

Our Ref: Allen_A53

14 November 2013

The General Manger
Mid-Western Regional Manager
86 Market Street
MUDGEES NSW 2850

Dear Sir

**RE: PLANNING PROPOSAL TO ENABLE LIFESTYLE OPPORTUNITIES, LOT 110 DP1029542,
BLACKSPRINGS ROAD EURUNDEREE**

Please accept this correspondence as a request for Council to consider this attached planning proposal. The subject land has two current zones including the E3 Environmental Management and RU1 Primary Production zones. The planning proposal is consistent with the CLUS, facilitating an additional supply of rural lifestyle land planned for in the Strategy. The land is able to be readily accessed and contains already constrained rural land being surrounded by other lifestyle subdivisions.

Several development options have been considered as part of the proposal however the concept plan aims to present the best option for conflict minimisation with residential opportunities and protection measures for ecological and aesthetically valuable land.

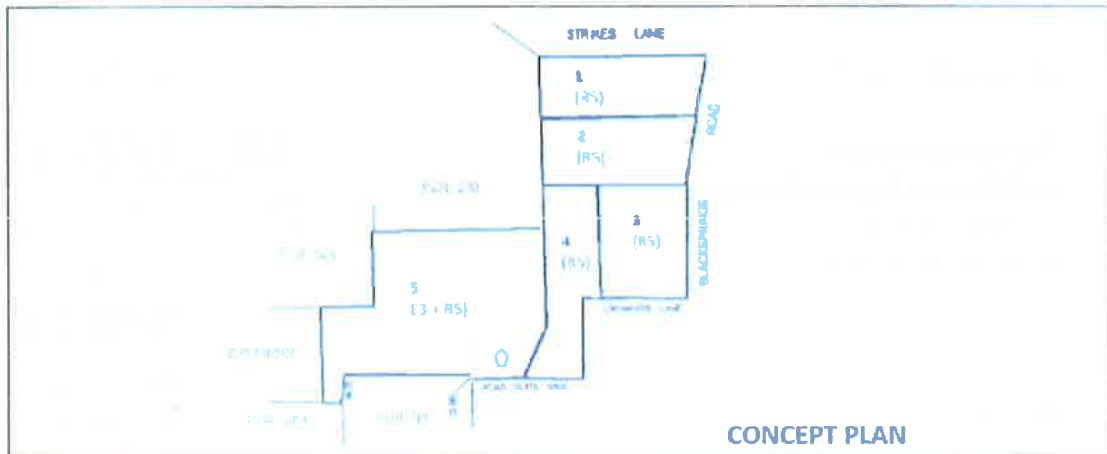
Whether it is appropriate to include E3 land within the development concept has been assessed. Residential land use within E3 land may have impact due to land clearing for associated building structures, however in this case there is approx 4ha of cleared land available and accessible for a dwelling and associated infrastructure. Further agricultural land use adjacent &/or within E3 land may contribute to land clearing, weed invasion, and loss of understorey species due to grazing pressure to the detriment of the ecology. As such the concept has avoided the creation of a small hobby farm including the E3 land that may increase these pressures.

Limited opportunity exists whereby the E3 land will economically be consolidated with neighbouring properties. By providing an adequately sized cleared area with the parcel for a residential component, the E3 land becomes an aesthetic lifestyle setting, with less potential long term impacts.

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For the long term the envisaged use of the E3 land would become passive, with the residential buildings within the R5 zoned & cleared land, the concept plan presented provides lifestyle opportunity to the land and custodian for the E3 land.



Thank you for your consideration of this matter. Should you require further information please do not hesitate to contact me on 0457 711 169 or Mrs Loretta Allen on 0427 909 334.

Yours Faithfully

EMMA YULE
ENVIRONMENTAL SCIENTIST



Planning Proposal
Rezone RU1 Primary Production land to
R5 Large Lot Residential enabling lifestyle opportunities

Lot 110 DP1029542

Black Springs Road, Eurunderee NSW 2850

for

R & L Allen

Project Ref. - RLA117_A53

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ISSUE AND AMENDMENT CONTROL HISTORY

ISSUE	REVISION	DATE	DESCRIPTION	AUTHOR	QA/QC
1	0	AUG 13	DRAFT FOR CLIENT	EY	RA & LA
2	1	NOV 13	FINAL	EY	

OVERVIEW OF PROPOSAL

Minespek was commissioned on behalf of Mr & Mrs R & L Allen to prepare a Planning Proposal under Section 55 of the *Environmental Planning and Assessment Act 1979* to accommodate the future large lot residential subdivision of land with a min lot size of 12ha. This report describes the proposed rezoning, objectives and outcomes, explanation of provisions and justification for the planning proposal. The Planning Proposal is consistent with local strategic planning and seeks to amend the Mid-Western Regional LEP 2012, to facilitate the development of the available 82ha parcel into five (5) rural lifestyle lots.

The planning proposal intends to:

- Support the Comprehensive Land Use Strategy (CLUS) intention to provide a rural lifestyle development within the identified 'short term' opportunity area.
- Put into action mechanisms through amendment of the Mid-Western Regional LEP 2012 to facilitate Scenario 4 as presented in this report. Options to achieve this is through:
 - Amend the corresponding zone maps to change the RU1 Primary Production land to R5 Large Lot Residential.
 - Amend the corresponding lot size maps for the identified parcel to reduce the minimum lot size to accommodate the development concept; and/or
 - Use of Schedule 1.

The objectives of the proposed R5 large Lots Residential zone align with the vision for future development of the site. The planning proposal has included a concept plan to highlight the feasibility of future subdivision development and integration with existing road layouts and existing development. The concept plan as a whole provides a feasible option to provide residential housing in a rural setting while preserving and minimising impacts on environmentally sensitive locations and scenic quality.

In summary, this planning proposal:

- Demonstrates consistent with the CLUS;
- Facilitates an additional supply of rural lifestyle land;
- Includes land that is able to be readily accessed; and
- Contains already constrained rural land being surrounded by other lifestyle subdivisions.

Further the preferred concept for future development is the best option as:

- The opportunities identified under the CLUS are maximised;
- Consistency with objectives of the LEP are demonstrated;
- Conflict minimisation with residential opportunities and protection measures for ecological and aesthetically valuable land is inherent in the design.

The planning proposal can be supported by MWRC with consideration of the issues addressed in this report.

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ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
CLUS	Mid-Western Regional Comprehensive Land Use Strategy
DoP	Department of Planning
DP	Deposited Plan
DP&I	Department of Planning and Infrastructure
EDS	Economic Development Strategy
EP&A Act	Environmental Planning and Assessment Act 1979
LGA	Local Government Area
MWRLEP	Mid-Western Regional Local Environmental Plan 2012
RFS	Rural Fire Service
PBP	Planning For Bushfire Protection 2006
SEPP	State Environmental Planning Policy

INTRODUCTION

PURPOSE AND OBJECTIVES

This planning proposal describes the intended effect and justification for a proposed amendment to *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP) for site specific amendments to the Land Zone Map and corresponding Lot Size Map or use of Schedule 1 to facilitate a lifestyle development of the subject land. The amendment is proposed to accommodate future residential development in accordance with the concept provided, which facilitates rural lifestyle lots.

This planning proposal has been prepared in accordance with Section 55 of the (NSW) *Environmental Planning and Assessment Act 1979* (EP&A Act) and the following Department of Planning (DoP) guidelines:

- *A guide to preparing planning proposals* (July 2009)
- *A guide to preparing local environmental plans* (July 2009).

SITE IDENTIFICATION

The site is located 5km north of the Mudgee Township within the Mid-Western Regional Local Government Area (LGA). The subject land which is approximately 82.03ha in area is irregular in shape and includes treed slopes and cleared foot slopes and flats.

Legal Description:

Lot 110 DP 1029542 277 Black Springs Road Mudgee NSW Parish of Eurunderee County of Phillip.

The lot is currently owned by Mr and Mrs R & L Allen. The land is bounded by existing R5 Large Lot Residential land, RU1 Primary Production and E3 Environmental Management zones. The land is identified in the Comprehensive Land Use Strategy within the 15km offset area surrounding Mudgee identified for short term rural lifestyle opportunities.

BACKGROUND

History - Preparation of the Comprehensive Land Use Strategy and Mid-Western Regional LEP 2012

At the time of the adoption of the Comprehensive Land Use Strategy and drafting of the Mid-Western Regional LEP 2012, MWRC staff issued correspondence to Mr & Mrs R & L Allen to note that their property had been designated as a lifestyle opportunity in the strategy document, and requested the owner's to confirm their wish to be included in the rezoning process to occur with the gazettal of the Mid-Western Regional LEP 2012. At this time (i.e. 2010-2011) Mr and Mrs R & L Allen did not wish for their land to be rezoned due to concerns with impact on rates. However Council had indicated in 2010 that further opportunities for rezoning will exist in future LEP's or as a standalone Planning Proposal.

With this in mind, this Planning Proposal seeks to pursue the possible rezoning and changes to minimum lots size maps to accommodate rural lifestyle opportunities. To this end a concept plan has been prepared to demonstrate the feasibility of the future site development.

Constraints Assessment for 277 Black Springs Road

Preliminary constraints assessment has been undertaken with this proposal with the 'Site Description' provided below. No significant constraints have been highlighted. The site is considered suitable for development and where a constraint has been identified, they are able to be addressed in the concept design.

Background to demand and supply of residential land in Mudgee

Two main studies relevant to the consideration of demand and supply of residential land in Mudgee have been referred to:

- The Comprehensive Land Use Strategy (CLUS); and
- The Mid-Western Regional – Local Services Assessment Report.

