



New South Wales

State Environmental Planning Policy (Short-term Rental Accommodation) 2019

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

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State Environmental Planning Policy (Short-term Rental Accommodation) 2019

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Short-term Rental Accommodation) 2019*.

2 Commencement

This Policy commences on *[Date to be advised]* and is required to be published on the NSW legislation website.

3 Aims of Policy

The aims of this Policy are as follows—

- (a) to support short-term rental accommodation as a home sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,
- (b) to provide for the safety of users of short-term rental accommodation who may be less familiar with the dwelling,
- (c) to clarify the types of housing that may be used for the purposes of short-term rental accommodation.

4 Definitions

- (1) A word or expression used in this Policy has the same meaning as it has in the Standard Instrument unless it is otherwise defined in this Policy.

- (2) In this Policy—

Clarence Valley Short-term Rental Accommodation Area Map means the State Environmental Planning Policy (Short-term Rental Accommodation) 2019 Clarence Valley Short-term Rental Accommodation Area Map.

Consultation note: A draft of the map referred to above is also the subject of consultation and is available on the Department's website or the NSW Planning Portal.

flood control lot means a lot to which flood related development controls apply in respect of development for the purposes of industrial buildings, commercial premises, dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (other than development for the purposes of group homes or seniors housing).

Note. This information is a prescribed matter for the purpose of a planning certificate issued under section 10.7(2) of the Act.

public consultation draft

State Environmental Planning Policy (Short-term Rental Accommodation) 2019 [NSW]
Part 1 Preliminary

Greater Sydney Region has the same meaning as in the *Greater Sydney Commission Act 2015*.

host—see the definition of **short-term rental accommodation**.

hosted short-term rental accommodation means short-term rental accommodation provided where the host resides on the premises during the provision of the accommodation.

Muswellbrook Short-term Rental Accommodation Area Map means the State Environmental Planning Policy (Short-term Rental Accommodation) 2019 Muswellbrook Short-term Rental Accommodation Area Map.

Consultation note: A draft of the map referred to above is also the subject of consultation and is available on the Department's website or the NSW Planning Portal.

non-hosted short-term rental accommodation means short-term rental accommodation provided where the host does not reside on the premises during the provision of the accommodation.

permanent resident of a dwelling means a person who permanently resides at the dwelling.

short-term rental accommodation means an existing dwelling—

- (a) that is lawfully used by the owner, tenant or permanent resident of the dwelling (the **host**) to provide accommodation on a commercial basis for a temporary or short-term period, with or without the host residing on the premises during that period, and
- (b) that, if it were used predominantly as a place of residence, would be one of the following types of residential accommodation—
 - (i) an attached dwelling,
 - (ii) a dual occupancy,
 - (iii) a dwelling house,
 - (iv) multi dwelling housing,
 - (v) a residential flat building,
 - (vi) a rural workers' dwelling,
 - (vii) a secondary dwelling,
 - (viii) a semi-detached dwelling,
 - (ix) shop top housing.

Note. Section 137A of the *Strata Schemes Management Act 2015* provides that a by-law made by a special resolution of an owners corporation may prohibit a lot being used for the purposes of a short-term rental accommodation arrangement (within the meaning of section 54A of the *Fair Trading Act 1987*) if the lot is not the principal place of residence of the person who, pursuant to the arrangement, is giving another person the right to occupy the lot.

Consultation note: It is proposed to commence this Policy on the same day as section 137A of the Strata Schemes Management Act 2015 (as inserted by Schedule 2 to the Fair Trading Amendment (Short-term Rental Accommodation) Act 2018) is proposed to be commenced. The notes above and under the heading to Part 3 are included in this consultation draft on that basis.

tenant has the same meaning as in the *Residential Tenancies Act 2010*.

the Act means the *Environmental Planning and Assessment Act 1979*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

- (3) A reference in this Policy to—

- (a) ***the dwelling***, is a reference to the dwelling the subject of the short-term rental accommodation (unless the contrary is indicated),
 - (b) ***residential accommodation of a type corresponding to the dwelling*** is a reference to residential accommodation of the type corresponding to the dwelling if it were used predominantly as a place of residence.
- (4) Notes included in this Policy do not form part of this Policy.

5 Land to which Policy applies

This Policy applies to the State.

6 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name—
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the persons making the environmental planning instruments when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map.
- (3) In that case, a reference in this Policy to a named map is a reference to the relevant part or aspect of the single map.
- (4) Maps adopted by this Policy are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (5) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.
Note. The maps adopted by this Policy are to be made available on the official NSW legislation website in connection with this Policy.

7 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the inconsistency.
- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Policy applies—
State Environmental Planning Policy No 1—Development Standards.

8 Review of Policy

The Minister must ensure that the provisions of this Policy are reviewed as soon as practicable after the first anniversary of the commencement of this Policy.

Part 2 General requirements for exempt and complying development

9 General requirements for exempt development

Note 1. Under section 1.6 of the Act, exempt development (being development that is declared to be exempt development by an environmental planning instrument because of its minor impact) may be carried out without the need for development consent under Part 4 of the Act, environmental impact assessment under Division 5.1 of the Act, state significant infrastructure approval under Division 5.2 of the Act or a certificate under Part 6 of the Act (Building and subdivision certification).

Note 2. Specifying a type of development as exempt development does not authorise the contravention of any condition of development consent, or any lease applying to the land on which the exempt development is carried out. Nor does it authorise the contravention of any other law that may apply. In addition to the requirements set out in this Policy in relation to exempt development, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

- (1) This clause applies to any development for the purposes of short-term rental accommodation that this Policy provides is exempt development.

Note. Clauses 11 and 12 identify kinds of development that are exempt development if they meet the requirements of this Division and certain other requirements and standards.

- (2) To be exempt development for the purposes of this Policy—
- (a) the dwelling must have been lawfully constructed to be used for the purpose of residential accommodation, and
 - (b) the dwelling must not be, or be part of, a boarding house, a group home, a hostel, seniors housing, an eco-tourist facility, tourist and visitor accommodation, a camping ground or a caravan park, and
 - (c) if the dwelling is classified under the *Building Code of Australia* as class 1b or class 2–9—
 - (i) the dwelling must have a current fire safety certificate or fire safety statement, or
 - (ii) no fire safety measures are currently implemented, required or proposed for the dwelling.

10 General requirements for complying development

- (1) This clause applies to any development for the purposes of short-term rental accommodation that this Policy provides is complying development.

Note. Clause 13 identifies kinds of development that are complying development if they meet the requirements of this clause and certain other requirements and standards.

