proposed development involved the subdivision of land which incorporates open space, as identified on DCP Map No. 4 – Kelso. A Landscaping Plan has been submitted to Council in relation to the open space land and has been assessed under Chapter 16 of DCP 2014 (see below).

3.3.9 Land contamination

As previously discussed under SEPP 55, based on the various contaminated land investigations previously submitted to Council, it is considered that the land has been appropriately remediated and is suitable for residential use. No further contaminated land investigations are considered necessary under Clause 3.3.9 of DCP 2014.

3.4 Subdivision Requirements: Zone R1 – General Residential and R2 – Low Density Residential

3.4.2 Allotment dimensions

Clause 3.4.2 of DCP 2014 prescribes the following in relation to minimum frontages for lots created by subdivision within the area of Kelso:

Development Standards

- a) The minimum standards in the table below, apply for the subdivision of residential land for the purposes of a dwelling house.

Location	Normal Lot	Battle-axe Lot
	Minimum Frontage	Minimum width of Access Handle
Bathurst, Kelso, Llanarth and Windradyne	16.5 metres	3 – 4m

Each of the five (5) proposed battle-axe lots have a handle width of at least 4 metres, in accordance with Clause 3.4.2 of DCP 2014. Further, all remaining residential lots comply with the minimum frontage of 16.5 metres at the 6-metre building line (setback), with the exception of Lot 271 which has a minimum frontage of 14.37 metres at the building line (see compliance table in **Attachment 5**).

However, Lot 271 will be located on the corner of Kirkland Road and Lawrence Drive. The Lawrence Drive frontage is much larger at 38.24 metres and the opposite short boundary has a width of 28.26 metres. Accordingly, it is considered that Lot 271 will be of a suitable size and shape to provide a reasonable standard of amenity and functionality for any future residential development on that land, particularly if the development were to front Lawrence Drive. Therefore, it is considered that the proposed development will comply with the objectives of Clause 3.4.2 of DCP 2014 and the proposed variation is considered acceptable.

3.4.3 Road works

Development Standard	Proposed	Complies
Road layouts are to generally be a traditional or modified grid pattern. Cul-de-sac roads should be limited in use and should generally serve not more than 15 dwellings.	The proposed road layout generally follows a modified grid pattern. Two cul-de-sacs have been proposed within the subdivision, including: <ul style="list-style-type: none"> • “Fulton Court” which will service a minimum of nine (9) dwellings. • “Kellett Close” which will service a minimum of eleven (11) dwellings. 	Yes.
Road layouts are to be designed to ensure that maximum access to public open space	The four (4) proposed public open spaces lots integrate well with the	Yes.

<p>areas is achieved. Where a subdivision incorporates public open space areas/corridors (including drainage lines which also have an access function), these areas/corridors are to immediately adjoin a public road to ensure maximum visibility and safety of the public open space area/corridor is achieved.</p> <p>Council will only accept residential allotments or other land uses adjoining public open space areas/corridors (including drainage lines which also have an access function) where it is satisfied that an appropriate standard of visibility and safety of those areas is achieved.</p>	<p>proposed road layout. Each open space lot directly adjoins two or more public roads to maximise visibility and safety of the area.</p> <p>Proposed Lots 2003 and 2004 will directly adjoin existing and proposed residential allotments on the North and North-Western side. However, it is considered that an appropriate standard of visibility and safety of these areas will be achieved and the proposed layout is supported for the following reasons:</p> <ul style="list-style-type: none"> • The proposed layout of open space adjoining residential allotments was previously established as part of the Stage 1 subdivision (to the West). • “Hartigan Street” has been designed to border the complete length of the South-Eastern boundaries of Lots 2003 and 2004. • Lot 2003 will be bordered by three (3) roads, including Lawrence Drive, Lockwood Rise and Hartigan Street. • Lot 2004 will be bordered by three (3) streets including Lockwood Rise, Limekilns Road and “Hartigan Street”. • Conditions of consent will be implemented to ensure that suitable lighting is installed within these open space lots, particularly along any proposed pedestrian and cycle paths. 	
<p>Council will accept a road standard identified in table (c) of section 3.3.2 as local access (open space) for local roads adjoining open space areas/corridors, excluding local distributor or collector roads that adjoin open space areas/corridors.</p>	<p>Hartigan Street is considered to be a local access (open space) road as it services less than 20 allotments and adjoins open space Lots 2003 and 2004.</p> <p>Conditions of consent will be implemented to ensure that roads adjoining public open space are designed and constructed in accordance with the road hierarchy and classification of DCP 2014 and the requirements of Council's <i>Guidelines for Engineering Works</i>.</p>	<p>Yes, subject to conditions.</p>
<p>In respect of local access (open space) roads, a two vehicle parallel parking bay shall be provided for every three dwellings. The construction of parking bays within the open space corridor shall be permitted.</p>	<p>Conditions of consent will be implemented to ensure that a two vehicle parallel parking bay is provided for every three dwellings, in respect to Hartigan Street.</p>	<p>Yes, subject to conditions.</p>

Road layouts are to integrate closely with surrounding existing and planned future residential subdivisions.	The proposed development integrates well with the existing Stage 1 subdivision located to the West (DA2017/212) and the large collector road (Lawrence Drive) to be located on the North-Eastern side of the land, which will interconnect with the broader residential areas of Kelso and Laffing Waters.	Yes.
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3.4.6 Subdivision of the land in Kelso

Development Standard	Proposed	Complies
The roads coloured purple on the DCP Map are to be designed and constructed as collector roads (refer section 3.3.2). The location of the purple collector roads should be generally in accordance with that shown on the DCP Map. It will be the developer's responsibility for the construction of the collector roads.	As shown in Figure 8 to Figure 9 below, Lawrence Drive is identified as a purple "Collector Road to be constructed and funded by the developer" on DCP Map No. 4 – Kelso. Lawrence Drive is proposed to be generally located in accordance with the DCP map and conditions of consent will be implemented to ensure that it is suitably designed and constructed in accordance with DCP 2014 and Council's <i>Guidelines for Engineering Works</i> .	Yes, subject to conditions.
The roads and intersections coloured orange on the DCP Map have been separately identified in a Section 94 Developer Contribution Plan. Council will coordinate the construction of these roads and intersections under that Plan.	As shown in Figure 8 to Figure 9 below, the following intersections are identified as an orange "Roundabout Treatment – Identified in Section 94 (7.11) Contribution plan" on DCP Map No. 4 – Kelso: <ul style="list-style-type: none"> • Intersection of Marsden Lane and Lawrence Drive. • Intersection of Limekilns Road and Lawrence Drive. <p>The Lawrence/Limekilns roundabout treatment has previously been constructed.</p> <p>However, the construction of the Lawrence/Marsden roundabout will be coordinated by Council under its current Section 7.11 Development Contributions Plan <i>Roadworks – New Residential Subdivisions</i>. The residential allotments to be located on the corner of Marsden Lane and Lawrence Drive have been suitably designed, located and shaped to accommodate the construction of the future roundabout (see Figure 10).</p>	Yes. Noted.
Council encourages residential allotments or other land uses to front the identified collector roads.	Proposed residential Lots 218, 220, 271 and 300 – 305 have frontage onto proposed Lawrence Drive. <p>Access restrictions will need to apply to certain lots with frontage to the</p>	Yes.

	intersections of Lawrence Drive and Limekilns Road and Lawrence Drive and Marsden Lane respectively.	
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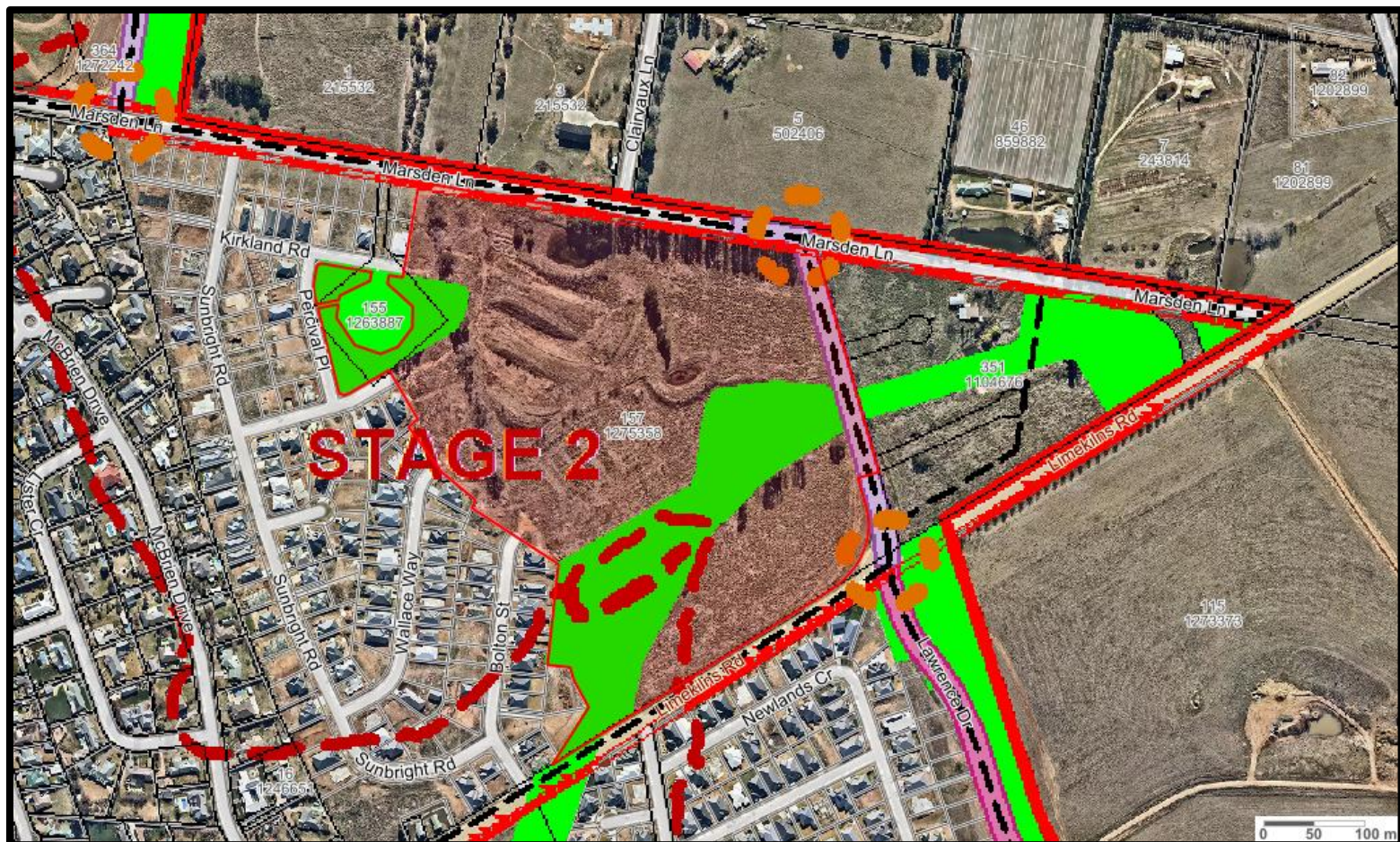


Figure 8 – “DCP Map No. 4 – Kelso”– Lot 157 DP 1275358

Legend:

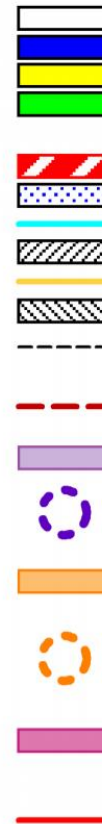
LAND USE AREAS:

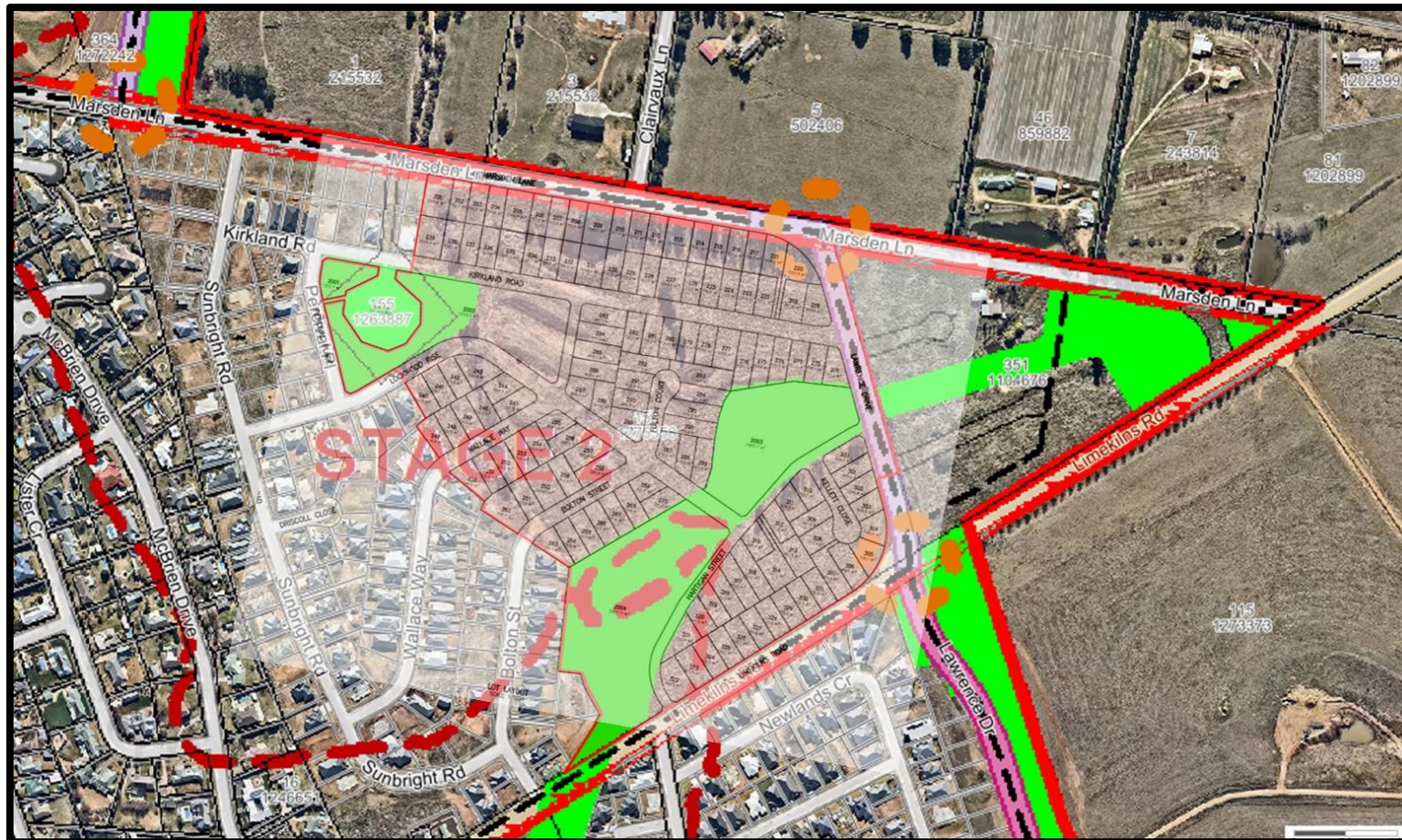
- Housing
- Business
- Special Uses
- Open Space

LAND MANAGEMENT AREAS:

- Road Widening
- Flood Planning Area
- Access Restriction
- Road Closure
- Major Road Buffer (5m Wide)
- Land Use Buffer
- Strategic Access Route and/or Cycle Path
- Stage 1 - Serviceable Area
- Stage 2 - Non-Serviceable Area
- Collector Roads - to be constructed by developer
- Roundabout Treatment - to be constructed by developer
- Collector Roads - Identified in Section 94 Contribution plan
- Roundabout Treatment - Identified in Section 94 Contribution plan
- Collector Roads - to be partially constructed by developer & Identified in Section 94 Contribution plan

Subject Land Shown Thus:





Legend:

LAND USE AREAS:

- Housing
- Business
- Special Uses
- Open Space

LAND MANAGEMENT AREAS:

- Road Widening
- Flood Planning Area
- Access Restriction
- Road Closure
- Major Road Buffer (5m Wide)
- Land Use Buffer
- Strategic Access Route and/or Cycle Path
- Stage 1 - Serviceable Area
- Stage 2 - Non-Serviceable Area
- Collector Roads - to be constructed by developer
- Roundabout Treatment - to be constructed by developer
- Collector Roads - Identified in Section 94 Contribution plan
- Roundabout Treatment - Identified in Section 94 Contribution plan
- Collector Roads - to be partially constructed by developer & Identified in Section 94 Contribution plan
- Subject Land Shown Thus:

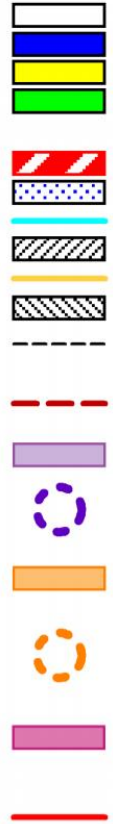


Figure 9 – Proposed Plan of Subdivision Overlaid on “DCP Map No. 4 – Kelso” – Lot 157 DP 1275358



Figure 10 – Plan of Proposed Subdivision Overlaid on Aerial Imagery – Corner Allotments Suitably Designed, Located and Shaped to Accommodate Existing Roundabout at the Intersection of Limekilns Road and Future Roundabout at the Intersection of Marsden Lane and Lawrence Drive – Lot 157 DP 1275358

Chapter 4 – Residential Development

4.3 Minimum Lot Size / 4.6 Siting Considerations – Dual Occupancy – Precinct 2

It is noted that the minimum lot size standards for all residential lots are to comply. It is also noted that the DCP more generally encourages the use of corner allotments for dual occupancy developments where the land is larger than the relevant dual occupancy minimum lot size of 850m². It is noted that a number of the corner allotments e.g. Lot 283 (821m²) and Lot 300 (836m²) could be adjusted to achieve a minimum lot size of 850m² and therefore facilitate their use for dual occupancy purposes. Similarly, they could be further decreased in size to reduce the likelihood of future applications for variations under Clause 4.6. This can be achieved by way of conditions of consent.

4.14 Development Control Plan Maps

4.14.3 Use of land

Development Standard	Proposed	Complies
Council may grant consent only to those developments listed in the table	Housing	Yes.

below within the Land Use Areas specified by the table and shown on the relevant DCP Maps.		<p>As shown in Figure 9, all land identified as “Housing” on DCP Map No. 4 Kelso will contain:</p> <ul style="list-style-type: none"> • All proposed residential lots (Nos. 201 – 331). • Part of open space Lot 2002 and 2004. • Roads. <p>Roads, residential development and recreation areas are all permissible uses of land zoned R1 General Residential under LEP 2014.</p> <p><u>Open Space</u></p> <p>As shown in Figure 9, all land identified as “Open Space” on DCP Map No. 4 – Kelso will contain:</p> <ul style="list-style-type: none"> • All four (4) proposed public open space lots. • Roads. • Drainage. • Cycleways and Footpaths 	
Land Use Area	Development to which Council may grant consent.		
Housing	The purposes permissible within Zone R1 - General Residential or R2 – Low Density Residential pursuant to the LEP.		
Open Space	Drainage, roads, environmental protection works and cycleway or footpaths.		

4.14.4 Management of land

Development Standard		Proposed	Complies
Council may only grant consent to development within the Land Management Areas listed in the table below and identified on the DCP maps where the development complies with the requirements listed for that area.		<p>As shown in Figure 9, Marsden Lane, Limekilns Road and proposed Lawrence Drive are identified as a “Strategic Access Route and/or Cycle Path” on DCP Map No. 4 – Kelso. Conditions of consent will be implemented to ensure that these routes or paths are suitably designed and upgraded/constructed.</p>	Yes, subject to conditions.
Land Management Area	Effect on Development		
Strategic Access Route and/or Cycle Path	The access route or path, if off-road, is to be constructed, or if on-road is to be line marked.		

4.14.5 Staging

Development Standard	Proposed	Complies
Council may only grant consent to development located on land identified as “Stage 2” on the relevant DCP Map if all necessary services, particularly water, sewerage and drainage services, that will be required for use of the land after	The land is largely identified as “Stage 2” on DCP Map No. 4 – Kelso (see Figure 8 and Figure 9). Conditions of consent will be implemented to ensure that water supply, sewerage and stormwater reticulation services are provided to	Yes, subject to conditions.

that subdivision will be available to the land immediately after the subdivision.	each lot, prior to the issue of any Subdivision Certificate.	
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Chapter 9 – Environmental Considerations

9.8 Flora and Fauna Surveys / 9.10 Vegetation Management and Biodiversity

Biodiversity Development Assessment Report

The development will involve the removal of various trees located across the site. In accordance with Clause 9.8.3 and Clause 9.10.6 of DCP 2014, a Biodiversity Development Assessment Report (BDAR) was submitted to Council for consideration.

Section 7.2 of the *Biodiversity Conservation Act 2016* (BC Act) prescribes the circumstances in which the Biodiversity Offset Scheme (BOS) is required to be applied to development.

Biodiversity Conservation Act 2016

7.2 Development or activity “likely to significantly affect threatened species”

- (1) For the purposes of this Part, development or an activity is likely to significantly affect threatened species if:
- (a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or
 - (b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or
 - (c) it is carried out in a declared area of outstanding biodiversity value.

The BDAR identifies that the land has historically been subject to intensive agricultural disturbance and that native species are nowhere dominant. The land is largely comprised of introduced pasture and planted woodlots of exotic species and the site does not contain any identifiable native plant community types. A database search and field survey was undertaken and found that:

- Three (3) threatened flora species had a low likelihood of occurring on the land.
- Sixteen (16) threatened fauna species had a high likelihood of occurring on the land and two (2) threatened fauna species had a low likelihood of occurring on the land.
- No (0) aquatic ecological communities had the potential to occur on the land, largely due to the ephemeral nature of the natural drainage line and associated dams.
- No (0) threatened ecological communities had the potential to occur on the land.

In accordance with Section 7.3 of the BC Act, a “Test of Significance” was undertaken in relation to the sixteen (16) threatened fauna species identified as having a high likelihood of occurring on the land. The test found that the proposed

development will not significantly affect threatened species, ecological communities or their habitats under Section 7.2(1)(a) of the BC Act.