The CLUS is the basis for the strategically planned growth over the next 20 years in the LGA. The Local Services Assessment Report identified significant growth as a result of mining in the region. The Mid-Western Regional Local Environmental Plan 2012 was based on the CLUS. However the CLUS was prepared prior to the Local Services Assessment Report.

The structure plan and CLUS are referred to specifically in context of the location of the subject land within the 15km offset of the town of Mudgee for rural lifestyle development. The constraints and opportunity mapping within the CLUS identifies rural lifestyle opportunities. Within the CLUS strategic assessment of future supply for each of the identified opportunity areas, indicates a 4-5 year supply of 12 hectare lots based on a demand of 40 lots per annum over this period. The opportunity areas were prioritised for development with the subject land falling within the 'short term' priority for development labelled opportunity area 'C' north east of Mudgee. Area C including

the subject land, represented a lot yield of 46 lots (based on a 12ha minimum). This yield cannot currently be met in the short term due to the current zoning of part of the land. It is sought to alter the zone and lot size maps to enable the future development of the subject land in line with the CLUS representing a yield of 5 lots for the subject site, being a 82ha parcel.

Ensuring that the adequate types and quantity of residential land are available ensures that the Mid-Western Region is better equipped for growth in the LGA. The site is ideal for MWRC to achieve lot yields as estimated in the CLUS by delivering the Strategy through implementing the proposed changes to the Mid-Western Regional LEP 2012.

In summary, this planning proposal:

- Is consistent with the CLUS;
- Facilitates an additional supply of rural lifestyle land;
- Includes land that is able to be readily accessed; and
- Contains already constrained rural land being surrounded by other lifestyle subdivisions.

SITE DESCRIPTION

SITE LOCATION

The subject site is situated on land located approximately 5 kilometres (km) north of the Mudgee Central Business District (CBD) in the Mid-Western Regional Local Government Area (LGA), located within the Parish of Eurunderee and County of Phillip. The site which is approximately 82 hectares is shown at Figure 1. The land is well accessed with frontage to Black Springs Road and Strikes Lane via Ulan Road from Mudgee.

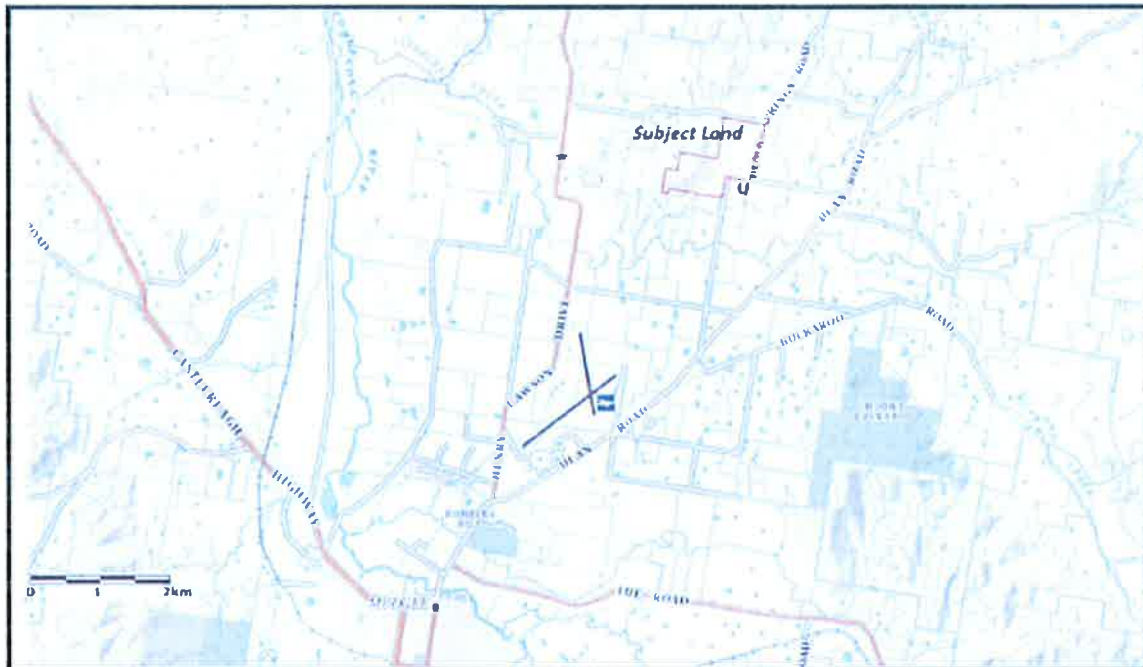


Figure 1: Locality Map

(Source: Department of Lands, 2013)

CURRENT ZONING

The site is located wholly within the Mid-Western Regional LGA and is subject to the provisions of *Mid-Western Regional Local Environmental Plan 2012 (MWRLEP)*. The MWRLEP commenced on 10 August 2012 and replaced the previous *Mid-Western Regional Interim Local Environmental Plan 2008* which applied to the site.

Land the subject of this planning proposal is located within the *RU1 Primary Production and E3 Environmental Management* zone under MWRLEP (refer to **Figure 2**). The objectives of the current zone and land use table are provided below.

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the visual amenity and landscape quality of Mid-Western Regional by preserving the area's open rural landscapes and environmental and cultural heritage values.
- To promote the unique rural character of Mid-Western Regional and facilitate a variety of tourist land uses.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Intensive plant agriculture; Roads; Water reticulation systems

3 Permitted with consent

Building identification signs; Business identification signs; Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Home industries; Intensive livestock agriculture; Landscaping material supplies; Markets; Open cut mining; Plant nurseries; Restaurants or cafes; Roadside stalls; Any other development not specified in item 2 or 4

4 Prohibited

Amusement centres; Attached dwellings; Backpackers' accommodation; Boarding houses; Boat building and repair facilities; Car parks; Child care centres; Commercial premises; Correctional centres; Crematoria; Educational establishments; Exhibition homes; Exhibition villages; Freight transport facilities; Group homes; Health services facilities; Heavy industrial storage establishments; Hostels; Industrial retail outlets; Industries; Marinas; Mortuaries; Multi dwelling housing; Passenger transport facilities; Places of public worship; Public administration buildings; Pubs; Recreational facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Semi-detached dwellings; Seniors housing; Service stations; Sex services premises; Shops; Shop top housing; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To manage development within the water supply catchment lands of Windamere and Burrendong Dams, to conserve and enhance the district's water resources.

2 Permitted without consent

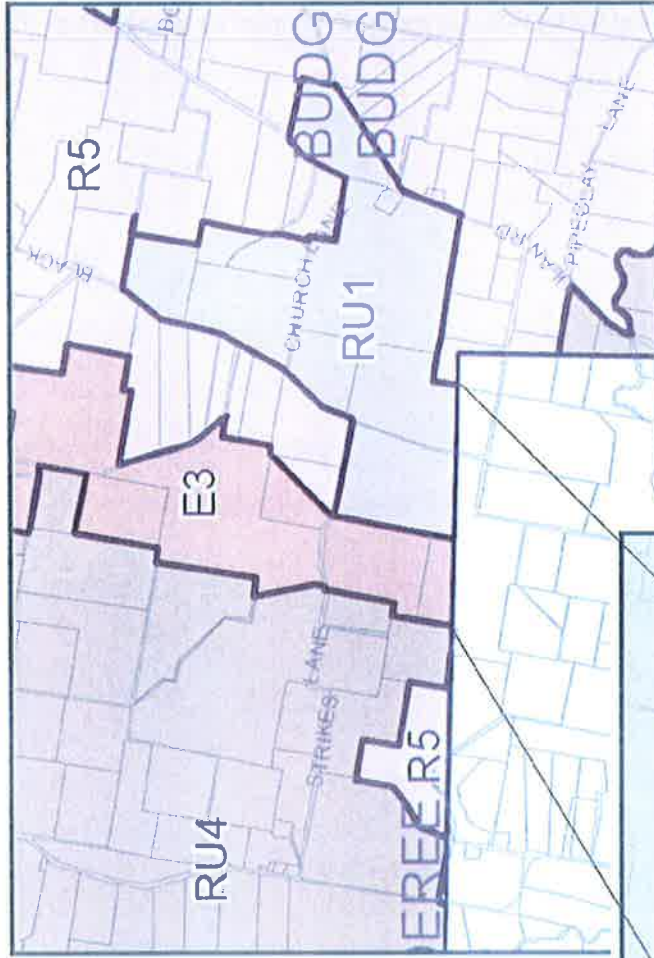
Extensive agriculture; Home-based child care; Home occupations; Moorings

3 Permitted with consent

Aquaculture; Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Community facilities; Dairies (pasture-based); Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home businesses; Home industries; Horticulture; Information and education facilities; Open cut mining; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roads; Secondary dwellings; Water recreation structures; Water recycling facilities; Water storage facilities

4 Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3



(Source: Excerpt (left) from MWRLEP 2012 Land Zoning Map - Sheet LZN_006F and excerpt (above) MWRLEP 2012 Land Zoning Map - Sheet LZN_006I).