- (2) To be complying development for the purposes of this Policy—
- (a) the development must not be exempt development under this Policy, and
 - (b) the dwelling must have been lawfully constructed to be used for the purpose of residential accommodation, and
 - (c) the dwelling must not be, or be part of, a boarding house, a group home, a hostel, seniors housing, an eco-tourist facility, tourist and visitor accommodation, a camping ground or a caravan park, and
 - (d) the development must not cause the contravention of any existing condition of the most recent development consent that applies to the premises relating to car parking, loading, vehicular movement, waste management or landscaping.

Part 3 Short-term rental accommodation—specific development controls

Note 1. Section 137A of the *Strata Schemes Management Act 2015* provides that a by-law made by a special resolution of an owners corporation may prohibit a lot being used for the purposes of a short-term rental accommodation arrangement (within the meaning of section 54A of the *Fair Trading Act 1987*) if the lot is not the principal place of residence of the person who, pursuant to the arrangement, is giving another person the right to occupy the lot.

Note 2. Part 9 of the *Environmental Planning and Assessment Regulation 2000* includes fire safety requirements for certain existing buildings or parts of buildings.

Division 1 Short-term rental accommodation—exempt development

11 Exempt development—hosted short-term rental accommodation

Development for the purpose of hosted short-term rental accommodation is exempt development for the purposes of this Policy if—

- (a) the development is carried out on land in a zone in which residential accommodation of a type corresponding to the dwelling is permitted with or without development consent, and
- (b) the number of persons residing in the dwelling at any one time does not exceed—
 - (i) 2 persons for each bedroom in the dwelling, or
 - (ii) 12 persons in total for the dwelling,whichever is the lesser, and
- (c) the development meets the general requirements for exempt development specified in clause 9.

12 Exempt development—non-hosted short-term rental accommodation

- (1) Development for the purpose of non-hosted short-term rental accommodation is exempt development for the purposes of this Policy if—

- (a) the development is carried out on land in a zone in which residential accommodation of a type corresponding to the dwelling is permitted with or without development consent, and
- (b) in the case of non-hosted short-term rental accommodation in a dwelling located—
 - (i) in the Greater Sydney Region, the Ballina area or the City of Lake Macquarie area, or
 - (ii) on land in the Clarence Valley area shown edged heavy black on the Clarence Valley Short-term Rental Accommodation Area Map, or
 - (iii) on land in the Muswellbrook area shown edged heavy black on the Muswellbrook Short-term Rental Accommodation Area Map,the use of the dwelling for non-hosted short-term rental accommodation does not cause the dwelling to be used for that purpose for more than 180 days in a calendar year, and
- (c) the number of persons residing in the dwelling at any one time does not exceed—
 - (i) 2 persons for each bedroom in the dwelling, or
 - (ii) 12 persons in total for the dwelling,whichever is the lesser, and
- (d) the dwelling is not situated on bush fire prone land, and
- (e) the dwelling is not situated on a flood control lot, and

- (f) the development meets the general requirements for exempt development specified in clause 9.
- (2) In calculating the number of days a dwelling is used for non-hosted short-term rental accommodation for the purposes of subclause (1)(b), any period of 21 consecutive days or more for which non-hosted short-term rental accommodation is provided to the same person or persons is not to be counted.

Division 2 Short-term rental accommodation—complying development

13 Complying development—non-hosted short-term rental accommodation

- (1) Development for the purpose of non-hosted short-term rental accommodation is complying development for the purposes of this Policy if—
 - (a) the development is carried out on land in a zone in which residential accommodation of a type corresponding to the dwelling is permitted with or without development consent, and
 - (b) in the case of non-hosted short-term rental accommodation in a dwelling located—
 - (i) in the Greater Sydney Region, the Ballina area or the City of Lake Macquarie area, or
 - (ii) on land in the Clarence Valley area shown edged heavy black on the Clarence Valley Short-term Rental Accommodation Area Map, or
 - (iii) on land in the Muswellbrook area shown edged heavy black on the Muswellbrook Short-term Rental Accommodation Area Map,the use of the dwelling for non-hosted short-term rental accommodation does not cause the dwelling to be used for that purpose for more than 180 days in a calendar year, and
 - (c) the number of persons residing in the dwelling at any one time does not exceed—
 - (i) 2 persons for each bedroom in the dwelling, or
 - (ii) 12 persons in total for the dwelling,whichever is the lesser, and
 - (d) the dwelling is situated on bush fire prone land, and
 - (e) no part of the lot on which the dwelling is situated is situated in bush fire attack level-40 (BAL-40) or in the flame zone (BAL-FZ), and
 - (f) the dwelling complies with the requirements of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006, and

*Consultation note: It is proposed that paragraph (f) will refer to the most recent version of the publication entitled *Planning for Bush Fire Protection*. (A 'pre-release' version of *Planning for Bush Fire Protection* 2018 is currently being shown on the NSW Rural Fire Service website.)*

- (g) in the case of the dwelling being situated in a lot in Zone RU5, there is—
 - (i) a reticulated water supply connection to the lot and a fire hydrant within 60m of any part of the dwelling, or
 - (ii) a 10,000 L capacity water tank on the lot, and
- (h) in the case of the dwelling being situated in a lot in any zone other than Zone RU5, there is—

- (i) a reticulated water supply connection to the lot, and
 - (ii) a fire hydrant within 60m of any part of the dwelling, and
- (i) in the case of the dwelling being situated on a flood control lot, the development meets the requirements of clause 14, and
- (j) the development meets the general requirements for complying development specified in clause 10.
- (2) In calculating the number of days a dwelling is used for non-hosted short-term rental accommodation for the purposes of subclause (1)(b), any period of 21 consecutive days or more for which non-hosted short-term rental accommodation is provided to the same person or persons is not to be counted.
- (3) In this clause—
bush fire attack level-40 (BAL-40) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.
flame zone (BAL-FZ) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.

14 Requirements for complying development on flood control lots

- (1) For the purposes of clause 13(1)(i), the development must not be carried out on any part of a flood control lot other than a part that the council or a professional engineer who specialises in hydraulic engineering has certified, for the purposes of the issue of the relevant complying development certificate, as not being any of the following—
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.

Note. A planning certificate under section 10.7 of the Act issued by a council will state whether or not a lot is a flood control lot.
- (2) If the development is carried out on any part of a flood control lot, the following development standards also apply in addition to any other development standards—
 - (a) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the dwelling house,
 - (b) vehicular access to the dwelling house will not be inundated by water to a level of more than 0.3m during a 1:100 ARI (average recurrent interval) flood event.
- (3) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual*, unless it is otherwise defined in this Policy.
- (4) In this clause—
council means the council of a local government area and, in relation to a particular development, means the council of the local government area in which the development will be carried out.
Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.
flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high hazard area means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

high risk area means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

professional engineer has the same meaning as in the *Building Code of Australia*.