Further, for the purpose of Section 7.2(1)(b) of the BC Act, Clause 7.1 of the *Biodiversity Conservation Regulation 2017* (BC Regulation), defines the BOS thresholds, as below:

Biodiversity Conservation Regulation 2017

7.1 Biodiversity offsets scheme threshold (section 7.4)

- (1) Proposed development exceeds the biodiversity offsets scheme threshold for the purposes of Part 7 of the Act if it is or involves:
- (a) the clearing of native vegetation of an area declared by clause 7.2 as exceeding the threshold, or
 - (b) the clearing of native vegetation, or other action prescribed by clause 6.1, on land included on the Biodiversity Values Map published under clause 7.3.

Clause 7.2 of the BC Regulation, declares that where the following areas of clearing are exceeded the BOS will be applicable:

Biodiversity Conservation Regulation 2017

7.2 Clearing of area of land that exceeds threshold

- (1) Clearing of native vegetation is declared by this clause to exceed the biodiversity offsets scheme threshold if the area proposed to be cleared is the area set out in Column 2 of the Table to this clause opposite the minimum lot size applicable to the land to be cleared in Column 1 of that Table.

Table

Column 1

Minimum lot size of land

Less than 1 hectare

Column 2

Area of clearing

0.25 hectare or more

The MLS applicable to the land is 550m². The total area of land expected to be impacted by the development is approximately 19.57 hectares, which exceeds the 0.25 hectare threshold prescribed under Clause 7.2 of the BC Regulation.

However, the entirety of the land primarily consists of exotic forbs, sedges and pasture grasses (see **Figure 11**) and exotic trees and shrubs (including *Pinus Radiata* (Radiata Pine or Monterey Pine), *Malus pumila* (Apple Tree), *Lycium ferocissium* (African Boxthorn) and *Rosa rubignosa* (Sweet Briar)). Therefore, less than 0.25 hectares of **native** vegetation will be cleared as a result of the proposed development, and the BOS is not applicable to the proposal under Clause 7.1(1)(a) of the BC Regulation.

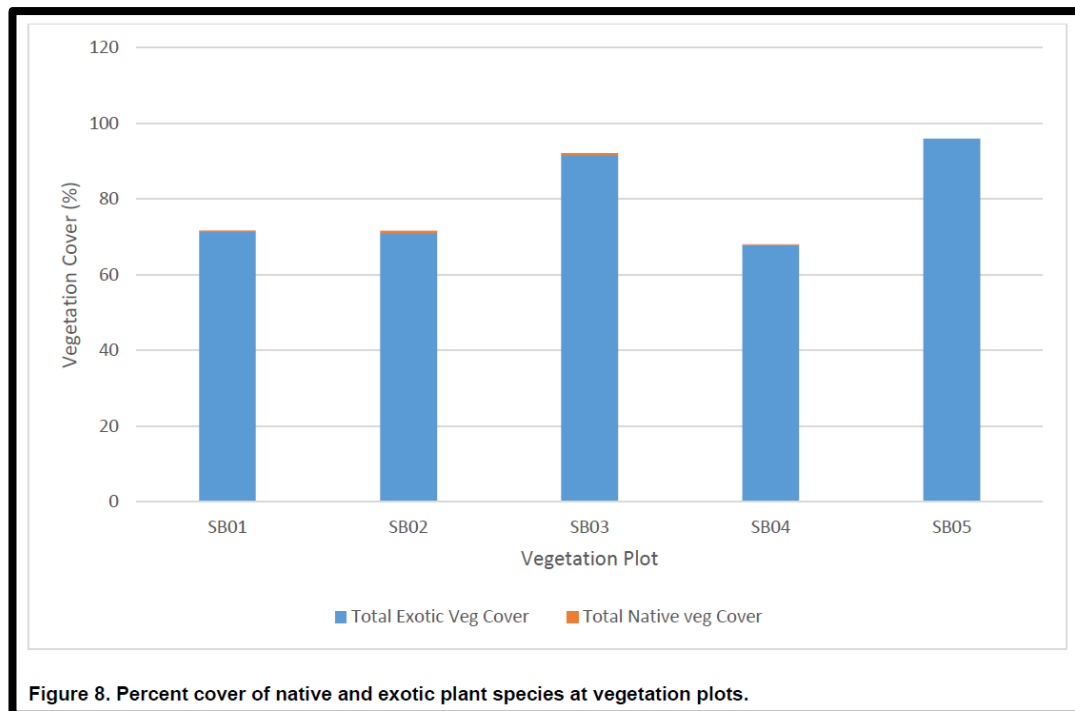


Figure 11 – Extract from Biodiversity Development Assessment Report (BDAR) – Graph Representing the Percentage Coverage of Exotic vs Native Vegetation Over the Site

Lastly, the proposed development will not be undertaken on land included on the Biodiversity Values Map under Clause 7.1(1)(b) of the BC Regulation or within a declared area of outstanding biodiversity value under Section 7.2(c) of the BC Act. Therefore, the BOS is not applicable to the development under Section 7.2(b) or (c) of the BC Act.

In accordance with Clause 9.8.5 of DCP 2014, to ensure that the proposed development does not result in any significant impacts on biodiversity, the following conditions of consent adapted from the recommendations of the BDAR will be implemented:

1. The construction works and vehicle access to the construction site must be constrained to the minimum area practical and must use as few entry/exit points as possible.
2. Material stockpiles, equipment and machinery storage and laydown areas must be consolidated within a defined impact area to minimise the overall impact footprint.
3. The impact footprint must be minimised by restricting access across the site to the defined development footprint, including avoiding unnecessary vehicle and personnel movements across unused land.
4. Building work involving the use of electric or pneumatic tools or other noisy operations shall be carried out only between 7.00 am and 8.00 pm on weekdays and 8.00 am and 8.00 pm on weekends and public holidays.

5. The following impact mitigation measures and environmental safeguards must be undertaken as proposed in the *Biodiversity Assessment Report* (prepared by OzArk Environment & Heritage Pty Ltd, dated 4 September 2020, Revision No. V6.2):

Impact	Environmental Safeguards	Responsibility	Timing
General	<ol style="list-style-type: none"> 1. All personnel must be inducted to be aware that any impacts to threatened species have legislative consequences if deliberately or accidentally impacted without development approval under the <i>Environmental Planning and Assessment Act 1979</i>. Evidence of all personnel receiving an induction must be kept on file (signed induction sheets etc.). 2. Any change in design outside the assessed impact footprint within the study area will require further ecological survey. 	Proponent.	Pre-construction, construction and operation.
Clearing and prevention of over-clearing	<ol style="list-style-type: none"> 3. All personnel would be inducted to be aware any stand of native vegetation outside the subject site has legislative consequences if deliberately or accidentally impacted without approval under Part 4 or 5 of the <i>Environmental Planning and Assessment Act 1979</i>. Evidence of all personnel receiving an induction must be kept on file (signed induction sheets etc). 4. Where possible, vegetation to be removed must be mulched on-site and re-used to stabilise disturbed areas. 5. If any of the threatened flora species listed in Section 3.4.4 of the <i>Biodiversity Assessment Report</i> (prepared by OzArk Environment & Heritage Pty Ltd, dated 4 September 2020, Revision No. V6.2) are found within the subject site during construction, construction is to stop in the immediate area and a qualified ecologist must be contacted for advice and management guidance. 	Constructor.	Pre-construction and construction.
Threatened Species	<ol style="list-style-type: none"> 6. Identification resources must be provided for personnel to enable identification of threatened species that might occur on the work site 	Constructor.	Pre-construction and construction.

	<p>(i.e. those species listed in Sections 3.4.3. and 3.4.4 of the <i>Biodiversity Assessment Report</i> (prepared by OzArk Environment & Heritage Pty Ltd, dated 4 September 2020, Revision No. V6.2)).</p> <p>7. Records of any threatened species recorded on site during works must be kept.</p> <p>8. Construction work must only occur during the authorised daylight hours to avoid indirect impacts on threatened fauna, such as vehicle strikes.</p> <p>9. If unexpected threatened fauna or flora species are discovered, stop works immediately and contact a suitably qualified ecologist for advice.</p>		
Tree removal	<p>10. Clearly mark all trees to be removed.</p> <p>11. Clear the surrounding vegetation at least one night before removing the tree.</p> <p>12. Before felling, knock tree along the trunk with an excavator or loader (substantially shake the tree) to scare fauna that might be roosting. Repeat several times.</p> <p>13. Ensure a fauna spotter catcher is present for any tree felling activities.</p> <p>14. Install artificial habitat features (i.e. nest boxes, reptile habitat walls and features, invertebrate habitat structures, flowering native street trees, microbat roost boxes etc). This will encourage recolonization of the site after development and likely reduce the negative impacts of any controversy associated with tree clearing at the site.</p> <p>15. Encourage and facilitate the planting of native tree species at the site to improve habitat quality in the future. As the site is dominated by exotic pine, which have limited habitat value it would likely be possible to improve the habitat potential of trees at the site beyond current or recent levels.</p>	Constructor.	Construction.
Soil Management	<p>16. Install erosion and sediment controls in line with <i>Landcom's Managing Urban Stormwater, Soils & Construction Guidelines</i> (The Blue Book. Landcom 2004).</p> <p>17. Where practicable, mulch made from vegetation cleared on site</p>	Constructor.	Pre-construction and construction.

	<p>must be dispersed on areas of bare soil to stabilise, preventing dust and erosion.</p> <p>18. Erosion and sedimentation controls are to be checked and maintained on a regular basis. This includes clearing of sediment from behind barriers and after heavy rainfall events.</p> <p>19. Erosion and sediment control measures are not to be removed until the works are complete and areas are stabilised.</p> <p>20. Stockpile topsoil removed to be redistributed across site at completion of construction.</p> <p>21. Implement dust suppression activities.</p>		
Introduction and spread of priority weeds and pathogens	<p>22. Construction crew must be briefed on the identification of priority weeds that occur on site during inductions (see Section 3.2.4 of the <i>Biodiversity Assessment Report</i> (prepared by OzArk Environment & Heritage Pty Ltd, dated 4 September 2020, Revision No. V6.2)).</p> <p>23. If declared priority weeds are identified during construction they must be managed according to the requirements of the <i>Biosecurity Act 2016</i>.</p> <p>24. Construction machinery (bulldozers, excavators, trucks, loaders and graders) must be cleaned using a high-pressure washer (or other suitable device) before entering and exiting work sites.</p> <p>25. Machinery must be inspected by designated personnel following washdown to ensure no soil, mud, vegetative material present. Records of inspections to be maintained.</p> <p>26. All pesticides must be used in accordance with the requirements on the label. Any person carrying out pesticide (including herbicide) application must be trained to do so and have the proper certificate of completion/competency or statement of attainment issued by a registered training organisation.</p> <p>27. Records of any weed control activities that take place must be kept.</p>	Constructor.	Construction.

Increased risk of fire	28. Where possible, avoid 'hot work' during days of extreme fire danger.	Constructor.	Construction.
Introduction of invasive fauna	29. All food scraps and rubbish are to be appropriately disposed of in sealed receptacles to prevent providing forage habitats for foxes, rats, dogs and cats.	Constructor.	Construction.
Removal of farm dams	30. Ensure a fauna spotter catcher is present for the draining of all dams to safely relocate any native fauna.	Constructor.	Construction.