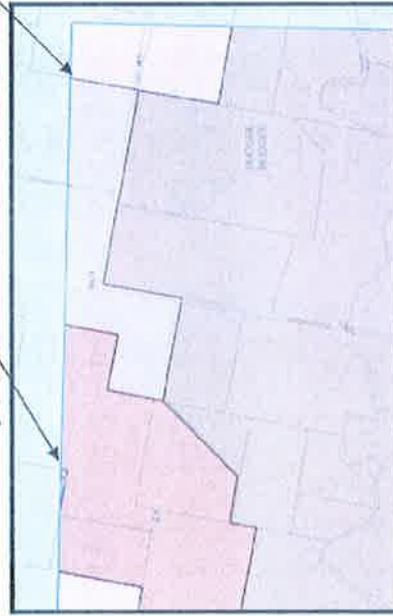


Figure 2: Current zoning R2 Low Density Residential under Mid-Western Regional Local Environmental Plan 2012

Minimum Lot Size

The size of any lot resulting from a subdivision of land to which Clause 4.1(3) applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land. (Refer to **Figure 3**). The subject site is within land is marked **AF** which has a minimum lot size of 400ha (being the E3 Environmental Management zoned land) and marked **AD** which has a minimum lot size of 100ha (being the RU1 Primary Production zoned land).

Also, with reference to Clause 4.2A of MWRLEP for the erection of dwelling houses and dual occupancies, the development consent must not be granted for the erection of a dwelling house or dual occupancy on land unless the land is a lot that is at least the minimum lot size shown on the lot size map in relation to that land.

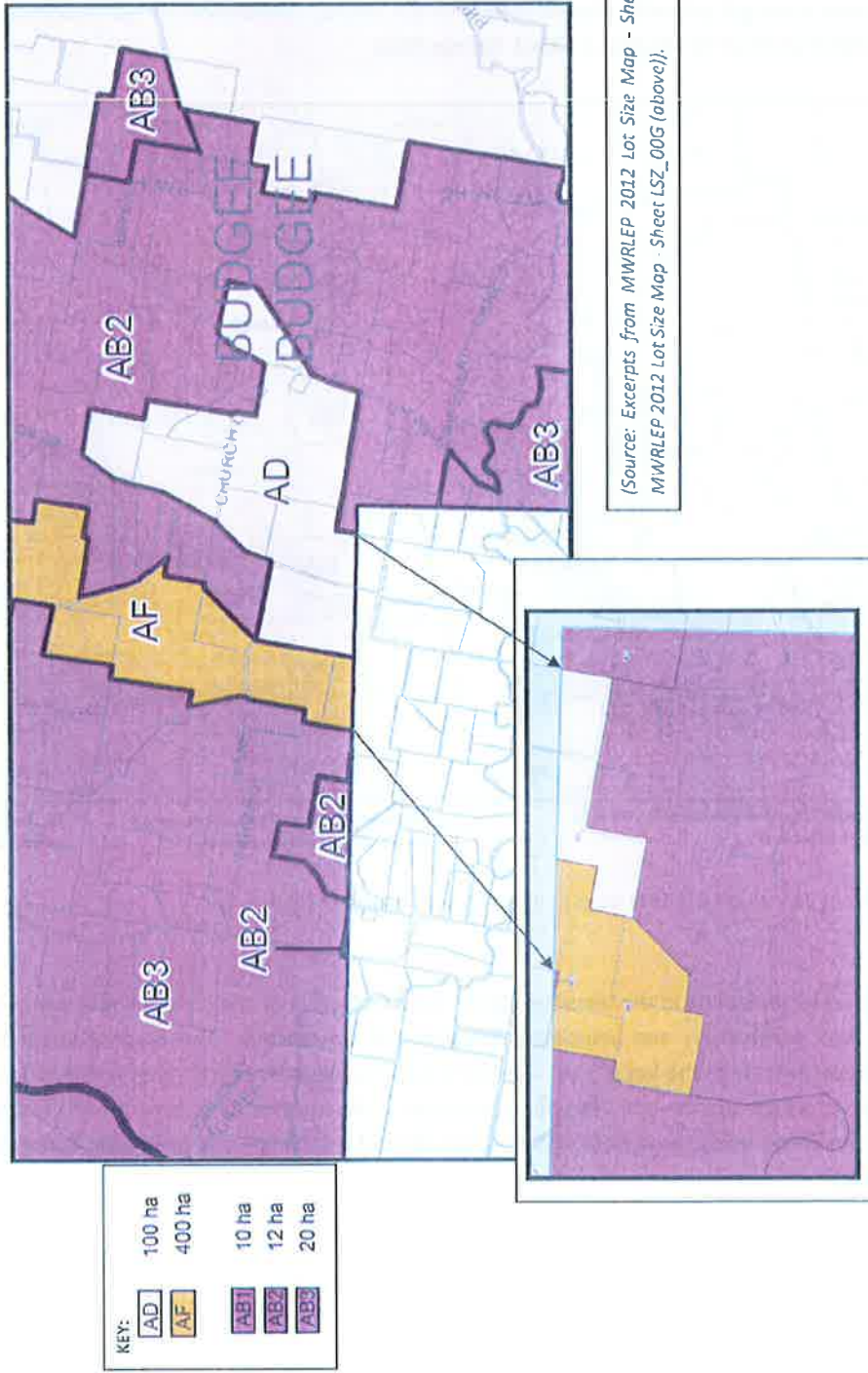


Figure 3: Current Lot Size Map under Mid-Western Regional Local Environmental Plan 2012





Plate 1: View looking to the west from the driveway of the existing dwelling within Lot 110

TOPOGRAPHY AND SOILS

Reference has been made to the 'Soil Landscapes of the Dubbo 1:250000 Sheet' prepared by Murphy and Lawrie (1998), published by Department of Land and Water Conservation and supporting report. The soil landscape groups are correlated to the topographic features of the subject site. The elevated timbered slopes/steep hills are mapped as Mount Bara (ba) with the lower foot slopes and cleared areas being mapped as Craigmore (cm) (refer to Figure 5).

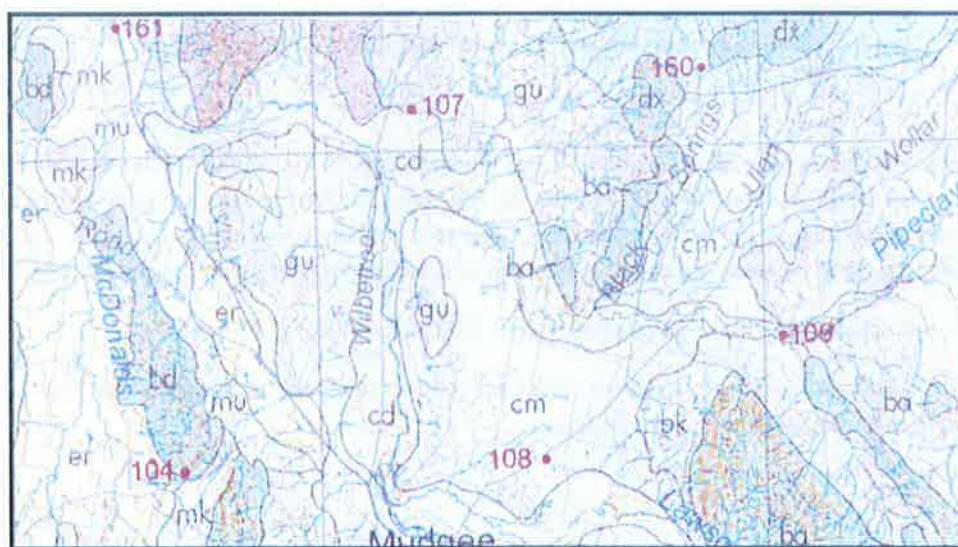


Figure 5: Soil Landscapes Map (Murphy and Lawrie, 1998)

Mount Bara Soil Landscape – Typical soils include: Rock outcrops on crests, spurs and scree slopes. Soils are very shallow and discontinuous, stony and reddish brown loams with shallow Red Podzolic Soils on Lower Slopes. Terra Rossa Soils associated with some small areas of limestone may occur in the landscape group.

Urban Capability – Generally unsuitable for urban development unless special construction methods are used and extreme care is taken to minimise runoff and erosion during development.

Rural Capability – Most of the area is suitable for retaining native forest and possibly timber on some slopes of lower grade. Erosion control measures would be required during tree felling.

Recommendations for Sustainable land Use – Land is mainly suitable for native forest with some light grazing of native/volunteer pastures in suitable areas.

Craigmore Soil Landscape – Typical soils include: Non-calci Brown Soils and Red Earths on very old Quaternary alluvium. Yellow Podzolic-Solodic Soils intergrades on lower lying areas. Some Alluvial soils and leached loams on lower terraces adjacent to major streams (Murphy and Lawrie, 1998).

Urban Capability – Land is generally suitable for urban development, provided account is taken of the moderate shrink-swell potential of many subsoils and small areas of salinity.

Rural Capability – Most land is suitable for cropping and horticulture development provided account is taken of the erosion hazard, but some areas are only suitable for grazing because of concentrated water flows or short steep slopes between terraces.

Recommendations for Sustainable land Use – Conservation farming practices such as minimum tillage and stubble retention necessary to maintain surface soil structure to prevent surface sealing and erosion. Increase water use by controlling infiltration inputs to the soil, planting trees and sowing perennial pastures in suitable paddocks.

The MWRELP has provisions to preserve the visual setting of the Mudgee Township, particularly through Clause 6.10 Visually sensitive land near Mudgee. The land subject of the planning proposal is located outside of the Visually Sensitive Land area identified under the MWRLEP, and future residential subdivision will not compromise the visual setting forming the backdrop of Mudgee.

The setting is depicted in the aerial photo dated 2009, below (refer to **Figure 6**).

The soil type and topography have not raised any concerns as to the suitability of the land to handle a greater density of residential development.



Figure 5: Aerial depiction of the subject land
(Source: Department of Lands)

GROUNDWATER VULNERABILITY

Clause 6.4 Groundwater vulnerability of MWRLEP applies to future development of the subject land as part of the site falls within land identified as "Groundwater vulnerable" on the Groundwater Vulnerability Map, as depicted in the excerpt from the map in **Figure 7** below.