Note. The term is defined as a person who is—

- (a) if legislation is applicable—a registered *professional engineer* in the relevant discipline who has appropriate experience and competence in the relevant field, or
- (b) if legislation is not applicable:
 - (i) a Corporate Member of the Institution of Engineers, Australia, or
 - (ii) eligible to become a Corporate Member of the Institution of Engineers, Australia, and has appropriate experience and competence in the relevant field.

Part 4 Miscellaneous

15 Savings provisions

- (1) A development application or an application for a complying development certificate that has been made but not finally determined before the commencement of this Policy, or an amendment to this Policy, must be determined as if this Policy or the amendment had not commenced.
- (2) Development that was commenced before the commencement of this Policy and that was, immediately before that commencement, exempt development in accordance with an environmental planning instrument that was amended by this Policy may be continued as if this Policy had not commenced.

Schedule 1 Amendment of environmental planning instruments

1.1 Bega Valley Local Environmental Plan 2013

Clause 6.11 Short-term rental accommodation

Omit the clause.

1.2 Blue Mountains Local Environmental Plan 2015

Clause 6.29 Short-term rental accommodation

Omit the clause.

1.3 Eurobodalla Local Environmental Plan 2012

Clause 6.15 Short-term rental accommodation

Omit the clause.

1.4 Gosford Local Environmental Plan 2014

[1] Clause 7.6 Short-term rental accommodation

Omit the clause.

[2] Schedule 2 Exempt development

Omit the matter relating to short-term rental accommodation.

[3] Dictionary

Omit the definition of *short-term rental accommodation*.

1.5 Kiama Local Environmental Plan 2011

Clause 6.10 Short-term rental accommodation

Omit the clause.

1.6 Palerang Local Environmental Plan 2014

Clause 6.12 Short-term rental accommodation

Omit the clause.

1.7 Pittwater Local Environmental Plan 2014

Schedule 2 Exempt development

Omit the matter relating to short-term holiday rental accommodation.

1.8 Port Stephens Local Environmental Plan 2013

Clause 7.18 Short-term rental accommodation

Omit the clause.

1.9 Queanbeyan Local Environmental Plan 1998

Schedule 1 Dictionary

Insert “, but does not include an establishment providing short-term rental accommodation within the meaning of *State Environmental Planning Policy (Short-term Rental Accommodation) 2019*” after “souvenir shops” in the definition of *tourist facilities*.

1.10 Shoalhaven Local Environmental Plan 1985

Clause 20BB Short-term accommodation

Omit the clause.

1.11 Shoalhaven Local Environmental Plan 2014

Clause 7.13 Short-term rental accommodation

Omit the clause.

1.12 Shoalhaven Local Environmental Plan (Jerberra Estate) 2014

Clause 6.4 Short-term rental accommodation

Omit the clause.

1.13 State Environmental Planning Policy (Gosford City Centre) 2018

[1] Clause 7.4 Short-term rental accommodation

Omit the clause.

[2] Schedule 2 Exempt development

Omit the matter relating to short-term rental accommodation.

[3] Dictionary

Omit the definition of *short-term rental accommodation*.

1.14 Wingecarribee Local Environmental Plan 2010

Clause 7.11 Short-term rental accommodation

Omit the clause.

1.15 Wyong Local Environmental Plan 2013

[1] Clause 7.18 Short-term rental accommodation

Omit the clause.

[2] Schedule 2 Exempt development


Omit the matter relating to short-term rental accommodation.

[3] Dictionary


Omit the definition of *short-term rental accommodation*.

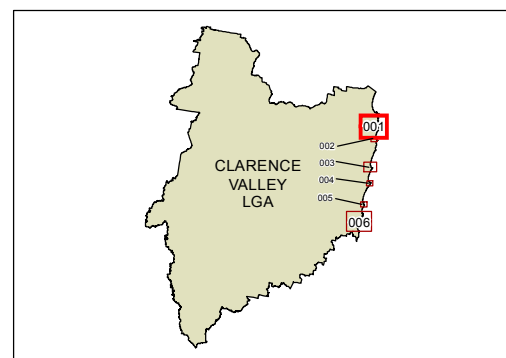
**State Environmental Planning
Policy (Short-term Rental
Accommodation) 2019**

Clarence Valley Short-term Rental
Accommodation Area Map Sheet -
SRA_001

 Land referenced at Clauses 12(1)(b)(ii) and 13
(1)(b)(ii)