It should be noted that the BDAR was referred to the NSW Department of Planning, Industry and Environment – Biodiversity, Conservation and Science Directorate (BCS) for peer review. BCS advised Council in a letter dated 20 January 2021, that the *“assessment and determination has been adequately justified within the BDAR”* (see **Attachment 6**).

It is considered that the BDAR adequately addresses all matters referred to in Clauses 9.8 and 9.10 of DCP 2014.

Objectives – Climate Change

One strategic priority and objective of Chapter 9 of DCP 2014 is to *“**minimise** the impact of climate change”*. The objectives of Clause 9.10 “Vegetation Management and Biodiversity” of DCP 2014 are specified under Clause 9.10.1 as below:

9.10 VEGETATION MANAGEMENT AND BIODIVERSITY

9.10.1 Objectives

- a) To protect and enhance vegetation, habitat for native fauna and biodiversity within the Bathurst Region.
- b) To protect trees that are heritage items, located on the site of a heritage item or that are within heritage conservation areas.
- c) To protect, maintain and improve the diversity and stability of landscapes and waterways, **minimise** urban heat and other climate change impacts, reduce stormwater runoff and improve the visual amenity of streetscapes and landscapes contributing to community well-being.

During pre-lodgement discussions, it was requested that the applicant address the potential impacts of the proposed development on climate change (including the removal of vegetation cover and waterbodies and replacement with residential development). The BDAR identified anthropogenic climate change as a key threatening process acting on the study area but determined that the proposed development would have a negligible effect on the exacerbation of the issue, as below:

4 Impact Assessment

4.11 Long term general impacts (climate)

The removal of the water bodies (farm dams) and vegetation currently present at the site will have a variety of indirect impacts on the local thermal system, local environment, ecosystem, local human population as well as the global environment and its nested systems.

Surface water is known to have a significant local cooling effect by acting as a thermal sink and increasing local humidity. This cooling effect is particularly prevalent in urban and suburban areas. Evidence suggests that, depending on the waterbody surface area and depth, local microclimate, waterbody health, reflectivity and type (flowing/standing, disturbed/still etc.) the cooling effect can be as high as 6°C. Manteghi et al. (2015) reviewed a number of studies which tested this effect and found that urban and suburban areas with surface water were between 2°C and 6°C cooler when compared to areas where no surface water was present. The extent of the cooling effect associated with water bodies is heavily dependent on the local microclimate and the vegetation community immediately surrounding the waterbody. This cooling effect is reduced in the case of shallow, still water and reduced further in the absence of significant water adjacent vegetation as is the case with this site. Despite this the water bodies (farm dams) present on site would likely still be producing a significant cooling effect of ~2°C in the local area. This loss of cooling would be exacerbated by global temperature increase associated with anthropogenic climate change and would likely be more acute during times of drought when water levels are lower.

There is a significant and well supported link between vegetation cover and local ambient temperature. Depending on the type of vegetation, the effect on peak temperature can range from 2°C when sparse grass is present to 25°C where mature, broad canopy, shade producing trees are maintained. The cooling effects associated with vegetation cover are a result of both evapotranspiration and shading. The site is largely dominated by grassland with very little shading provided by canopy level trees suggesting that shading plays only a nominal role in the sites current thermal system. The cooling effects of evapotranspiration (the process of forced evaporation from leaves as a result of heating from direct sunlight) associated with grass dominated areas is difficult to quantify, as such it is difficult to predict the cooling effects of vegetation cover at a majority of the site. It is, however, likely that removal of all vegetation currently present at the site will disrupt the local thermal system leading to higher temperatures than in surrounding vegetated areas.

Converting vegetated areas to an urban matrix will result in the creation of an urban heat island. The urban heat island effect refers to higher temperatures in urban and suburban environments when compared to analogous, often remnant vegetated areas. The urban heat sink effect is primarily a result of the increased thermal bulk and conductivity of materials associated with human settlements such as concrete, asphalt and metal. This effect can be exhausted by activities such as air conditioning, domestic power generation and vehicle use. Urban heat island effects are generally considered unavoidable when developing vegetated areas however it can be mitigated through appropriate planting and through the use of energy efficient materials.

The broader impacts of the modification of this site on both local and regional ecological communities will likely be relatively mild. The removal of the water bodies (farm dams) and vegetated areas at the site will lead to the further fragmentation of the regional habitat matrix adding to the cumulative effects associated with ongoing development in the region. Despite the marginal condition of the sites three farm dams their removal does represent the loss of a potential foraging and water resource for regional animal communities, particularly mobile groups such as birds, bats, macropods and wombats. Despite this, the impact of the landscape conversion at this site will likely not have a significant impact on regional or local biodiversity and any short term impacts could be mitigated through revegetation and intentional improvement of habitat features at the site following development.

In summary:

- The removal of the water bodies (farm dams) at the site will increase the local temperature and reduce the drought tolerance of the site specifically by reducing its capacity to hold water. It will likely have a significant impact on the temperature of the site; however, this is unlikely to have a significant impact on either human health or biodiversity.*
- The conversion of vegetated to built environment will increase the temperature at the site through loss of vegetation associated cooling effects and increased thermal bulk, reduce drought tolerance through increased water runoff and reduced water capacity in both the plant and soil reservoirs.*
- There will be no site-specific effects resulting from ongoing climate change.*

Whilst the potential impacts of the development on climate change and the urban heat island effect are noted, it is considered that some efforts have been made within the proposal to **minimise** these impacts in accordance with the objectives of Chapter 9 and Clause 9.10 of DCP 2014. These measures include:

- The proposed development includes the planting of a significant number of native trees and shrubs (nearly 50,000 plants) within open space Lots 2003 and 2004, which is likely to increase the vegetation presence on the land beyond existing levels. Vegetation can reduce the urban heat island effect (reduce local temperatures) through evapotranspiration and shading and can assist in minimising climate change through the absorption of carbon dioxide (CO²) (minor carbon sequestration).

Further, conditions of consent will be implemented to ensure that a contribution is paid to Council for the planting of one street tree for each proposed residential allotment. Street tree planting is typically carried out by Council once a new subdivision has been largely developed with residences or other relevant land uses. This is to ensure that the street plantings do not interfere with subsequent development (including design, construction, landscaping, and the provision of vehicular access and services, etc.) or need to be removed as a result of such interferences.

- The development includes the reshaping of existing dams located along the natural drainage line within proposed open space Lots 2003 and 2004, in order to provide an open drainage channel and detention basins, as an

alternative to a low flow pipe. This stormwater management practice means that some surface water will be retained onsite (particularly following larger storm events) to provide increased opportunities for local cooling effect, as well as other improved environmental outcomes (such as increased groundwater infiltration, improved stormwater quality, vegetation growth and improved habitat values).

- Footpaths and cycleways will be constructed throughout the development to provide non-vehicular transport options (see further discussion under Section 4.15(1)(b) below). Whilst it is acknowledged that there are existing deficiencies in the Kelso footpath and cycleway network (including disconnectedness on Limekilns Road and Marsden Lane), the proposed works will go some distance to improving non-vehicular accessibility in the area.

Further, it is noted that any subsequent residential development of the land will be required to comply with minimum sustainability targets for thermal comfort, energy and water efficiency in accordance with *State Environmental Planning Policy (Building Sustainability Index) 2004*, which will encourage sustainable development and further minimise carbon emissions as a result of the development.

Therefore, it is considered that the proposed development will generally comply with the objectives of Chapter 9 and Clause 9.10 “Vegetation Management and Biodiversity” of DCP 2014.

Chapter 10 – Urban Design & Heritage Conservation

European Heritage

The land is not identified as a Local or State Heritage Item and is not located within any Heritage Conservation Area. Additionally, there are no other Heritage Items or Conservation Areas located within the vicinity of the site.

10.10 Aboriginal Heritage

In 2016 Council commissioned Archaeological & Heritage Management Solutions (AHMS) to prepare the *Bathurst Regional Local Government Area Aboriginal Heritage Study & East Kelso Residential Expansion Area Aboriginal Cultural Heritage Assessment*. The aim of this study was to identify objects, places and archaeological sites of Aboriginal cultural significance, record those places (if appropriate) and develop recommendations for their management and conservation. A secondary aim of the Heritage Study was to identify Aboriginal heritage objects, places and sites of significance within parcels of land to the East of Kelso, which had been rezoned as residential land under LEP 2014.

As identified in the study, Lot 157 DP 1275358 is largely identified as having a negligible, very low and low Aboriginal heritage sensitivity. Only a small portion of the

site is identified as having a moderate Aboriginal heritage sensitivity and these areas are located in the North-Western and South-Eastern corners of Lot 157 DP 1275358, adjacent to existing pre-disturbed areas, including, established residential lots located between Kirkland Road, Marsden Lane and the existing water reservoir on Lot 155 DP 1263887 and land adjacent to Limekilns Road.

Given that a small portion of the site is identified as having a moderate Aboriginal heritage sensitivity, an Aboriginal Heritage Information Management System (AHIMS) search was undertaken which identified that no Aboriginal sites or places have been recorded or declared in or near Lots 155 and 156 DP 1263887.

Further, as part of the study a site investigation was undertaken on residential zoned land located North of Limekilns Road on Wednesday 18 November 2015, including Lot 5 DP 847225 (now Lot 157 DP 1275358). The investigation was undertaken by AHMS and members of Council, the Bathurst Local Aboriginal Land Council and the Wiradjuri Traditional Owners Central West Aboriginal Corporation. No Aboriginal sites, objects or places were identified on the land, no evidence of Aboriginal cultural carving or scarring was observed on trees across the survey area and there was a relative absence of raw stone materials noted.

Accordingly, the proposed development is not expected to place any adverse impacts on Aboriginal cultural heritage and a Due Diligence Study is not considered necessary as part of this application.

Chapter 11 – Outdoor Lighting

Conditions of consent will be implemented to ensure that all outdoor street lighting is energy efficient and appropriate for the road network. Street lighting will need to comply with relevant Australian Standards and Specifications, including AS/NZS 1158 Series (Parts 0-5) “Lighting for Roads and Public Spaces” and AS/NZS 1158.6 “1158.6 Lighting for roads and public spaces – Luminaires”, and Council’s Engineering Guidelines.

Chapter 13 – Landscaping and Greening

13.3 Landscaping Plans

The proposed subdivision incorporates open space and in accordance with Clause 13.3.2 of DCP 2014, a Vegetation Management Plan (VMP) (prepared by Environmental Factor, dated 3 September 2020) and associated Landscaping Plan has been submitted to Council for consideration (see **Attachments 7 and 8**). The primary objectives of the VMP are to:

- Restore biodiversity on the site following completion of the subdivision works and associated clearing.

- Improve the amenity and aesthetic environment of the proposed residential area through the planting of suitable vegetation within two appropriately designed open space lots; being proposed Lots 2003 and 2004 which will contain the open drainage channel and detention basins.
- Stabilise the site and reduce the amount of erosion and sedimentation that would occur as a result of an increase in stormwater runoff from the site due to the additional hardstand spaces that will be constructed across the land (i.e. roads, footpaths, driveways, residential buildings, sheds etc.).
- Achieve water quality objectives for the Macquarie River and broader Macquarie-Bogan catchment, through long-term site stabilisation, flow dissipation and the natural infiltration of water through vegetation.