MWRC must consider this clause before determining a development application, and consider relevant issues such as: the likelihood of groundwater contamination caused by development, the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals), and impacts on groundwater dependent ecosystems. This requirement is for the development stage and does not hinder further consideration of the planning proposal. The soils and topography do not suggest issues will be raised in the future application of effluent disposal areas.

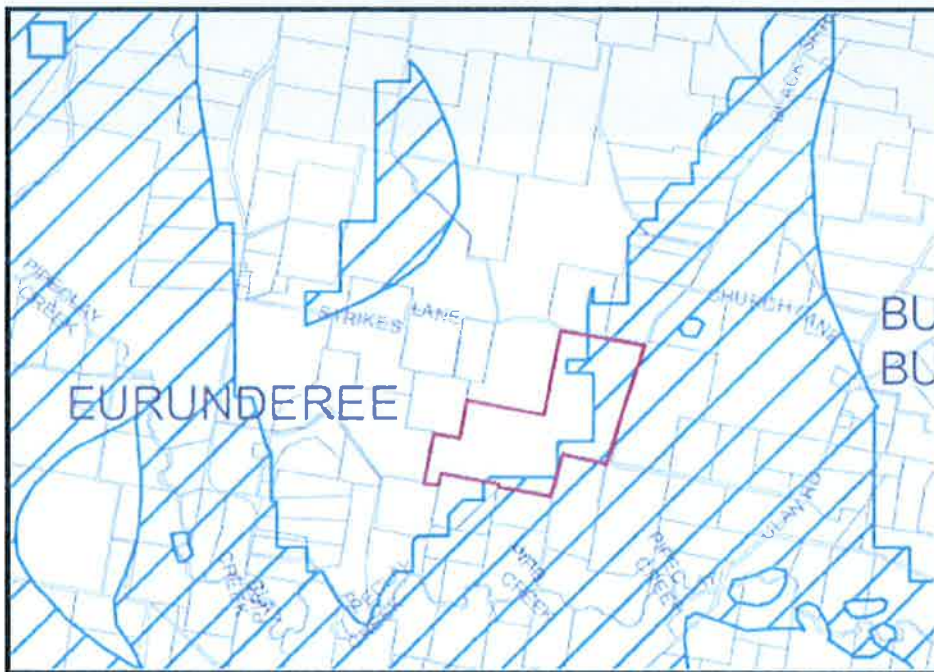


Figure 7: Groundwater Vulnerability

SALINITY

As indicated by Murphy and Lawrie (1998) isolated low levels of salinity occur along some drainage lines and depressions in the Craigmore soil landscape group. Sites can become saline if salts in subsurface layers of the soil are mobilised and brought to the surface through rising groundwater or development of a perched watertable due to an impediment to water drainage. It is understood, salinity potential is inherent to the Mid-Western Regional LGA and the potential susceptibility of future dwellings to salt damage in the subject development site should be acknowledged.

Site specific soil samples have not been collected for this planning proposal. The soil landscape features and current conditions do not indicate a high risk for salinity to occur. Future subdivision developments are able to consider the potential for salinity and supplementary reports can be prepared at that stage.

FLORA AND FAUNA

Formal flora and fauna surveys have not been carried out at the site. For the most part the proposed R5 zone supports only groundcover species. Known habitat features should not constrain residential development in the future as house sites are able to be located in the cleared areas (refer to Plate 2).

The timbered native vegetation of the subject land occurs primarily on the slopes. Typical vegetation to occur in this landscape is described as 'Dry sclerophyll forest' (Murphy and Lawrie 1998). Eucalypts include red ironbark, silvertop stringy bark, Blakely's red gum and white cypress pine. Lower slopes are partially cleared.

Typical vegetation to occur in the landscape on the lower areas include Open eucalypt woodland with a grass understorey, with river red gum, yellow box and rough barked apple. The site has been extensively cleared in these areas in the past. Some land has been sown to improved pastures. This soil landscape and situation is common in the locality with many of the Mudgee district vineyards being located on the terrace of the Craigmere soil landscape (refer to above regarding the soil landscape groups).



Plate 2: View from Black Springs Road looking north-west towards E3 zoned land

HERITAGE

No European heritage items are listed within or in vicinity of the subject land as listed under the MWRLEP.

A search was completed for the site of the Office of Environment and Heritage Aboriginal Heritage Information Management System (AHIMS) web services. The search, with a buffer of 200m to the site, showed that:

- One (1) Aboriginal sites are recorded in or near the above location
- No Aboriginal places have been declared in or near the above location.

The AHIMS search results are attached at **Appendix A**.

Where items are in vicinity of the site the potential for heritage items to occur with the site in similar landscape scenarios is acknowledged. However, due the size of the future lots, the occurrence of heritage items within the site does not constrain the future development of the land for residential purposes. A process of due diligence in accordance with the DECCW guidelines has been applied to the assessment of indigenous heritage. At the planning proposal stage, no ground disturbance is proposed, and further heritage assessment is not warranted prior to the Gateway determination.

ROAD NETWORK

The site has access to several road frontages:

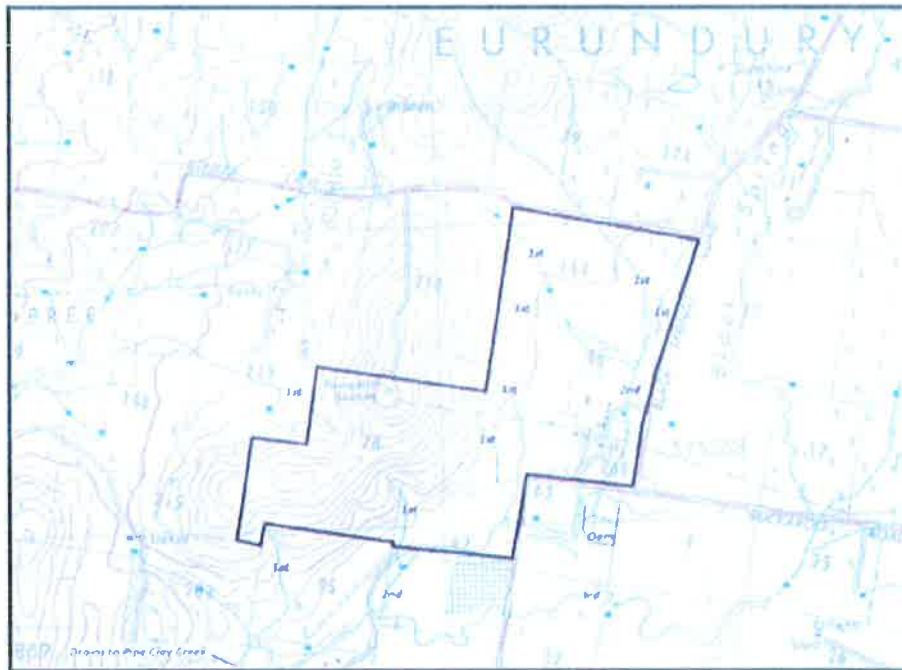
- Strikes Lane being a gravel road,
- Black Springs Road being tar sealed,
- Crowley's Lane being a sealed road; and
- Unnamed gravel road 20.115m wide.

ESSENTIAL SERVICES

Electricity and telecommunication services are all available on the subject land and can be readily extended to service all lots within the development. Consultation with relevant authorities would be required at the development stage.

DRAINAGE AND FLOODING

The site is located outside of the associated Flood Planning Area identified under MWRLEP. The site contains several mapped riparian environments, including first and second order streams (refer to **Figure 8**). The watercourses follow the topographic features with first order watercourses originating in the hill areas with overland flow occurring through the system of unnamed drainage lines, which drain to Pipe Clay Creek and ultimately the Cudgegong River.



(Excerpt NSW Department of Lands (2006) Mudgee 8832-4N First Edition Topographic Map 1:25000)

Figure 8: Topographic Map with watercourses labelled with stream ordering noted under Strahler system.

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THE PROPOSAL

PART 1 - OBJECTIVES AND INTENDED OUTCOMES OF THE PROPOSAL

STATEMENT OF INTENDED OUTCOMES

The Planning Proposal is consistent with the CLUS and seeks to amend the Mid-Western Regional LEP 2012, to facilitate the development of five (5) rural lifestyle lots.

The planning proposal intends to:

- Support the CLUS intention to provide a rural lifestyle development within the identified 'short term' opportunity area.
- Amend the corresponding zone maps to change the RU1 Primary Production land to R5 Large Lot Residential.
- Amend the corresponding lot size maps for the identified parcel to reduce the minimum lot size to accommodate the concept development.

The objectives of the proposed R5 large Lots Residential zone align with the vision for future development of the site. The concept plan as a whole provides a feasible option to provide residential housing in a rural setting while preserving and minimising impacts on, environmentally sensitive locations and scenic quality.

POLICY CONTEXT

The framework as established within the CLUS, is the basis on which the opportunities for this planning proposal have been explored and policy basis. The CLUS identifies opportunities for rural lifestyle opportunities. The subject site falls within the mapped short-term '*Rural lifestyle opportunity areas – 15km offset area surrounding Mudgee*', prioritised for rural lifestyle development within the CLUS.

As such, this planning proposal is consistent with the CLUS.