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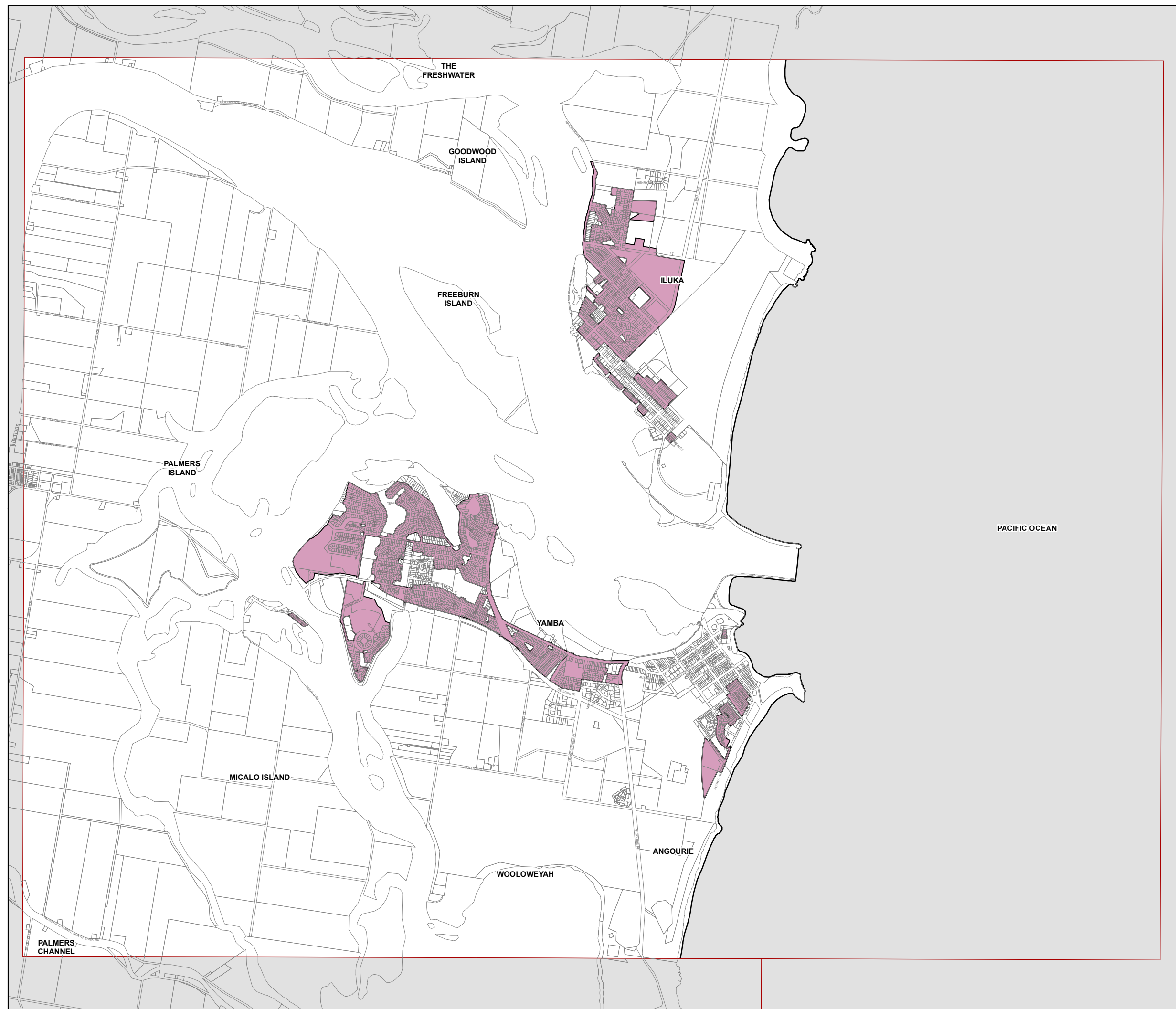
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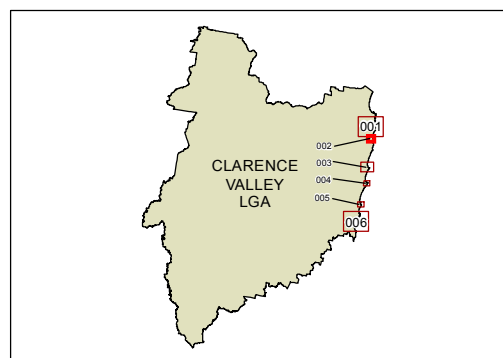
**State Environmental Planning
Policy (Short-term Rental
Accommodation) 2019**

Clarence Valley Short-term Rental
Accommodation Area Map Sheet -
SRA_002

 Land referenced at Clauses 12(1)(b)(ii) and 13
(1)(b)(ii)

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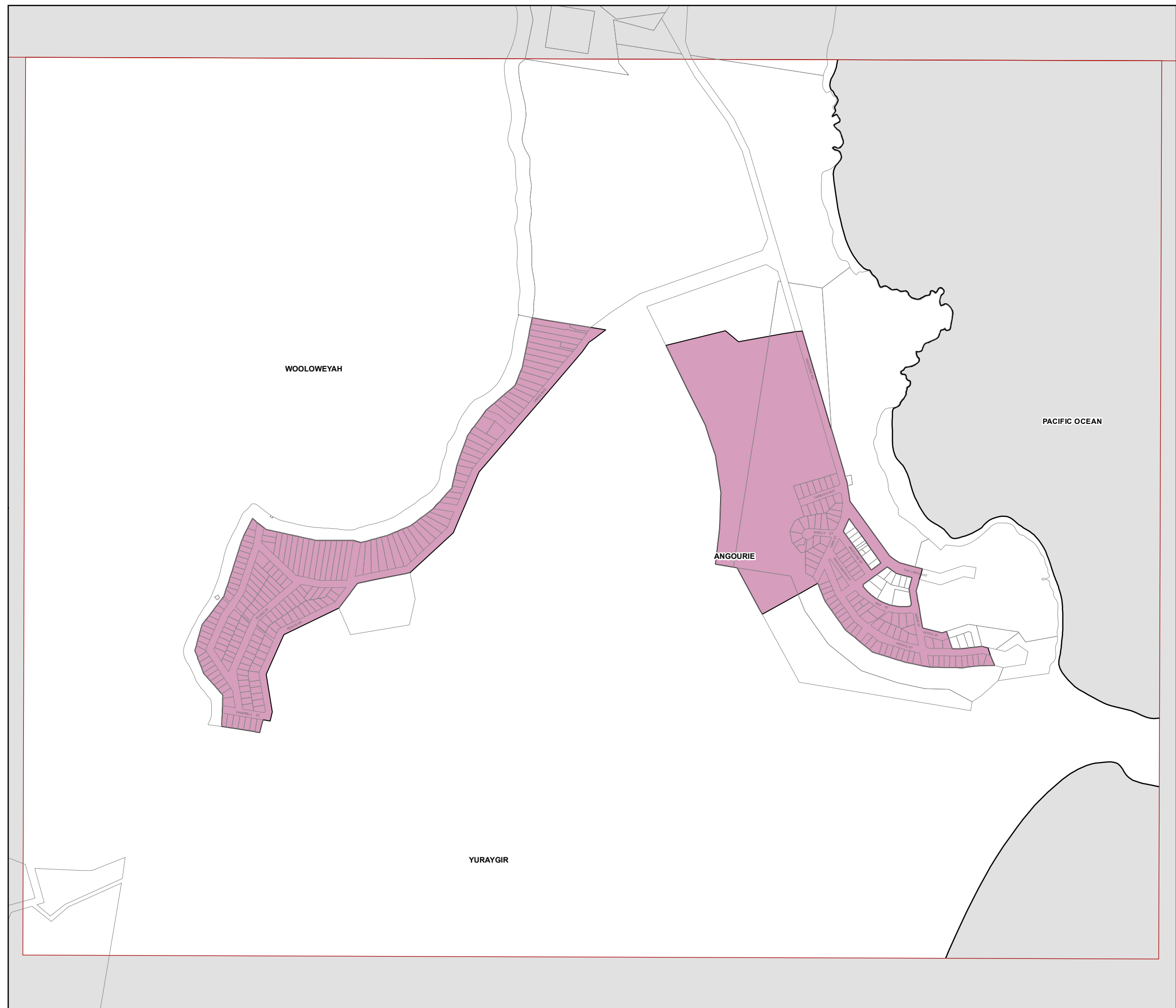
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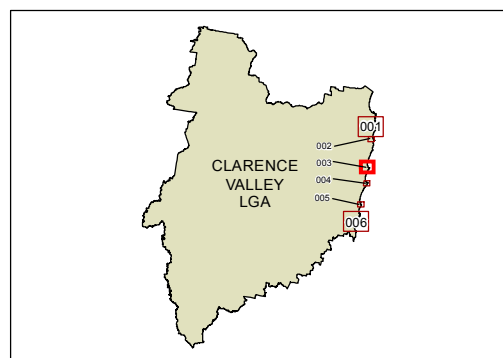
**State Environmental Planning
Policy (Short-term Rental
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Clarence Valley Short-term Rental
Accommodation Area Map Sheet -
SRA_003