To achieve these objectives, the VMP proposes that the following works will be carried out within strategic zones based on the existing and desired characteristics of the land:

Phase 1: Site Set-up

Zone	Description	Activities
Zone 1	Two (2) dams located on the Northern end of Lot 157 DP 1275358 will be filled in and relevelled.	<ul style="list-style-type: none"> • Erosion and sedimentation controls will be installed to capture any sediment that might otherwise migrate into the natural drainage depression. Spillway to be constructed on the 8,000m³ dam located on the South-Western end of the site and maintained for the duration of construction. • Weeds to be removed. • Native reeds and fringing vegetation to be removed and set aside for reuse. • Clean fill used to level the dams. • Disturbed areas to be covered with topsoil and seeded.
Zone 2	Three (3) dams located on the Southern end of Lot 157 DP 1275358 alongside the natural drainage depression will be reshaped.	<ul style="list-style-type: none"> • Native reeds and fringing vegetation to be removed and set aside for reuse. • Reshape the dams and install stormwater drainage. • Disturbed areas to be covered with topsoil and prepared for seeding. • Reeds and fringing vegetation to be replanted to assist with site stabilisation, sediment laden water filtration, and to assist with biological uptake of pollutants arising from the development. • Erosion and sedimentation controls to be installed, including rock armouring at culvert entrances and exits to dissipate water flows, and rock-check dams at appropriate intervals, with swales along banks to catch and slow runoff.
Zone 3	Previously disturbed area located on Western side of Lot 157 DP 1275358 where stockpiling had been carried out during the subdivision works of "Stage 1".	<ul style="list-style-type: none"> • Remove and relocate reusable materials to alternative locations and dispose of all waste material at an authorised waste management facility. • Disturbed areas to be covered with topsoil and seeded.

Zone 4	Areas containing mature vegetation and large weeds.	<ul style="list-style-type: none"> • Radiata Pines, fruit tree stumps, Willows and regrowth to be removed. • Small patches of individual native plants to be removed.
Zone 5	Paddocks and Grassland.	<ul style="list-style-type: none"> • Disturbance of this area is to be kept to a minimum due to a large presence of agricultural weeds. • Undertake broad-leaf weed control using appropriate herbicides registered for use adjacent to waterways. • Prune coppiced fruit trees at base and chip. • Following effective herbicide application, slash the general area to promote growth of pasture species and outcompete weeds as they re-emerge.

Phase 2: Final Formation Rehabilitation and Landscaping

Zone	Description	Activities
Zone 1	Residential Allotments.	<ul style="list-style-type: none"> • Ensure land is level and evenly sloping. • Install swale drains on any steep blocks with a gradient equal to or greater than 1:4. • Where necessary apply topsoil from stockpiles created during “Phase 1”. • Ensure grasses (native and sterile exotic) germinate evenly across the land and relevant bare patches. Water and seed as necessary.
Zone 2	Proposed Roads.	<ul style="list-style-type: none"> • Strip the area prior to the construction of stormwater drainage, kerb and guttering. • Construct the roadways. Ensure they are adequately compacted and capped/sealed to prevent erosion and sediment laden runoff, and to allow all weather access to the site as soon as practicable.
Zone 3	Proposed Lots 2003 and 2004 – Waterfront Land and Stormwater Management Areas.	<ul style="list-style-type: none"> • Ensure sediment barriers are installed at the base of each section prior to undertaking final reshaping works – a water diversion drain, or temporary pumping set-up may be necessary to during site establishment works. • Earthworks to be undertaken to form land to desired levels, using clean sub-soil material from stockpiles or other certified or reputable sources. • Install permanent flow dissipation devices, such as rock check dams and riffle areas, ensuring rocks are appropriately keyed into place. • Lay appropriate erosion control device (jute matting, coir logs, erosion control blanket, hydromulch, etc.) along the base of the stream to 10 metres either side of the watercourse centreline. Plant appropriate aquatic and semi-aquatic native tubestock in the area to provide rapid stabilisation. • Establish garden beds on the upper slopes using the remaining topsoil and clean mulch from stockpiles or other reputable sources to form green spaces for the residential community. Plant a mixture of layered native endemic species within the garden beds over an area of 1.46 hectares, including: <ul style="list-style-type: none"> ○ 55 upper stratum plants (trees). ○ 4,900 mid stratum plants. ○ 19,000 grasses and groundcovers. ○ 26,000 “swampy meadow” grasses, rushes and groundcovers.

		<ul style="list-style-type: none"> • Ensure the land is level and evenly sloping. Install swale drains on any steep blocks with a gradient equal to or greater than 1:4. Seed any remaining exposed areas with native seed mix.
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The Landscaping Plan submitted in association with the VMP, has generally been prepared in accordance with Clauses 13.3.3 “Requirements of a landscape plan” and 13.3.4 “Landscape maintenance” of DCP 2014, with further detailing to be required for the following:

- The number of each plant species that is proposed to be planted.
- Irrigation details.
- Edging details to planting beds.
- Garden beds do not incorporate weed control mats, mowing edges and are not proposed to be mulched to the minimum depth of 80mm.
- The Vegetation Management Schedule provided in Appendix D is based on works commencing in September of 2020.

Additionally, the VMP was prepared prior to the submission of amended plans by the applicant, which included the removal of the low flow pipe from open space Lots 2003 and 2004. Therefore, changes to the landscape vegetation design, long term maintenance plan and final land formation may be necessary to accommodate the open drainage channel and detention basins within this public open space area.

It is recommended that the following conditions of consent be implemented to ensure that suitable and functional landscaping works are appropriately carried out at the relevant timeframes and maintained in perpetuity, in accordance with Clauses 13.3 and 13.4 of DCP 2014:

1. Prior to the issue of any Construction Certificate, an amended Vegetation Management Plan (VMP) must be submitted to Council for endorsement. The amended VMP must include, but not be limited to, the following items:
 - a) An amended Long-term Maintenance Plan, which places a particular emphasis on the long-term maintenance of vegetation located at the interface between the public open space and the rear property boundaries of residential allotments.
 - b) An amended “Phase 2 ‘final formation rehabilitation’ Environmental Control Plan (Appendix C)”, which incorporates revegetation and stormwater management areas that are appropriate to the proposed design and use of the land as an open drainage channel and detention basins.
 - c) An amended “Vegetation Management Schedule” (Appendix D) which must include dates that are relevant to the current commencement timeframe for the works.
 - d) A Final Landscape Plan prepared in accordance with Chapter 13 of the *Bathurst Regional Development Control Plan 2014*. The plan must include but not be limited to:
 - i) The number of each plant species that is proposed to be planted.

- ii) Irrigation details.
 - iii) Edging details to planting beds.
 - iv) Garden beds are to incorporate weed control mats, mowing edges and are to be mulched to a minimum depth of 80mm.
2. Landscaping is to be carried out and maintained in perpetuity in accordance with the certified Landscape Plan and Vegetation Management Plan (prepared by Environmental Factor, dated 3 September 2020). Modification to the certified Landscape Plan and Vegetation Management Plan shall only be after receiving written approval from Council.

NOTE 1: The landscaping is to be completed prior to the issue of any Subdivision Certificate and maintained in perpetuity.

3. The submission of a report from a suitably qualified landscape architect 2 years after the issue of any Subdivision Certificate that certifies that the landscaping implemented under the landscape plan has been adequately retained and maintained. Where vegetation has died or been significantly damaged, it is to be replaced.
4. The Developer is to contribute the sum of \$397.80 per additional lot created for the planting of advanced street trees in the footway in the front of each lot. This monetary contribution is to be paid to Council prior to the issue of any Construction Certificate.

Further, it is noted that a Vegetation Management Plan was approved as part of the Stage 1 Subdivision (located to the West), which included the planting of native trees and shrubs around the Council water reservoir within proposed open space Lots 2001 and 2002. Additionally, the following condition of consent was implemented requiring that additional planting be carried out within current Lot 116 DP 1253021 (see Figure 12):

33. The applicant is to prepare a Vegetation Management Plan for proposed Lot 1001. The Plan is to be implemented in its entirety prior to the release of the plan of subdivision. The objectives of the VMP are to:

- 1. Recreate an area of native vegetation that is representative of local plant communities and provides habitat for native fauna, including highly-mobile and threatened species such as the threatened Regent Honeyeater (*Anthochaera phrygia*) and Swift Parrot (*Lathamus discolor*), other honeyeaters, lorikeets and arboreal marsupials.**
- 2. Ensure the native plantings and design of the open space is practical and enhances passive recreational opportunities for local residents.**

REASON: To minimise the impact of the development associated with the removal of vegetation. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

It is noted that the requirements of the Stage 1 Vegetation Management Plan have not been completed due to water restrictions applicable during the recent drought period. Additionally, the drought has more recently affected the current supply of trees, which has led to further delays. Accordingly, the commencement date for the required landscaping works is unknown at this time. Council currently holds a bond over the outstanding works equivalent to the value of works.



Figure 12 – Aerial Imagery – Location of Existing Lot 116 DP 1253021 in Relation to Proposed Development – Revegetation Required on Lot 116 DP 1253021 under the Previously Approved Stage 1 Subdivision – Not Yet Commenced Due to Recent Drought

Chapter 16 – Earthworks

The proposed development includes bulk earthworks, notably for the purpose of constructing roads, removing existing stockpiles, filling in two (2) existing dams and reshaping three (3) dams. A Bulk Earthworks Plans has been submitted to Council which demonstrated that there will generally not be more than 1 metre change in level at the boundary of the land (see **Attachment 2**).

Section 4.15(1)(b) Likely environmental (natural and built), social and economic impacts

Views and Visual Impact

The proposal will result in the further residential development and expansion of the Kelso area. It is considered that the proposed subdivision and subsequent residential development will visually integrate with the existing neighbouring residential areas located to the West (Stage 1) and South (opposite side of Limekilns Road).

The Northern boundary of Lot 157 DP 1275358 is currently lined with a number of pines, which are proposed to be removed as part of this application. This will result in a noticeable change in the visual interface between the proposed development and the rural land (currently zoned RU1 Primary Production) located to the North, on the opposite side of Marsden Lane. However, as part of the Stage 1 subdivision (to the West), approval was granted for the removal of many other pines that had previously been located along Marsden Road and therefore, the breakdown of this visual buffer has already commenced (see **Figure 13** and **Figure 14**).