DETAILS OF THE PROPOSED ACTIVITY TO BE CARRIED OUT – CONCEPT PLAN

The purpose of this planning proposal is to alter the applicable zone and minimum lot size or through an amendment to Schedule 1, to enable up to five (5) rural lifestyle lots within the available approx 82.03ha. The type of proposed development has been explored in concept plans prepared by Jabek Pty Ltd on behalf of Mr and Mrs R & L Allen (provided as **Appendix B: Concept Plan**). The proposed concept development plan is consistent with the objectives of the R5 Large Lot Residential zone. The concept for future development proposes four lots generally having areas of the minimum of 12ha. No constraints have been identified to suggest that larger lots would be required to provide adequate opportunity for future dwellings. With a fifth lot with an approx 4ha building envelope within cleared land (future R5 zone) combined with an additional 30.2ha of E3 zoned land. The concept plan illustrates the preferred option for development of the site for residential subdivision. In this option the existing dwelling is located within proposed lot 3. The concept represents a density of 0.06 lots per hectare. Refer to the overview of the concept plan below.

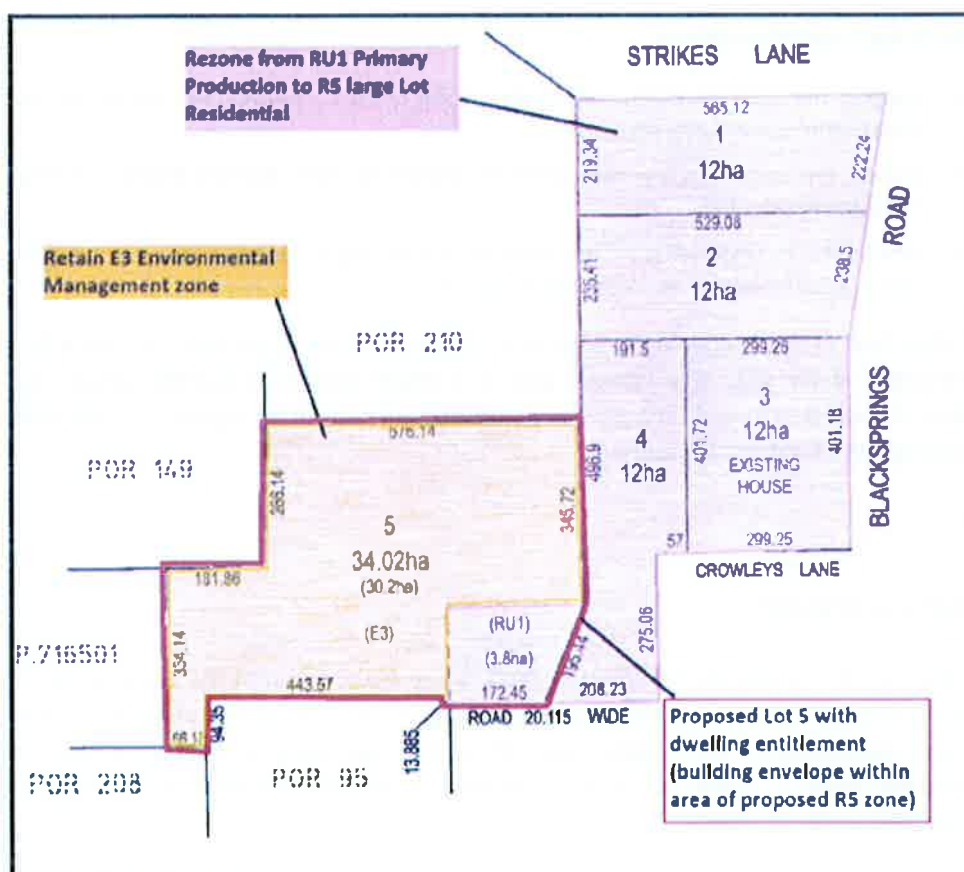


Figure 9: Overview of Concept Plan

PART 2 - EXPLANATION OF PROVISIONS

It is intended that the objectives and intended outcomes described in Part 1 will be achieved by the following:

1. Land Zoning Map (Sheet LZN_006) and Land Zoning Map (Sheet LZN_006F) where these maps depict the subject land, i.e. Lot 110 DP1029542, it is proposed to be amended to replace the RU1 Primary Production zoned land with the R5 Large Lot Residential zone.
2. Lot Size Map (Sheet LSZ_006F) and Lot Size Map (Sheet LSZ_006) where these maps depict the subject land, i.e. Lot 110 DP1029542, it is proposed to be amended to correlate the R5 zone to the AB212ha minimum lot size. Except for the area of proposed Lot 5 whereby a minimum of 34ha is proposed for that parcel.

(Note: this relates to the intention to achieve 1 dwelling entitlement for the Lot 5, through application of sub-clause 4.2A(3)(a) of the MWRLEP 2012; referring to a lot that is created being at least the minimum size shown on the Lot Size Map in relation to that land).

Alternatively Schedule 1 use for the dwelling entitlement for proposed lot 5 is considered possible in this instance.

PART 3 - JUSTIFICATION

This section sets out the reasoning for the proposed changes to the LEP, taking into consideration the intended outcomes and objectives outlined. The following questions are based on requirements contained in DoP's *A guide to preparing planning proposals* (July 2009) and address the need for the planning proposal, relationship to strategic planning framework, environmental, social and economic impacts and its effect on State and Commonwealth interests.

SECTION A - NEED FOR THE PLANNING PROPOSAL

Q.1. Is the planning proposal the result of any strategic study or report?

Yes. The Planning Proposal stems from opportunities identified in the Mid-Western Regional Comprehensive Land Use Strategy for residential development, as well as being aligned with Mid-Western Region Community Plan towards 2030 and Mid-Western Regional Council's Economic Strategy as discussed below.

Mid-Western Regional Draft Comprehensive Land Use Strategy (CLUS)

The Mid-Western Regional Council has prepared the CLUS, which provides clear direction for growth for the next 15-20 years. The Strategy has informed the comprehensive MWRLEP and provides a context for future land use. The subject site falls within the Opportunity Area C- Rural Lifestyle Opportunities 15km Offset Area Surrounding Mudgee (Figure 4-3 of the CLUS) (refer to **Figure 10**). The purpose of the Opportunity Areas in the CLUS was to identify areas that are within 15km from Mudgee with good road access and in areas that were already compromised in terms of prime agricultural land. This planning proposal is consistent with the CLUS and the objectives of the zone, as the land will supply Large Lot Residential land in accordance with the zone objectives.

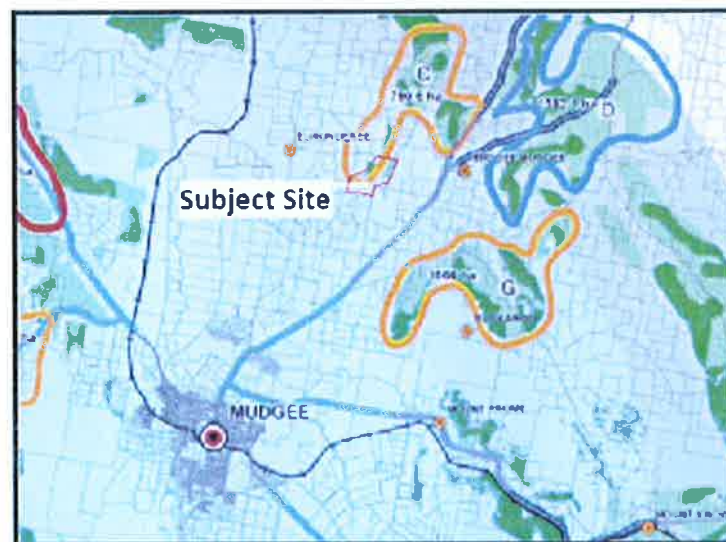


Figure 10: Excerpt Rural Lifestyle Opportunities – 15km offset area surrounding Mudgee

The site is compromised in terms of neighbouring development in that it is surrounded by small lots with existing dwellings. The continued operation of the site as a rural holding is limited. It is envisaged through the CLUS opportunities being realised and reduction in lot size that more agricultural uses will be replaced by rural - residential lifestyle uses in the locality and the current interface pressure on the E3 land would be also replaced as this land is associated with a lifestyle setting having unique aesthetic and ecological values.

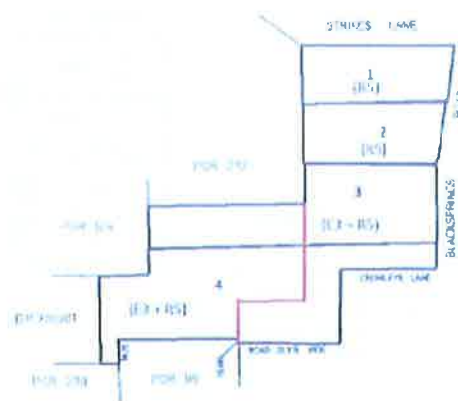
Rezoning of the block provides an opportunity to increase density without any additional demand on services, as the following attributes support the planning proposal:

- Good road access;
- Gentle topography in cleared areas providing building opportunities;
- Electricity;
- School bus services;
- Close to Mudgee and within travelling distance to the mines;
- Proximity to currently developed existing R5 zoned lots, & undersized RU1 lots with dwellings.

The E3 Environmental Management zoned land was not intended to be included in the lifestyle opportunities in the CLUS. As such, how this land fits into the planning proposal concept, as part of existing Lot 110 DP1029542, is discussed. The consolidation of E3 land in the locality is not likely due to the fragmented ownership with adjoining smaller lifestyle lots and the accessibility issues present due to topography. The E3 land is likely to be attached to the adjoining RU4 land or R5 land rather than additional E3 land.

Conflict between land uses generally can occur. Residential land use within E3 land may have impact due to land clearing for associated building structures. Further agricultural land use adjacent &/or within E3 land may contribute to land clearing, weed invasion, and loss of understorey species due to grazing pressure to the detriment of the ecology. With this in mind, to best deal with the land attributes and reduce conflict and disturbance to the E3 zoned land four (4) key scenarios were considered in constraints assessment.