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(1)(b)(ii)

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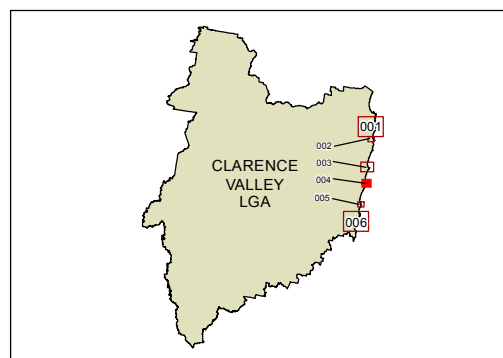
**State Environmental Planning
Policy (Short-term Rental
Accommodation) 2019**

Clarence Valley Short-term Rental
Accommodation Area Map Sheet -
SRA_004

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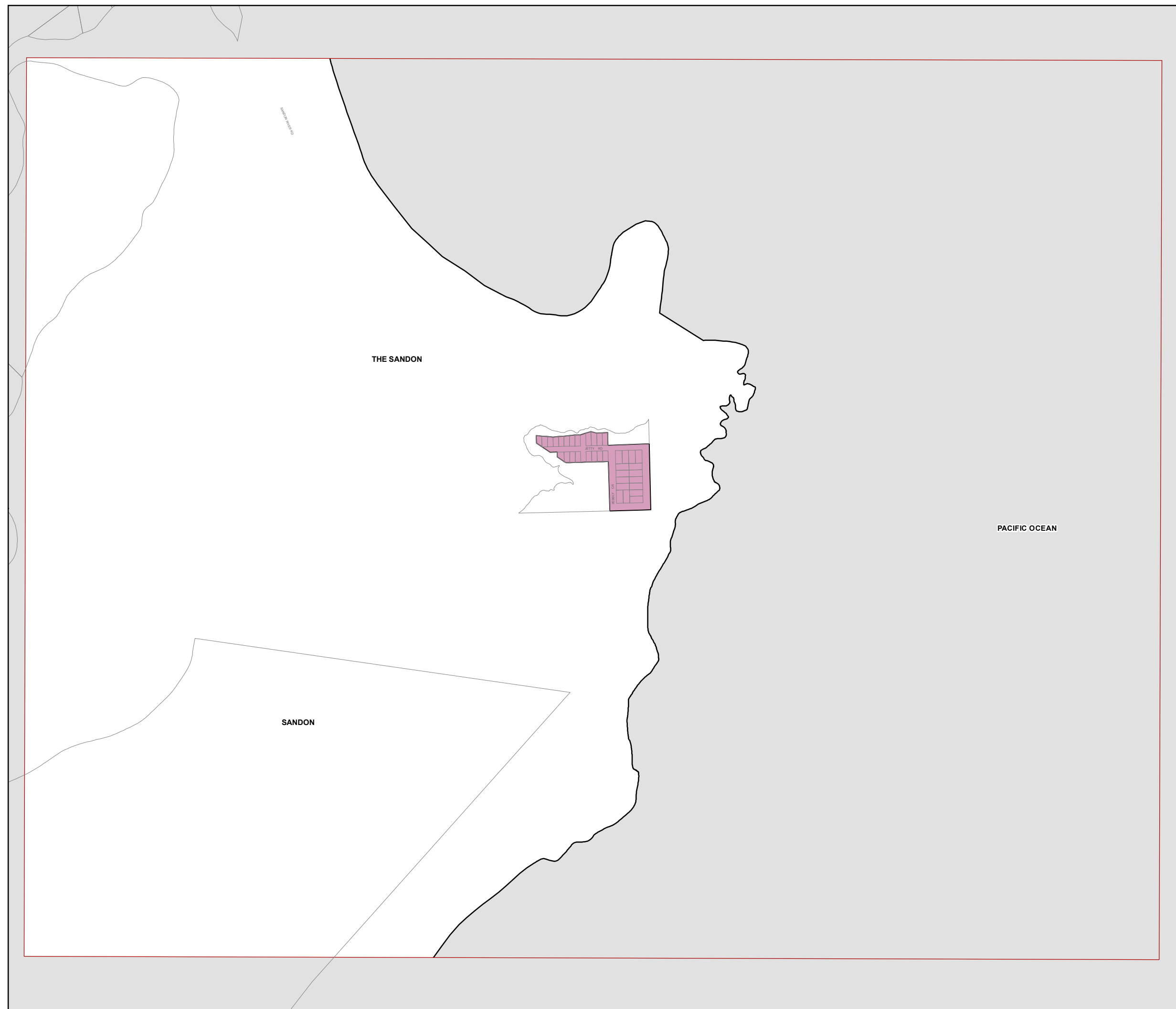
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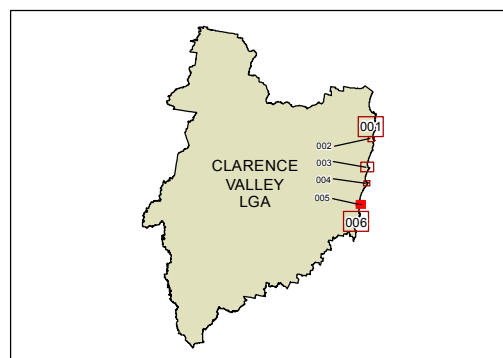
**State Environmental Planning
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Clarence Valley Short-term Rental
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SRA_005

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(1)(b)(ii)

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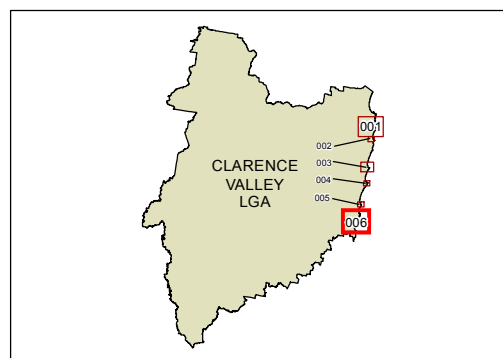
**State Environmental Planning
Policy (Short-term Rental
Accommodation) 2019**