Figure 13 – Aerial Imagery, December 2016 – Pines Located Alongside Marsden Lane

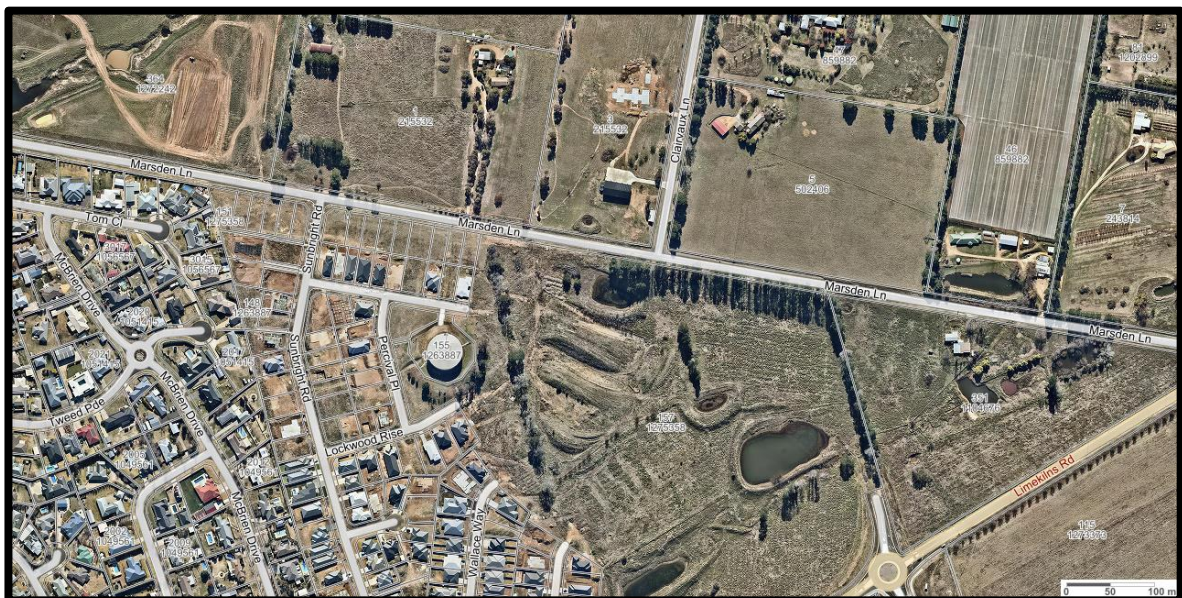


Figure 14 – Aerial Imagery, May 2021 – Pines Located Alongside Marsden Lane Partially Removed as Part of Stage 1 Subdivision



Figure 15 – Remaining Pines Located Alongside Marsden Lane – Proposed to be Removed – Northern Side of Lot 157 DP 1275358

Safety, Security and Crime

Open Space Lots 2001 and 2002 – Adjacent to Council’s Water Reservoir

Open Space Lots 2001 and 2002 will be entirely bordered by public roads (including Percival Place, Kirkland Road, Lockwood Rise and Wallace Way) and are not expected to result in any significant safety and security impacts or encourage criminal behaviour. Lot 155 DP 1263887 (containing Council’s water reservoir) will be located between Lots 2001 and 2002, however, the site is currently secured with tall security fencing.

Open Space Lots 2003 and 2004 – To Contain Unnamed Watercourse and Landscaping Embellishments

Whilst open space Lots 2003 and 2004 will directly adjoin existing and proposed residential allotments along the North-Western side, each lot will be bordered by three (3) public roads, with one road (“Hartigan Street”) to border the full length of the South-Eastern boundary of both lots. It is considered that passive surveillance will be achieved from the surrounding public roads and the eleven (11) residential allotments to be located to the South-East, off “Hartigan Street” (Lots 300, 310 – 312 and 315 – 321).

Lots 2003 and 2004 are proposed to be embellished with various trees (primarily Eucalypts) and shrubs. The VMP indicates that vegetation may be established approximately 4-6

metres off the North-Western boundaries of Lots 2003 and 2004, which could discourage the vandalism and graffiti of back fences to residential properties. It should be noted that as part of the Stage 1 subdivision (to the West), no specific requirements or conditions were implemented in relation to the finishes and heights of rear residential boundary fencing to open space areas; although the exact treatment of this open space (Lots 2003 and 2004) was also unknown at that time.

Further, a shared pedestrian and cycle path is proposed to be located within Lots 2003 and 2004, alongside “Hartigan Street”. The location and design of the proposed path is considered acceptable as it will encourage activation of the open space (more users and casual surveillance) and ensure that any pedestrians and cyclists utilising the pathway will be largely visible from the public road and surrounding residential lots to the South-East. No other pathways have been proposed within these lots and no trees or shrubs are proposed to be planted between the pathway and the road reserve, which could otherwise reduce visibility.

To further improve the safety and security of the development and discourage criminal behaviour, it is recommended that conditions of consent be implemented to ensure that suitable lighting is installed within open space Lots 2003 and 2004, particularly alongside the proposed pedestrian and cycle path.

Vehicular Traffic Generation

Vehicular access to the proposed subdivision will primarily be achieved via two (2) existing collector roads, including Marsden Lane to the North and Limekilns Road to the South. The proposal will also interconnect with various existing local roads located to the West, including: Kirkland Road, Percival Place, Lockwood Rise, Wallace Way and Bolton Street.

In 2014 Council and the NSW Roads and Maritime Services (RMS) engaged Aurecon to prepare the *Kelso Traffic Access Study Report* (Ref. 232534, dated 18 December 2013), which investigated the traffic impacts associated with the development of new release areas located in the Kelso area, inclusive of the subject land (identified as “L8” in the Report). Based on the projected increases in traffic generation and associated travel patterns, the report identified a number of road infrastructure and network improvements to be delivered in coordination with new residential subdivisions and funded largely through the securing of Section 7.11 Development Contributions.

Within the vicinity of the subject land, the report identifies the following road infrastructure to be provided:

- A new collector road (identified as Road “J” in the Report) along the Eastern side of the proposed subdivision, between Marsden Lane and Limekilns Road. This road will eventually connect through to Sofala Road in the North-West and the Great Western Highway in the South, as other land is progressively subdivided (see **Figure 16**).

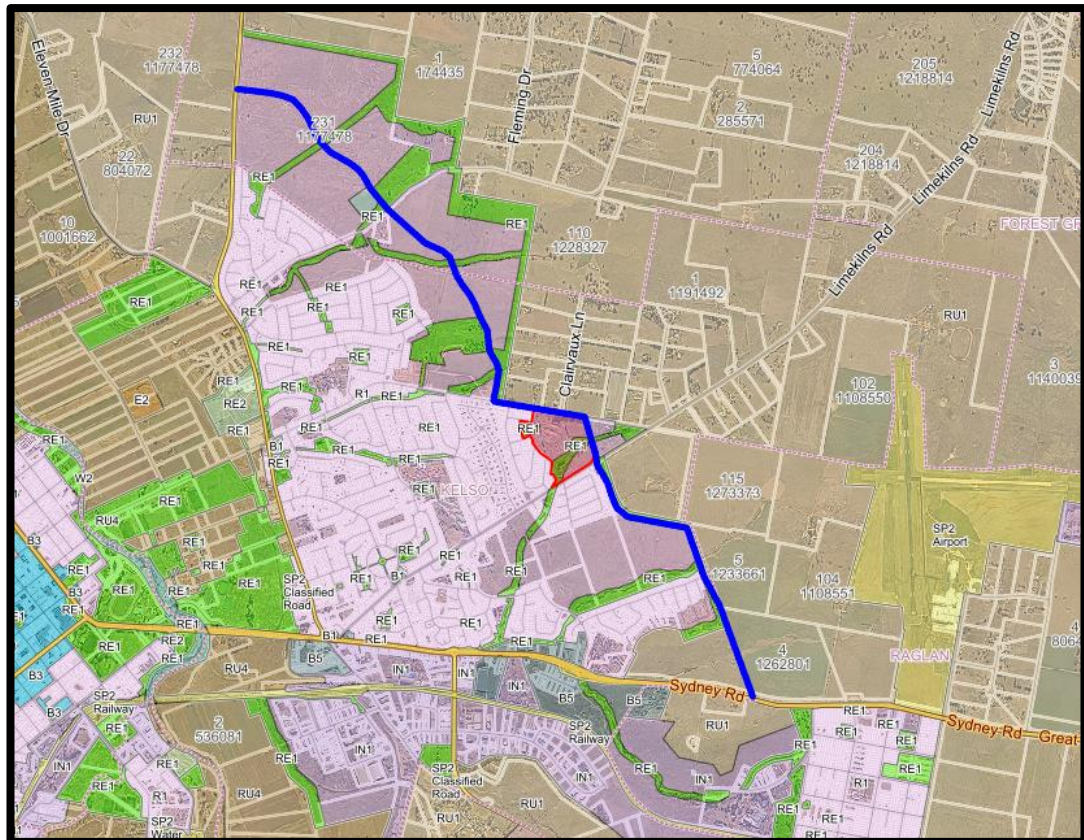


Figure 16 – Location of Planned Collector Road, Lawrence Drive, in Relation to Current and Future Collector Roads within Residential Areas of Laffing Waters and Kelso – Lot 157 DP 1275358 Identified in Red

The collector road (Lawrence Drive) has been identified for construction within the proposed plan of subdivision. The road will support additional traffic generated by the proposed development and improve broader access and connectivity throughout the growing residential areas of Kelso and Laffing Waters.

The portion of Lawrence Drive to be constructed as part of this application has **not** been identified in Council's Section 7.11 *Development Contributions Plan, Roadworks – New Residential Subdivision, 2014*.

- Roundabouts at the intersections of Lawrence Drive with Marsden Lane and Limekilns Road. Funding for the construction of these roundabouts is identified in Council's Section 7.11 *Development Contributions Plan for Roadworks in New Residential Subdivision*.

However, the roundabout at the intersection of Lawrence Drive and Limekilns Road has recently been constructed under a works in kind (WIK) arrangement associated with a Development Consent (No. 2019/140) granted by Council on 30 July 2020 for a seventeen (17) lot residential subdivision on Lots 2–4 DP 1233661; located on the opposite side of Limekilns Road.

The intersection of Marsden Lane and Lawrence Drive is identified for construction on the proposed plan of subdivision as a “T-intersection”. However, a sufficient amount of land will be dedicated as public road reserve, which will allow for the future construction of the roundabout by Council in accordance with its Development Contributions Plan for *Roadworks in New Residential Subdivision*. At present, no other immediately neighbouring residential subdivisions have been approved on land to the North-West that would share the use of the Marsden/Lawrence intersection. Additionally, land on the Northern side of Marsden Lane within this vicinity is currently zoned RU1 Primary Production with a minimum lot size of 200 hectares. Therefore, the construction of the T-intersection is considered appropriate at this time.

Non-Vehicular Transport – Pedestrians and Cyclists

The *Kelso Traffic Access Study Report* identified the following existing issues in relation to the provision of non-vehicular transport modes in the Kelso area:

“... there are large parts of central and northern Kelso that do not have any pedestrian footpaths or shared paths. There is also no correlation between provision of pedestrian paths and bus route and stop locations, which means that it is difficult for residents to access the bus stops if they have mobility impairments or are pushing prams. Both these factors would contribute to residents’ isolation and car dependence.