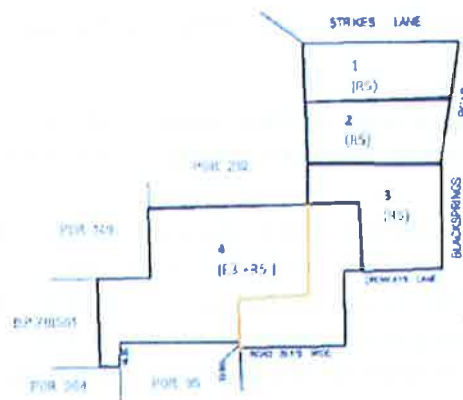
Scenario 1: 2 x 12ha lots plus, attaching part of the E3 zone with two additional proposed R5 parcels (i.e. approx 15ha of E3 with proposed Lots 3 & 4).



Discussion:

Building opportunities are located in the proposed R5 zone. Property boundary fences would be required in the E3 zone. This option causes potential fragmentation of the E3 zone. This option potentially has an adverse effect on the values of the E3 zone and was not pursued further.

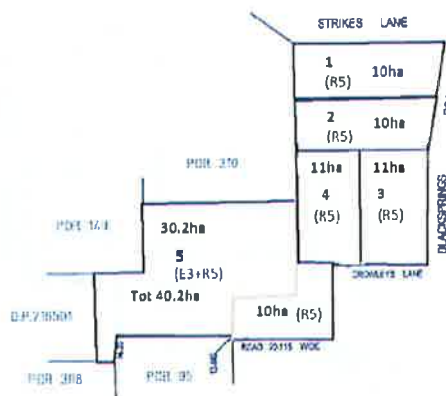
Scenario 2: Retain the 30.2ha of E3 zoned land with a min 12ha of R5 zoned land creating a lot of approx 42ha plus 3 additional lots of min 12ha zoned R5.



Discussion:

The proposed lot 4 in this option could continue operating as a small grazing farm/hobby farm. The fringe of the E3 land could be included in farm/grazing area. The protection of the E3 land for ecological value could be improved upon by reducing the agricultural land use association. Also this option does not maximise the site's potential for rural lifestyle opportunities.

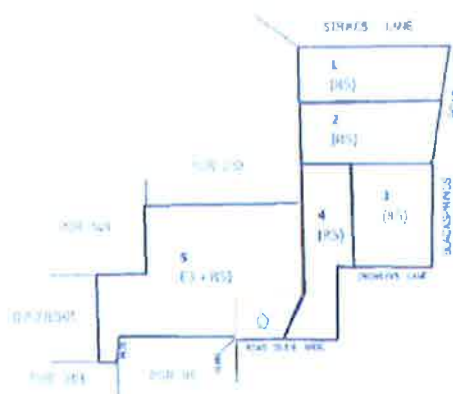
Scenario 3: Retain the 30.2ha of E3 zoned land with a min 10ha of R5 zoned land creating a lot of approx 40.2ha plus 4 additional lots of 11ha & 10ha zoned R5.



Discussion:

This concept has taken into consideration the occurrence of undersized allotments in the location and options to provide a greater opportunity for dwelling sites within R5 land associated with the proposed lot 5, including the E3 zoned land. The CLUS indicates that the minimum lot size for rural lifestyle will be 12ha where reticulated water and sewer is not available, citing a more sustainable use of ground and surface water resources. Due to the vicinity of Mudgee to the development site and the pattern of surrounding development, this concept could be applied without causing incongruence with existing developed R5 areas. However the option could indicate higher rural densities within the 15km offset of Mudgee area acceptable by Council if supported, rather than the immediate vicinity of the town. This option has merit in preserving the E3 land, and still achieving rural lifestyle lots however the following scenario is the preferred option.

PROPOSED CONCEPT PLAN Scenario 4: Retain the 30.2ha of E3 zoned land with an approx 4ha building site within the R5 zone creating a lot of approx 34.02ha.



Discussion:

This concept has sought to present the best use of land to increase the density in accordance with the CLUS, without any additional demand for services. The size of the proposed lot 5 (i.e. land including the E3 portion) with a designated building site of approx 4ha in the R5 zone, provides a lifestyle opportunity to the land and custodian for the E3 land. For the long term the envisaged use of the E3 land would become passive, with the residential buildings within the R5 zoned & cleared land. Reducing the agricultural potential of the land will reduce the potential conflict between such land uses and environmental aspects. The E3 land would contribute part of the aesthetic appeal of the location, with adequate separation of future dwelling sites able to be achieved. Potential fragmentation of the E3 land is not increased greater than the status quo. In terms of the objectives of the E3 zone, this concept protects the value of the land for ecological and aesthetic value.

Overall Scenario 4 was adopted as the preferred concept as:

- The opportunities identified under the CLUS were maximised;
- Consistency with objectives of the LEP and standards in the CLUS are demonstrated;
- Conflict minimisation with residential opportunities and protection measures for ecological and aesthetically valuable land is inherent in the design.

Draft Mid-Western Region Towards 2030 Community Plan

Goals of the Community Plan and how the Planning Proposal achieves these, is discussed in the table below correlating to strategies identified in the Plan.

Goal	Strategy From Community Plan	Planning Proposal/Response
Theme 1: Looking after our Community		
2. Vibrant towns and Villages	Make available diverse, sustainable, adaptable and affordable housing options through effective and use planning	<i>The utilisation of land that has available infrastructure is effective and efficient planning. The planning proposal will provide 4 new rural lifestyle entitlements near Mudgee in support of opportunities identified under the CLUS.</i>
Theme 2: Protecting our Natural Environment		
1. Protect and enhance our natural environment	Ensure land use planning and management enhances and protects biodiversity and natural heritage.	<i>Biodiversity outcomes have been considered in the proposal with options to reduce impact on E3 zoned land considered.</i>
	Minimise the impact of mining and other development on the environment both natural and built.	<i>Environmental mitigation measures were included in the concept plan. Scenic and aesthetic impacts as well as reducing land use conflict have been considered with measures to minimise impact inherent in the concept design.</i>
Theme 3: Building a Strong Local Economy		
3. High quality sustainable development	Ensure an adequate supply of available land that supports economic diversity and encourages growth.	<i>The Planning Proposal is in line with the CLUS release of short term supply of rural lifestyle lots within 15km radius of Mudgee.</i>

Mid-Western Regional Economic Development Strategy

Mid-Western Regional Council has prepared an Economic Development Strategy (EDS) outlining a future economic direction for the Region in the next 10 years, to June 2020. The EDS provides a broad framework for the various lead agencies and stakeholders involved in economic development to identify their roles and engage in economic development initiatives for the Region.

Availability of residential land has not been identified as a key principle that will influence economic development in the region for the future. However maintaining adequate residential land supply will support Council in efforts to deliver projects that maximise local opportunities and economic benefits in line with the Economic Development Strategy.

State and Regional Policies

There is no specific State or Regional Environmental Plan that addresses the Mid-Western Regional LGA.

Q.2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. It is considered that the Planning Proposal is the best means of achieving the intended outcomes. The use of the lot size map to associate dwelling entitlement is consistent with the objectives of Clause 4.2A of the Mid-Western Regional Local Environmental Plan 2012, and provisions of subclause 4.2A(3)(a). This subclause states:

“(3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land in a zone to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land:

(a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land,”

Alternative planning mechanisms may be used to achieve the outcome of the preferred concept plan. For example: in addition to the rezoning of the RU1 Primary Production land to R5 Large Lot Residential -inclusion of the land in ‘Schedule 1 Additional permitted uses’ to achieve the additional dwelling entitlement (associated with proposed lot 5). The mechanism used to achieve the concept may have to be considerate to precedent being set as to the application of the LEP provisions to other scenarios, and whether the use of Schedule 1 is appropriate. Other options may include variations of standards or adoption of localised controls.

Q.3. Is there a net community benefit?

The proposed residential development is considered likely to achieve a net community benefit, as determined by the application of the Net Community Benefit Test adapted from the *Draft Centres Policy: Planning for retail and commercial development* (April 2009), which provides a series of questions to determine the nature of a Planning Proposal, as detailed in **Table 1** below. A net community benefit arises where the sum of all the benefits of rezoning outweigh the sum of all costs.

The assessment evaluates the external costs and benefits of the proposal (i.e. the externalities). The assessment generally assumes that any private costs will be cancelled out by any private benefits. Net Community Benefit Test is not a quantitative test, but useful tool to inform debate and help decision making on planning proposals.

The merits of the rezoning proposal have been considered against the base case, being ‘no change’ to zoning/retaining the status quo.