Clarence Valley Short-term Rental
Accommodation Area Map Sheet -
SRA_006

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(1)(b)(ii)

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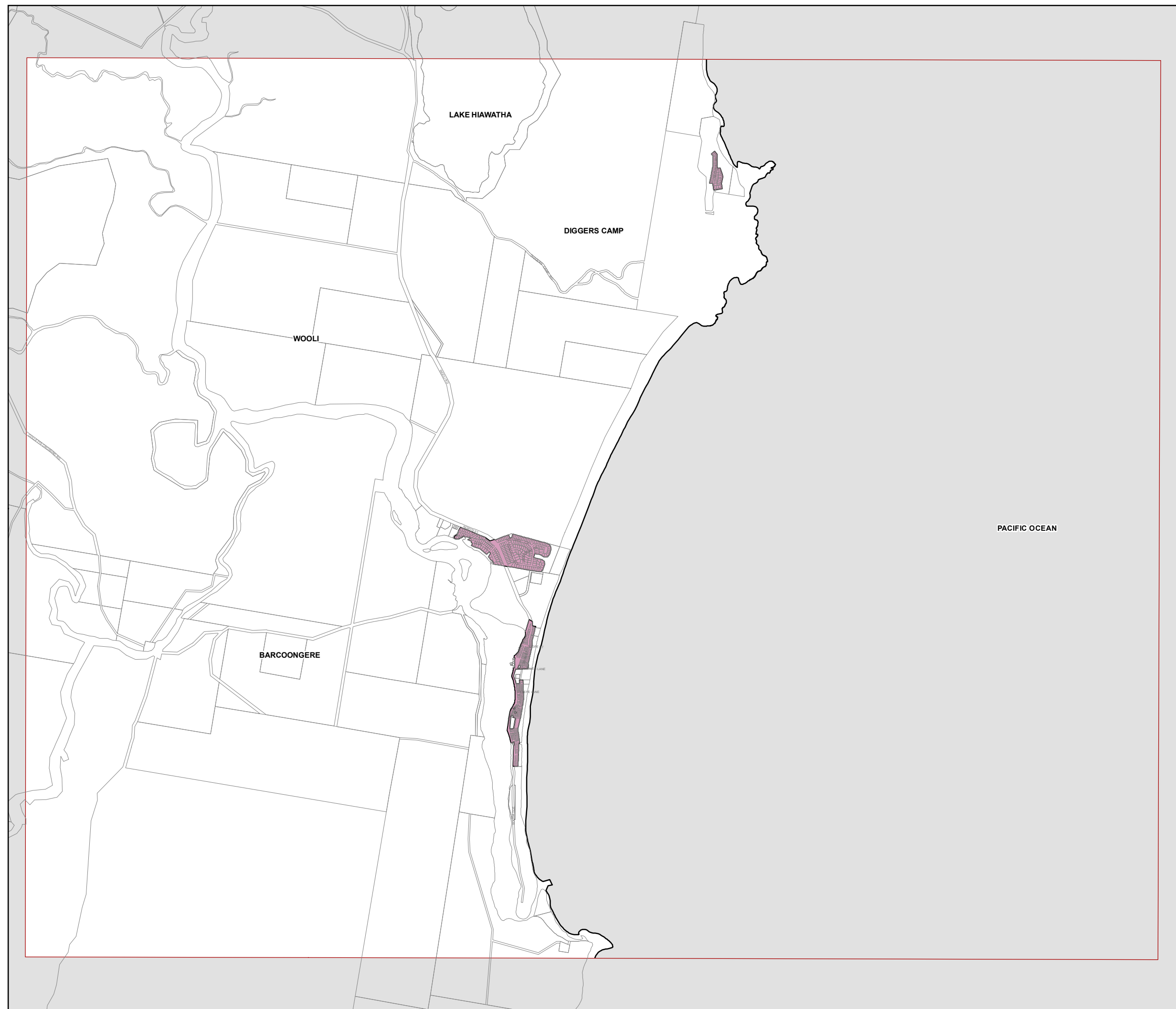
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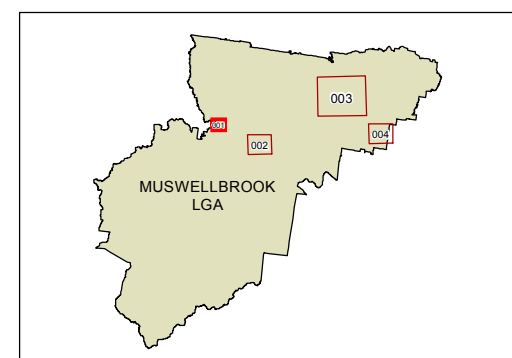
State Environmental Planning Policy (Short-term Rental Accommodation) 2019

Muswellbrook Short-term Rental
Accommodation Area Map Sheet -
SRA_001

 Land referenced at Clauses 12(1)(b)(iii) and
13(1)(b)(iii)