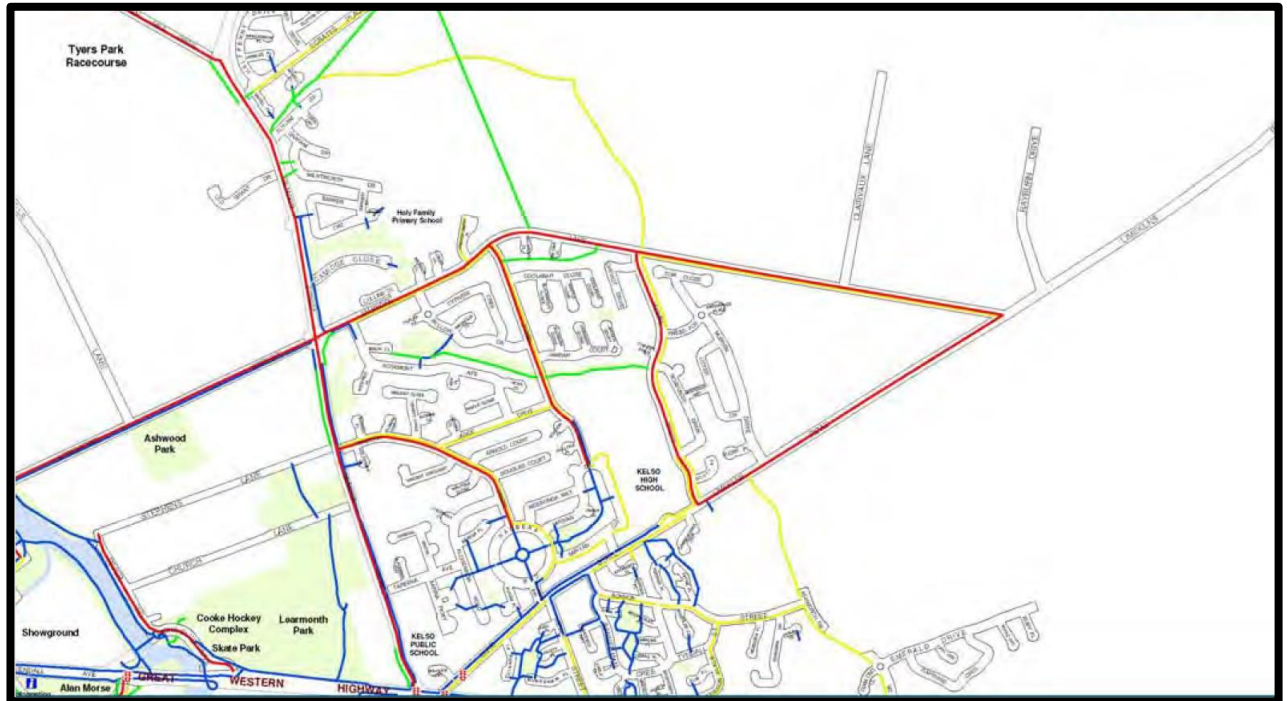
With an ageing population, and therefore the likelihood of an increasing prevalence of mobility limitations in residents, it will be important to plan for more extensive provision of footpaths to provide a basic level of access for all residents. In addition, footpath/ shared path provision could provide the opportunity for increased physical activity for all residents.”

It is considered that the provision of suitably designed, constructed and well-connected footpaths and cycleways is necessary for several reasons:

- To ensure equal access to employment and services (e.g. public transport, medical, education, shops, recreational facilities etc.) for residents who do not own private vehicles or are unable to drive.
- To encourage the use of non-vehicular transport, thereby reducing traffic congestion, noise, safety conflicts and carbon emissions.
- To encourage physical activity, which is beneficial for the health and wellbeing of the community.

In 2011, Council prepared the *Bathurst Community Access and Cycling Plan* (BCACP) which “*is intended to be the primary guiding document for the construction of footpaths and cycleways in the Bathurst Region*” and aims “*to provide a holistic and planned approach to improving the pedestrian and cycle environment within the Bathurst Region for its community and visitors to the Region.*” To improve non-vehicular transport networks in the Bathurst Region, the BCACP identified a number of locations for new footpaths and cycleways to be

constructed (see **Figure 17** relating to the Kelso area) and recommended that a number of planning responses be implemented, notably including that: *“Council amend its relevant Development Control Plan maps to identify the footpaths and cycleways to be constructed”* and *“require the construction of the footpath or cycleway prior to the subdivision release or seek funding for the construction of the path under a relevant Section 94 Contribution Plan”*.





Legend:

- Proposed On-Road Routes
- Proposed Cycleways
- Proposed Footpaths
- Existing Cycleways

Figure 17(a) & (b) – Appendix 1, Map 3 Proposed Footpath, Cycleway and On-road Network – *Bathurst Community Access and Cycling Plan 2011 (BCACP)* – Kelso

As a result of the BCACP, “DCP Map No. 4 – Kelso” identifies that Marsden Lane, Limekilns Road and Lawrence Drive are required to be constructed and upgraded as Strategic Access Routes and/or Cycle Paths, as previously shown in **Figure 8** and **Figure 9**.

The submitted Zoning Layout Plan identifies that footpaths are proposed to be constructed within the subdivision in the following locations (see **Figure 18**):

- The Southern side of Marsden Lane (full lot frontage).
- The Western side of Lawrence Drive (full length).
- The Northern side of Limekilns Road (full lot frontage).

- The Northern side of Hartigan Street (full length), within open space Lots 2003 and 2004.
- The North-Eastern side of Lockwood Rise (between Hartigan Street and Wallace Way) to provide connectivity between all open space lots.
- The Western side of Sunbright Road (between Marsden Lane and Kirkland Road) and the Southern side of Kirkland Road (between Sunbright Road and Percival Place) to provide connectivity between Marsden Lane and open space Lots 2001 and 2002.

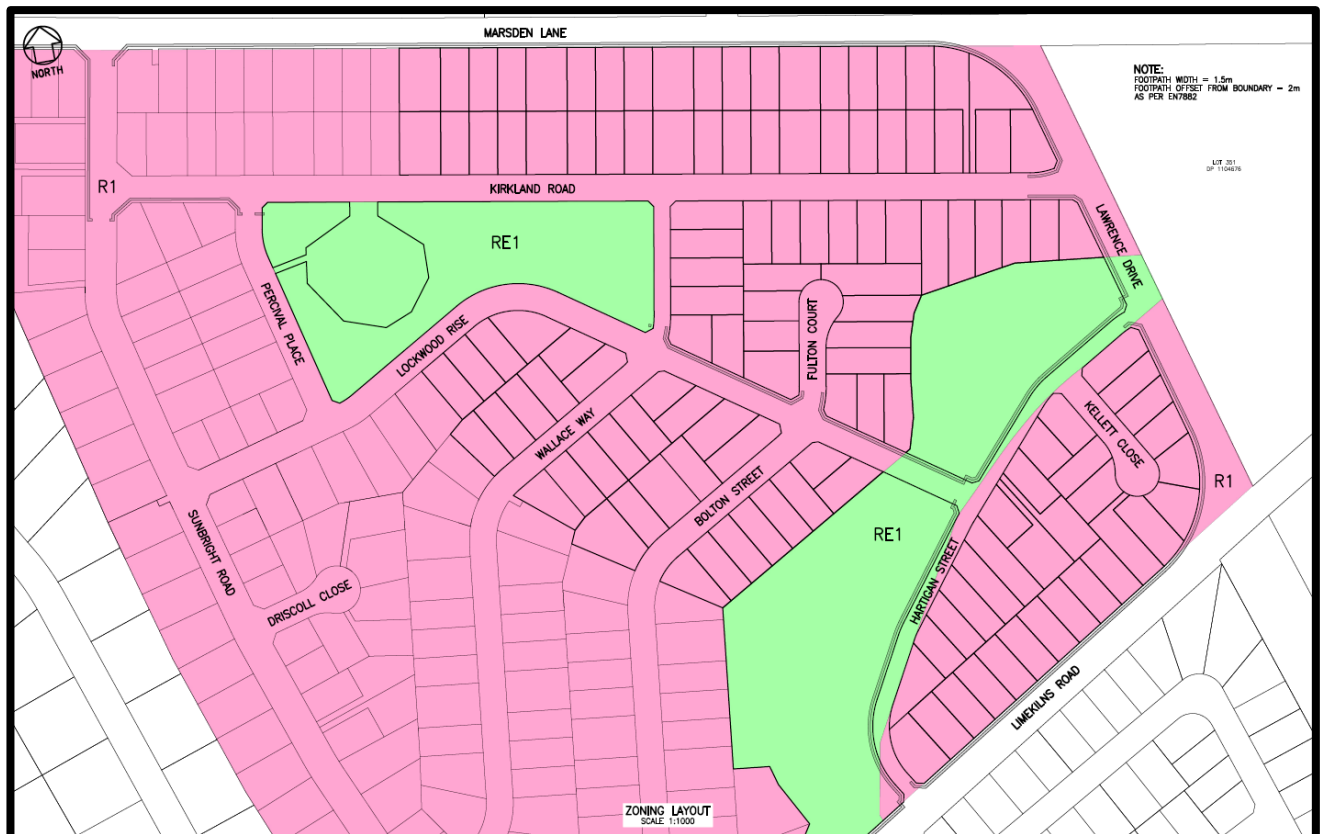
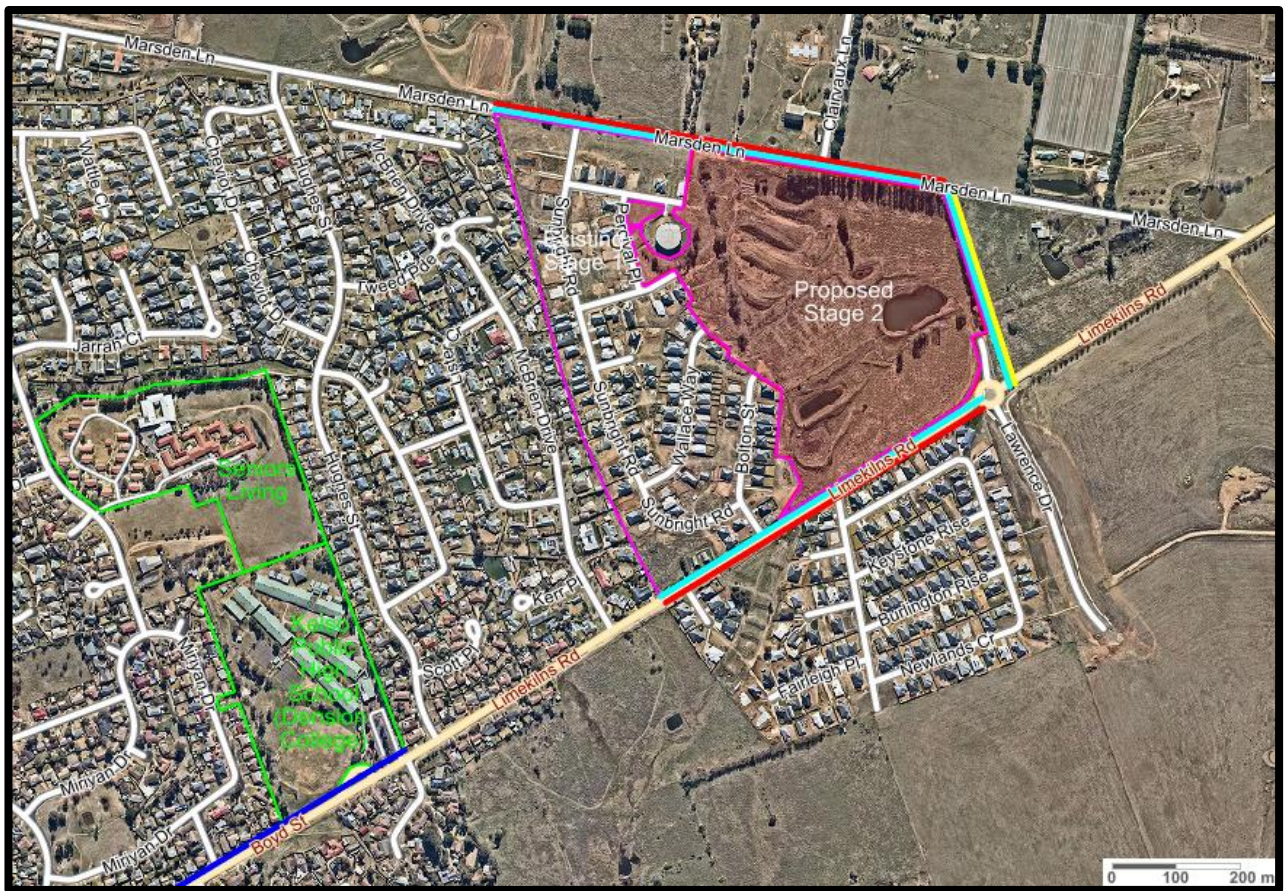


Figure 18 – Proposed Zoning Layout Plan – Location of Proposed Footpaths

It is considered that the proposed internal footpath network will provide sufficient non-vehicular access and connectivity within the proposed development, particularly between the bordering collector roads (Marsden Lane, Limekilns Road and Lawrence Drive) and the proposed open space lots.