Table 1: Net Community Benefit Test

Question	Application to Planning Proposal
<i>Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800 metres of a transit node)?</i>	There are no applicable State or Regional strategic directions for development. However, the development is consistent with the <i>Mid-Western Regional Comprehensive Land Use Strategy (CLUS)</i>. The NSW Government is currently preparing a draft strategic regional land use plan for the Western region.
<i>Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?</i>	No.
<i>Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?</i>	No. The planning proposal has been discussed with Council's planning staff. The proposal to rezone to R5 will not set a precedent that is inconsistent with strategic documents, in that the change is in line with the CLUS. Dwelling entitlement for land inclusive of the E3 zone provides a building site in the R5 zone. In terms of precedent there are limited opportunities in areas within 15km radius of Mudgee for rural lifestyle lots associated with new R5 large lot subdivisions. If there are circumstances, where reducing agricultural pressure on E3 land is beneficial and achieved by associating the land with an attached R5 lifestyle subdivision, then those could be considered on merit by MWRC.
<i>Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?</i>	The MWRLEP commenced on 10 August 2012. There has been one identified rezoning proposal in the locality under the LEP. The proposal rezoned a parcel to achieve one additional dwelling entitlement for a parcel located on Black Springs Road, just falling outside the area CLUS opportunity area. The cumulative effect of the rezoning is to reinforce the rural residential lifestyle nature of the locality.
<i>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</i>	The MWRLEP amendment will not facilitate a permanent employment generating activity or result in a loss of employment lands.
<i>Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?</i>	Yes. The proposal provides rural lifestyle lots utilising existing compromised cleared land to greater potential, where infrastructure and services are available. Rural lifestyle land supply for the short to medium term within 15km of Mudgee may be affected by the planning proposal. The planning proposal seeks to provide for residential uses which retain the unique quality lifestyle concept established in the locality. The unique topography and scenic qualities of the land provide opportunity for a worthy development.

Question	Application to Planning Proposal
<i>Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?</i>	The site is well serviced by road and other essential services. Access is provided to Backsprings Road, Strikes Lane and Crowley's Lane. The rural setting does not provide cycling access or public transport. The site is on current school bus route to Mudgee.
<i>Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?</i>	The distances travelled will not be affected. The proposal will facilitate new rural lifestyle lots with new accesses to existing roads.
<i>Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?</i>	No.
<i>Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?</i>	The land has been identified for rural residential use by local strategic planning processes. The E3 zoned land correlates to mapped Biodiversity Sensitive land under the MWRLEP 2012. Minimisation of impact to these areas is sought and no additional impact is assumed when compared to the base scenario. The site is not within an identified Flood Planning Area under MWRLEP 2102.
<i>Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community?</i>	The proposed use of the land for lifestyle lots is comparable to the existing surrounding land use. Generally lots in the area bounded by Black Springs Road, Church Lane and Ulan Road are generally development conforming to the R5 zone characteristics. The proposed use will not adversely impact on amenity of the existing dwelling, as the concept plan has addressed integration with existing development.
<i>Will the public domain improve?</i>	N/A It is anticipated that Council's planning instruments will ensure that adequate setbacks for future housing development is provided along the boundaries of the site to ensure safety and amenity is not compromised from the public domain.
<i>Will the proposal increase choice and competition by increasing</i>	N/A

Question	Application to Planning Proposal
<i>the number of retail and commercial premises operating in the area?</i>	
<i>If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?</i>	N/A The MWRLEP amendment would not have the potential to develop into a centre.
<i>What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?</i>	The MWRLEP amendment is intended to facilitate the development of rural lifestyle land, supported by the zoning, and strategically in the CLUS. The proposal serves to improve the public interest through reducing the pressure on the existing rural housing stock near Mudgee, and provides the best use of land without creating demand for new services. Should the planning proposal not proceed, future R5 development is unlikely in the short term to be approved on the site at the proposed density in line with strategic planning.

SECTION B - RELATIONSHIP TO THE STRATEGIC PLANNING FRAMEWORK

Q.4. Is the planning proposal consistent with the applicable regional or sub-regional strategy?

There are no regional strategies in place relevant to the planning proposal.

Q.5. Is the proposal consistent with Council's Community Strategic Plan or other local strategic plan?

Yes. Also refer to PART 1 and Q.1.

The relevant local strategic plans are discussed:

The *Rural Residential Industrial and Residential Strategy* was prepared for the Mudgee Shire Council and did not address the full Mid-Western Region. This document has been superseded by the Mid-Western Regional Comprehensive Land Use Strategy prepared by Parsons Brinckerhoff (October 2009) and provides a basis for identifying options for Mid-Western Regional local government area to meet long term urban and rural growth needs. The CLUS provides a context for future land use and informed the preparation of the MWRLEP (gazetted on 10 August 2012). It is the CLUS that identifies the subject land as within the 'Rural Lifestyle Opportunity area' for land within a 15km radius of Mudgee. As such the proposal is consistent with the CLUS.

Other reports that have strategic planning relevance have been considered. The Mid-Western Regional – Local Services Assessment Report prepared by Mandis Roberts, addresses the demand and supply of residential land in Mudgee. This report was released by Department of Planning and

Infrastructure in August 2012 and provides the latest data in terms of population forecasts. The report reviews residential land supply, and updates the lot requirements based on the revised population growth predictions. This report shows a lot requirement of 5096 by 2021 and a lot deficiency of 3896. The 2021 lot requirement is based on the long term predicted ratio of 0.56 lots for every new resident, derived from the CLUS (Mandis Roberts, 2012 p 40).

The report has indicated that without significant efforts to increase housing stock the short term to medium term impacts may potentially price those out of the market that are not directly benefitting from mining activity. Strategic planning for growth of Mudgee continues by MWRC. This proposal however does not seek to address any potential land shortage identified outside the population forecasts of the CLUS.

Overall it is considered that the planning proposal is consistent with Council's local strategic planning.

The planning proposal will have positive consequences, due to:

- The site's proximity to the adjoining R5 developed land,
- Being within the CLUS strategic plan opportunity area i.e. meeting expectations for future development,
- Provision of services is achievable, and
- Transport linkages are supported with tar sealed road access.

In summary, the proposed development is consistent with the MWRLEP as well as the CLUS in that the location is identified for rural lifestyle development, services are available for the development, the type of land use is compatible with the surrounding land uses and would not cause any adverse impacts to the surrounding locality and provides a net community benefit as described.

State Environmental Planning Policies

Q.6. Is the planning proposal consistent with applicable state environmental planning policies?

Yes. The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies as discussed below.

SEPP	Applicable/Consistency
1 – Development Standards	Not relevant to planning proposal.
4 – Development without consent	Not relevant to planning proposal.
6 – Number of Storeys	Not relevant to planning proposal.
10 – Retention of Low Cost Rental Accommodation	Not relevant to planning proposal.
14 – Coastal Wetlands	Not relevant to planning proposal.
19 – Bushland in Urban Areas	Not relevant to planning proposal.
21 – Caravan Parks	Not relevant to planning proposal.
22 – Shops and Commercial Premises	Not relevant to planning proposal.
26 – Littoral Rainforests	Not relevant to planning proposal.
29 – Western Sydney Recreation Area	Not relevant to planning proposal.
30 – Intensive Agriculture	Not relevant to planning proposal.
32 – Urban Consolidation (Redevelopment of Urban Land)	Not relevant to planning proposal.
33 – Hazardous and Offensive Development	Not relevant to planning proposal.
36 – Manufactured Home Estates	Not relevant to planning proposal.
39 – Spit Island Bird Habitat	Not relevant to planning proposal.
41 – Casino Entertainment Complex	Not relevant to planning proposal.
44 – Koala Habitat Protection	Not relevant to planning proposal.
47 – Moore Park Showground	Not relevant to planning proposal.
50 – Canal Estate Development	Not relevant to planning proposal.
52 – Farm Dams and other works in Land and Water Management Plan Areas	Not relevant to planning proposal.
53 – Metropolitan Residential Development	Not relevant to planning proposal.
55 – Remediation of Land	Not relevant to planning proposal. <i>See comments below.</i>
59 – Central Western Sydney Economic and Employment Area	Not relevant to planning proposal.
60 – Exempt and Complying Development	Not relevant to planning proposal.
62 – Sustainable Aquaculture	Not relevant to planning proposal.
64 – Advertising and Signage	Not relevant to planning proposal.
65 – Design Quality of Residential Flat Development	Not relevant to planning proposal. Residential flat buildings are prohibited in the zone.
70 – Affordable Housing	Not relevant to planning proposal.
71 – Coastal Protection	Not relevant to planning proposal.
BASIX 2004	Future development for housing will be required to address the provisions of BASIX.
Exempt and Complying Development Codes 2008	Not relevant to planning proposal.
Housing for Seniors or People with a Disability 2009	Future development will be able to deliver accessible housing.
Infrastructure 2007	Not relevant to planning proposal.
Kosciusko National Park – Alpine Resorts 2007	Not relevant to planning proposal.
Major Development 2005	Not relevant to planning proposal.
Sydney Region Growth Centres 2006	Not relevant to planning proposal.
Mining and Petroleum Production and Extractive Industries 2007	Not relevant to planning proposal.

SEPP	Applicable/Consistency
Temporary Structures and Places of Public Entertainment 2007	Not relevant to planning proposal.
Rural Lands 2008	The proposal aims to reduce impacts and does not fragment rural land.
Western Sydney Employment Area 2009	Not relevant to planning proposal.
Western Sydney Parklands 2009	Not relevant to planning proposal.
Affordable Rental Housing	Through the provision of a variety of lot sizes, the future housing will potentially cater to a range of income levels. An objective of the planning proposal is to preventing housing affordability issues from escalating as identified in the Local Services Assessment.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) applies to the whole of the State of NSW and is required to be considered in a rezoning proposal under Clause 6 of SEPP 55. Given the previous use of the site (i.e. residential component and grazing) the likelihood of contamination indicating the land is not suitable for the proposed concept is minimal.

Any localised surface soil contamination will require remediation before the land can be used for residential development. Should remediation be required, it is anticipated that this can occur at future development application stage. The Planning Proposal is not inconsistent with SEPP 55.

Q.7. Is the proposal consistent with applicable Ministerial directions (s.117 directions)?

Section 117 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning and Infrastructure to issue directions regarding the content of LEPs to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions. An overview of applicable directions and compliance is included in **Table 2**.