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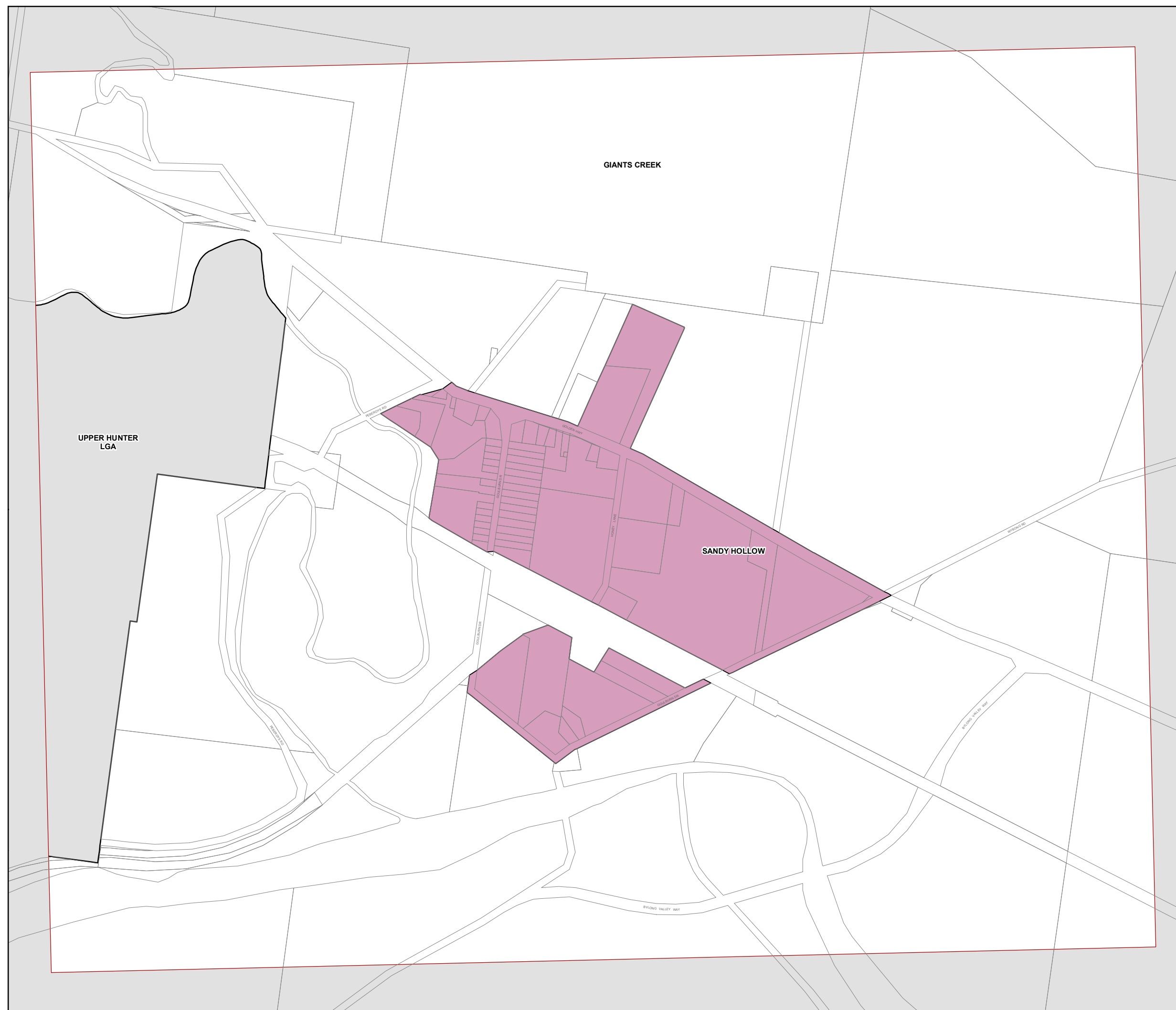
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Kilometres

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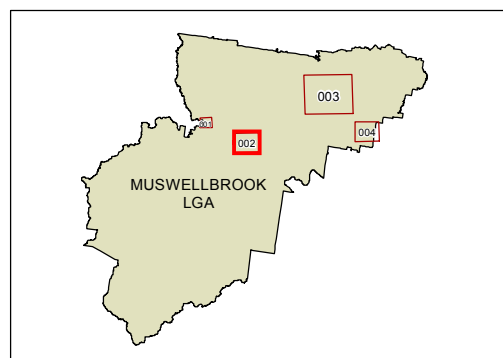
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Muswellbrook Short-term Rental
Accommodation Area Map Sheet -
SRA_002

 Land referenced at Clauses 12(1)(b)(iii) and
13(1)(b)(iii)

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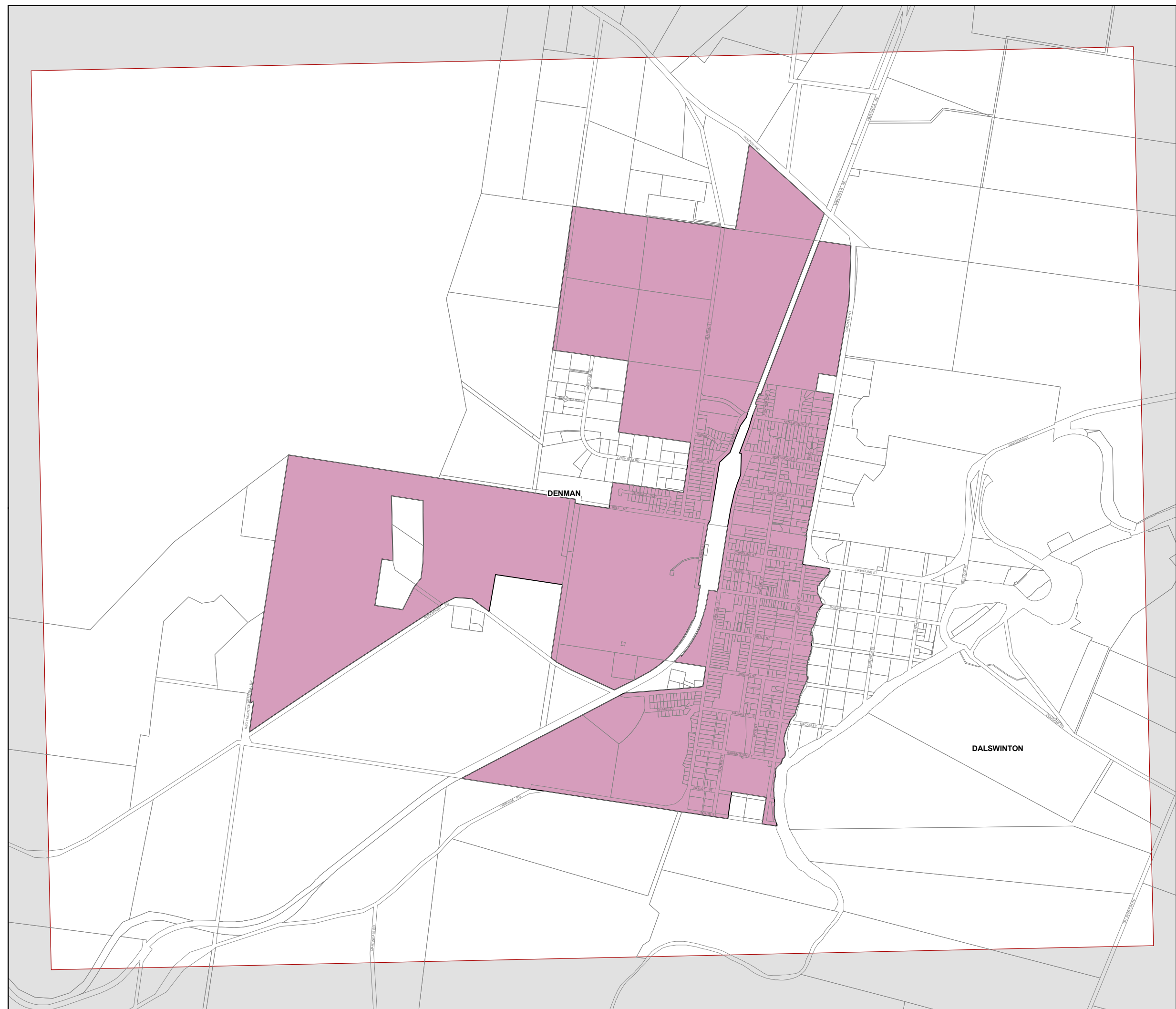
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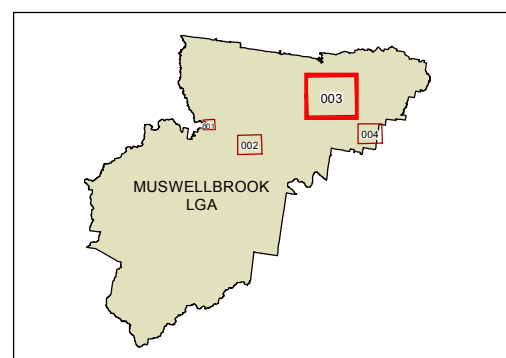
**State Environmental Planning
Policy (Short-term Rental
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**Muswellbrook Short-term Rental
Accommodation Area Map Sheet -
SRA_003**