Further, to ensure that the proposed development complies with the requirements of DCP 2014 and the recommendations of the BCACP, it is considered that conditions of consent should be implemented to ensure that the following collector roads are suitably treated with footpaths (as proposed) and an on-road cycleway for the full frontage of Lot 157 DP 1275358 at a minimum:

Collector Road – Footpath and On-road Cycleway Required	Comment
Marsden Lane	<p>Footpath and cycleway infrastructure had not been provided within the Stage 1 subdivision (to the West).</p> <p>Whilst there are existing gaps in the footpath/cycleway network on Marsden Lane (see Figure 19), the work will go some way to improving the non-vehicular accessibility of the proposed development and surrounding residential area; particularly until such time as Council resolves the existing deficiencies in the Marsden Lane network.</p>
Limekilns Road	<p>Footpath and cycleway infrastructure had not been provided within the Stage 1 subdivision (to the West).</p> <p>Whilst the construction of a footpath has not been identified on “DCP Map No. 4 – Kelso” or the BCACP, there is an existing footpath located at the Western end of Boyd Street/Limekilns Road, which extends from the Sydney Road intersection to the frontage of Kelso Public High School (Denison College). To improve the non-vehicular accessibility of the area, particularly for any staff and students of the High School who may live nearby, it is considered that a footpath should be constructed on this Southern side of the land as proposed (see Figure 19).</p> <p>Whilst there are existing gaps in the footpath/cycleway network on Boyd Street/Limekilns Road, the work will go some way to improving the non-vehicular accessibility of the proposed development and surrounding residential area; at least until such time as Council resolves the existing deficiencies in the Limekilns Road network.</p>
Lawrence Drive	<p>The cycleway and footpath will eventually interconnect with further extensions to Lawrence Drive as subdivision in the Kelso area continues. The submitted plans indicate that Lawrence Drive will have a road reserve width of 22 metres, which is consistent with Council’s Engineering Standards for Collector Roads and will be sufficient to support the required on-road cycleway.</p>



Legend:

-  Required On-Road Cycleway
-  Required On-Road or Off-Road Cycleway
-  Required Footpaths
-  Existing Footpaths
-  Sunnybright Subdivision
-  Notable Land Uses

Figure 19(a) & (b) – Existing and Required Cycleways and Footpaths – Stages 1 and 2 of Sunnybright Subdivision

The construction of those footpaths and cycleways identified in the BCACP and DCP 2014 are funded by Section 7.11 Development Contributions collected under Council's *Development Contributions Plan, Bathurst Regional Community Facilities 2014*. Others not identified will be developer funded.

Environmental Impacts

It is considered that subject to the implementation of conditions of consent as recommended throughout this report, the environmental impacts of the proposed development are not unreasonable in the context of urban growth in Bathurst.

Social Impacts

It is considered that subject to the implementation of conditions of consent as recommended throughout this report, the proposed development will not result in any significant social impacts.

Bathurst 2036 Housing Strategy

The *Bathurst 2036 Housing Strategy* was adopted by Council in 2016 to identify the existing and future housing needs of the community and enable Council to proactively manage how and where future housing and residential development will be provided within Bathurst until 2036. The Strategy identifies that the population of the Bathurst region will increase by 12,170 people by 2036 (being a total of 55,250 people). This equates to an additional 5,245 new dwellings required to be concentrated in the urban areas of the city. The Housing Strategy also identifies the importance of increasing the proportion of medium density housing available in order to increase housing choice and affordability and cater for a growing and ageing population.

There is currently approximately 770 hectares of residentially zoned land available in Bathurst for future development, which is expected to cater for the predicted population increase. The land subject to this application is included within this amount and therefore the proposed subdivision will assist in meeting the current and future housing needs of the community. Additionally, 31 of the 131 proposed residential allotments (23.7%) will be capable of supporting dual occupancy development based on lot size, with the current applicable dual occupancy minimum lot size being 850m² under Clause 4.1B of LEP 2014.

Some minor amendments to corner allotments could assist in providing additional opportunities for dual occupancy development. Therefore, the proposed development will also provide opportunities for medium density housing.

Economic Impacts

It is considered that subject to the implementation of conditions of consent as recommended throughout this report, the proposed development will not result in any significant detrimental economic impacts. The proposed subdivision will result in subsequent residential development of the land, which will provide further support the local building industry and associated employment.

Section 4.15(1)(c) Suitability of the site for the development

Hazards

There are no known natural or technological hazards which may impact the proposed development. The land is not identified as flood prone or bushfire prone.

Contaminated Land

As discussed under SEPP 55 above, the land was previously used as an orchard with a packing shed and asbestos fragments were previously identified on the surface of the land. Appropriate remediation and asbestos removal works were carried out and a Validation Investigation Report (prepared by Envirowest, dated 5 July 2020) submitted to Council identifies that the land is now suitable for residential use.

Amenity Considerations

The proposed residential subdivision will be located adjacent to established residential areas to the West and South and is not expected to place any adverse impact on the amenity of the surrounding areas.

Section 4.15(1)(d) Submissions

The proposed development is not identified as notified or exhibited development under *Bathurst Regional Community Participation Plan 2019* (CPP 2019). Additionally, the proposal is not identified as advertised development under the EP&A Act. Therefore, no public submissions were sought or received as part of this application.

It should be noted that in accordance with Clause 3.14.4.3 of CPP 2019, the subdivision of land zoned R1 General Residential is identified as development that will not be notified.

Section 4.15(1)(e) Public Interest

The proposed development is consistent with all relevant legislation, plans and policies applying to the land. The proposal will contribute to the housing needs of the community and is in the public interest.

Section 7.11 Development Contributions

Conditions of consent will be implemented to ensure that development contributions are paid to Council in accordance with the following applicable Section 7.11 Development Contributions Plans:

Section 7.11 Development Contributions Plans	Purpose	Proposal	Bathurst Regional Revenue Policy 2021/2022: Schedule of Fees and Charges	
			Contribution Rate	Amount Payable
<i>Bathurst Regional Community Facilities 2014</i>	Contributions fund the provision of local community facilities infrastructure to service the Bathurst region that will be required as a consequence of development in the LGA or that has been provided in anticipation of or to facilitate such development.	131 new residential lots and four (4) public open space lots.	\$6,527.50 per new residential lot.	131 x \$6,527.50 = \$855,102.50
<i>Raglan Creek Stormwater Drainage Management 1992</i>	Contributions fund the management of stormwater runoff from developments within the subject land.		Low density subdivisions \$1,602.70 per residential lot.	131 x \$1,602.70 = \$209,953.70
<i>Bathurst Regional Open Space 2014</i>	Contributions fund the provision and of open space to the meet the increased demand generated by the development commensurate with the needs of the population and general community expectations.		<u>Kelso/Laffing Waters</u> \$2,258.30 per residential lot.	131 x \$2,258.30 = \$295,837.30
<i>Roadworks – New Residential Subdivisions 2014</i>	Contributions fund the provision and extension of roadworks and intersection treatments that will, or a re likely to be, required as a consequence of development in the area or that have been provided in anticipation of or to facilitate such development.		<u>Area 4 Kelso</u> \$4,429.50 per residential lot.	131 x \$4,429.50 = \$580,264.50

Section 64 Water and Sewer Headworks Charges

Conditions of consent will be implemented to ensure that water and sewer headworks charges are paid to Council in accordance with Section 64 of the *Local Government Act 1993* (LG Act):

Section 64 Headworks Charges	Proposal	Bathurst Regional Revenue Policy 2021/2022: Schedule of Fees and Charges	
		Contribution Rate	Amount Payable
Water	131 new residential lots (< 2,000m ²) and four (4) public open space lots.	Residential lot < 2,000m ² = 1ET 1ET = \$6,187.50	131 x \$6,187.50 = \$810,562.50
Sewer		Residential lot (any size) = 1ET 1ET = \$6,020.00	131 x \$6,020.00 = \$788,620.00

In accordance with Section 64 of the LG Act (and subsequently, Chapter 6, Part 2, Division 5 of the *Water Management Act 2000* (WM Act)), Council can request the applicant to pay a specified amount by way of contribution towards the cost of existing or projected water management works. Under Clause 226(b) of the *Water Management (General) Regulation 2018*, Section 306 of the WM Act applies to “the subdivision of land.”

Referrals

Internal Referrals

The proposed development was referred to the following internal Council officers:

- Subdivision Supervisor (Development Assessment Engineer).
- Health and Building Surveyor.
- Plumbing and Drainage Inspector.
- Environmental Officer.
- Manager Recreation.

Conditions of consent have been included within the Draft Notice of Determination (see **Attachment 1**).

External Referrals

The application was referred to the following external agencies:

Agency	Relevant Clause	Comment
Essential Energy	Clause 45 of SEPP (Infrastructure) 2007.	Essential Energy provided comments on 22 January 2021 (see <u>Attachment 9</u>). No significant concerns were raised in relation to potential safety risks arising from the proposed development. General comments and recommendations were provided and have been adopted as conditions of consent.
NSW Department of Planning, Industry and Environment – Biodiversity, Conservation and Science Directorate (BCS)	N/A. Referral only.	The BDAR submitted with the development application was referred to BCS for review. BCS advised Council in a letter dated 20 January 2021, that the “assessment and determination has been adequately justified within the BDAR” (see <u>Attachment 6</u>).

Summary

The proposed development is generally consistent with all relevant legislation, plans and policies applying to the land. The proposal will contribute to the housing needs of the community and is not expected to result in any significant negative social, economic or environmental impacts subject to conditions of consent. The land is suitable for the proposed development and the proposed subdivision is in the public interest.

It is recommended that the development be approved, subject to conditions of consent as provided in the Draft Notice of Determination (see **Attachment 1**).