 Land referenced at Clauses 12(1)(b)(iii) and
13(1)(b)(iii)

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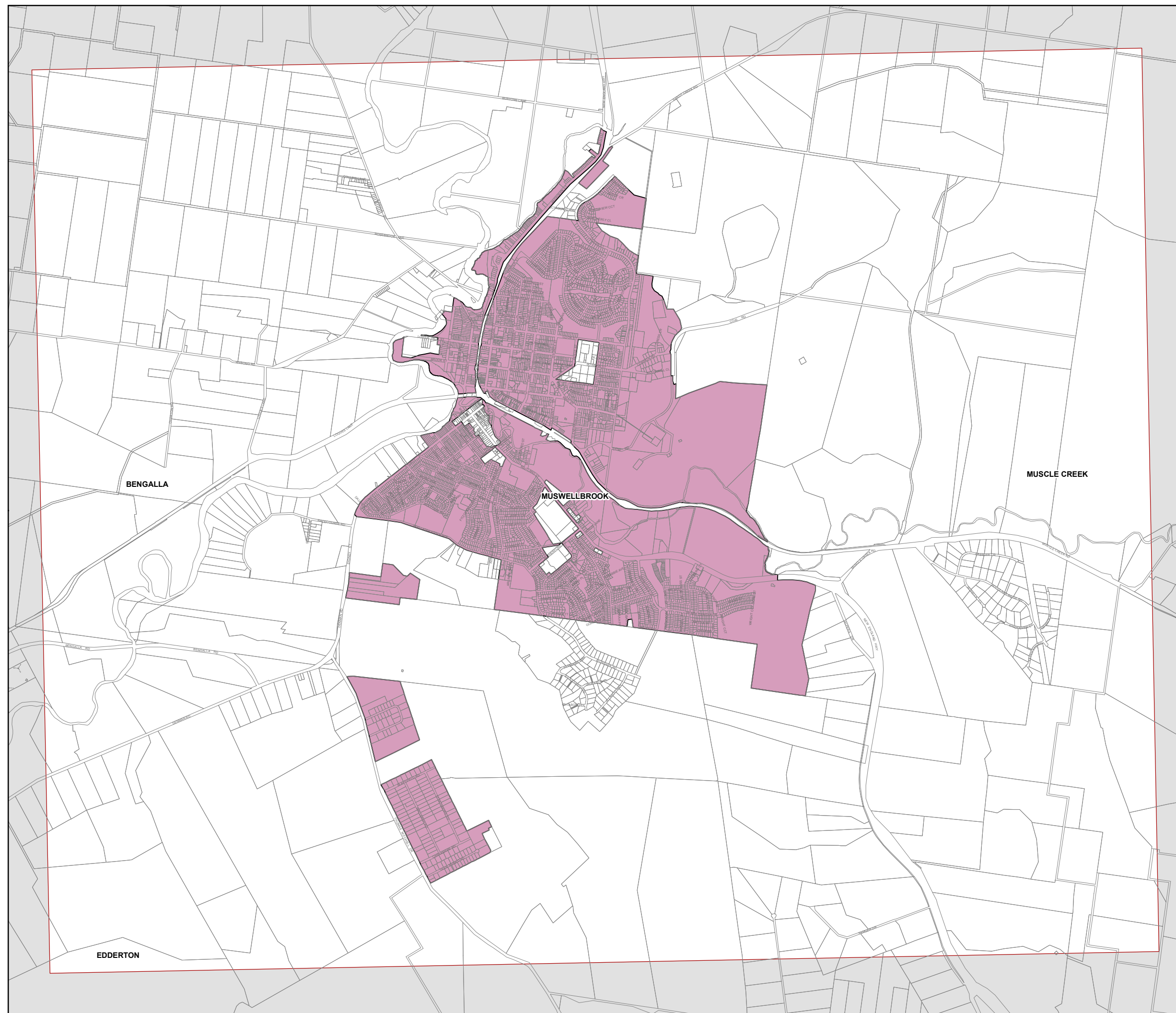
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MGA Zone 56

Scale: 1:40,000 @ A3




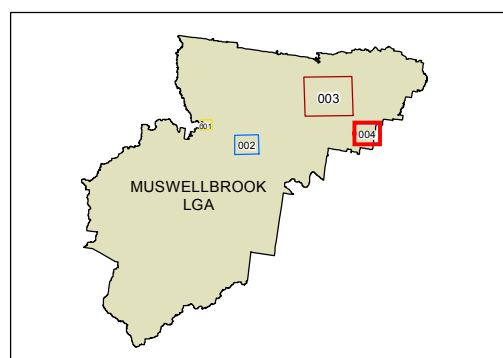
**State Environmental Planning
Policy (Short-term Rental
Accommodation) 2019**

**Muswellbrook Short-term Rental
Accommodation Area Map Sheet -
SRA_004**

 Land referenced at Clauses 12(1)(b)(iii) and
13(1)(b)(iii)

Cadastre

 Cadastre 30/07/2019 © DFSI Spatial Services



Projection: GDA 1994
MGA Zone 56

0 0.2 0.4 0.6 0.8
Kilometres

Scale: 1:20,000 @ A3