Table 2: Section 117 Ministerial directions

Section 117 Ministerial directions		Compliance of Planning Proposal
1.1	Business and Industrial Zones	N/A
1.2	Rural Zones	This direction applies to rezoning of the rural zoned land to a residential zoning. The proposed rezoning is justified by the local strategic plan i.e. Comprehensive Land Use Strategy (CLUS).
1.3	Mining, Petroleum Production and Extractive Industries	N/A
1.4	Oyster Aquaculture	N/A
1.5	Rural Lands	Rural lands are included in the Planning Proposal; hence consistency with Rural Planning Principles listed in State Environmental Planning Policy (Rural) Lands 2008 is required to be established. <i>See comments below.</i>
2.1	Environment Protection Zones	The direction applies as E3 land is attached to land included with an associated dwelling entitlement. The proposal does not reduce the environmental protection standards for E3 land. Minimum lot size standard does not imply inconsistency with reference to clause (5) and SEPP (Rural Lands) 2008. <i>See comments below.</i>
2.2	Coastal Protection	N/A
2.3	Heritage Conservation	No items of European heritage have been identified in the subject site. The site may contain Aboriginal objects that are protected under the National Parks and Wildlife Act 1974. The planning proposal adopts measures that facilitate the conservation of environmental heritage. The future subdivision plan can be designed to avoid impact to any sites.
2.4	Recreation Vehicle Areas	N/A
3.1	Residential Zones	N/A
3.2	Caravan Parks and Manufactured Home Estates	N/A
3.3	Home Occupations	The planning proposal is consistent with this Direction, and the capacity for dwellings to accommodate small businesses will not be hindered.
3.4	Integrating Land Use and Transport	The proposal has considered the existing infrastructure, rural residential development patterns, and local transport issues when developing the concept plan for future subdivision. The planning proposal will build upon the existing level of access.
3.5	Development Near Licensed Aerodromes	N/A
3.6	Shooting Ranges	N/A
4.1	Acid Sulfate Soils	N/A
4.2	Mine Subsidence and Unstable Land	N/A
4.3	Flood Prone Land	N/A

Section 117 Ministerial directions		Compliance of Planning Proposal
4.4	Planning for Bushfire Protection	Mid-Western Regional LGA has a bushfire prone land map prepared under s146 of the <i>Environmental Planning and Assessment Act 1979</i> . The planning proposal is partially affected by the mapped bushfire prone land. The planning proposal does not hinder adjoining lands from complying with the provisions of <i>Planning for Bushfire Protection 2006</i> . Dwelling sites/Building opportunities occur outside the bushfire prone land.
5.1	Implementation of Regional Strategies	N/A
5.2	Sydney Drinking Water Catchment	N/A
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8	Second Sydney Airport: Badgerys Creek	N/A
6.1	Approval and Referral Requirements	This direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The planning proposal does not include LEP provisions requiring concurrence, consultation or referral.
6.2	Reserving Land for Public Purposes	N/A
6.3	Site Specific Provisions	N/A
7.1	Implementation of the Metropolitan Plan for Sydney 2036	N/A

The Planning Proposal is considered to be consistent with the applicable Ministerial directions as identified above.

SEPP (Rural Lands) 2008

"Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General."*

"8 Rural Subdivision Principles"

The Rural Subdivision Principles are as follows:

- (a) the minimisation of rural land fragmentation,*
- (b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- (c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*
- (d) the consideration of the natural and physical constraints and opportunities of land,*
- (e) ensuring that planning for dwelling opportunities takes account of those constraints."*

Comments:

The proposed development does not hinder the future residential development of the locality in accordance with the local planning provisions. The proposal aims to contribute to the social and economic welfare of the rural community of Mudgee, through providing a diversity of lifestyle opportunities. The proposal includes combinations of lower lying land that has been historically cleared and other land that is elevated with other certain aesthetic appeal.

Opportunities for other supported economic activities such as home industries are not hindered by the proposal. Similarly, the continued use of surrounding land for other intensive agricultural pursuits is not hindered, as residential components are able to be separated by physical features such as topography, watercourses and road reserves as well as distance from such rural land uses. However it is acknowledged that the trend for the locality and further to the north is development as a rural lifestyle district rather than agricultural interests. With reference to the number of existing dwellings within existing undersized rural properties, this trend is likely to continue in the future with the support of strategic planning by MWRC.

These aspects are balanced by the implications of occurring E3 Environmental Management zoned land, which balances the social and economic uses with focus on the environmental interests of the community. Restriction of impact on biodiversity sensitive land is necessary to demonstrate consistency with the rural planning principles. The development concept avoids impact to such constrained land with all access infrastructure and future buildings outside of this land. The future passive use associated with residential lifestyle development will reduce the rural land use conflict between agriculture and environmental outcomes.

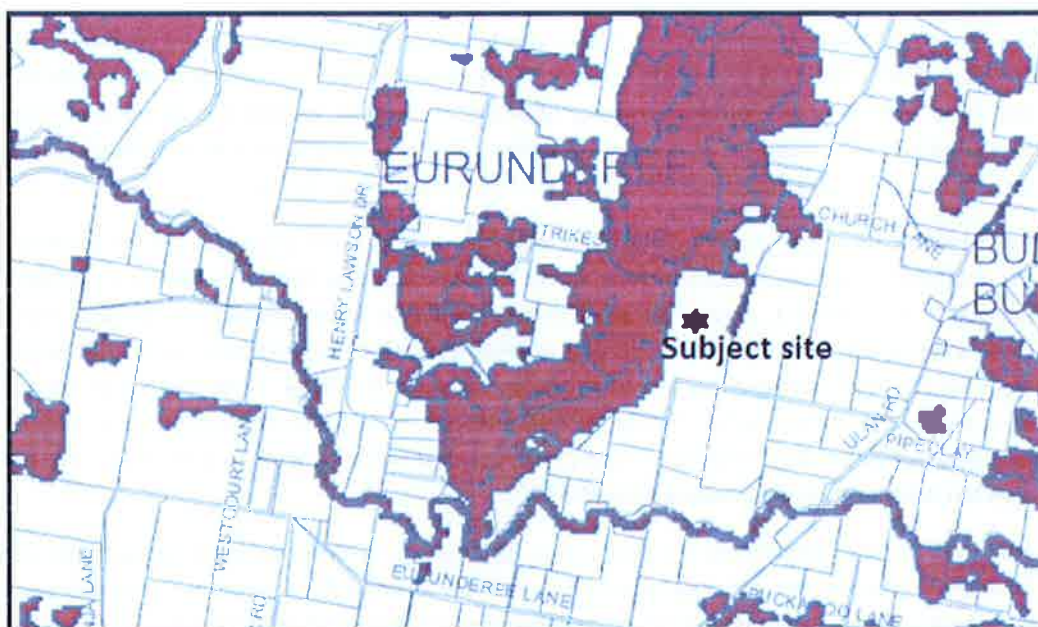
The CLUS identifies the subject land for additional lifestyle lots within a 15km radius of Mudgee. This mapping however does not imply that the land is not without constraint for this purpose. The concept plan has sought to ensure that planning for dwelling opportunities takes appropriate account of those constraints. The size of future proposed lots and land use conflicts identified support that the site is suitable for future development, as described in this planning proposal.

Overall, the opportunity for development is aligned with the strategic planning undertaken. Further it is on this basis and the references above that the concept plan is consistent with the 'Rural Planning Principles' and 'Rural Subdivision Principles'.

SECTION C - ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

Q.8. Is there any likelihood that Critical Habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject site is identified as having some high biodiversity sensitivity on the Sensitivity Biodiversity Map (BIO_006) within MWRLEP (see map excerpt below). This correlates approximately to the E3 Environmental Management zoning. The planning proposal is not likely to cause any detrimental impact on critical habitat or threatened species, populations or ecological communities. Future dwelling sites are located in cleared areas. Site specific flora and fauna assessment has not been carried out at this stage.



Biodiversity

- High Biodiversity Sensitivity
- Moderate Biodiversity Sensitivity

Q.9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal has identified known environmental issues. Environmental issues are able to be addressed as part of a Development Application process.

With reference to *A Guide to Preparing Planning Proposals*, technical studies to address an identified issue should be undertaken following the initial Gateway determination. Such studies together with community and public authority consultation can explore the mitigation of any potential impacts.

Q.10. How has the planning proposal adequately addressed any social and economic effects?

Other potential impacts of the planning proposal and subsequent development of the site include the demand for Infrastructure and utility services and demand for community facilities and social services. It is considered that the site can be adequately serviced with the existing infrastructure without placing undue demand on services in Mudgee (see Q11 below). The proposal secures the lot yields recognised in the CLUS.

SECTION D - STATE AND COMMONWEALTH INTERESTS

Q.11. Is there adequate public infrastructure for the planning proposal?

The Local Services Assessment prepared by Mandis Roberts referred to public infrastructure issues in addition to the land and housing shortage. Key findings of the report indicate that preschools and early childhood centres have capacity constraints. Capacity constraints are likely to be reached in the near future. However, NSW Health reports that the existing system is considered adequate to cope with growth.

Transport pressure on roads is also acknowledged, with those roads servicing the mining sector highlighted. This will include the Ulan Road. Ulan Road forms a road corridor connecting north Mudgee to the Mudgee CBD, which would be part of the route to Mudgee from the subject land from Black Springs Road. Airport and rail infrastructure is adequate. Though the development of the land will increase traffic on the road system due to the additional 4 dwellings, the roads have capacity to handle the minor increase in traffic.

The site has existing electricity connection as discussed. Mudgee waste management facilities will face capacity in the medium term. The concept plan will increase waste generated by 4 additional dwelling entitlements. Waste treatment facilities are sufficient to cater for the increase in waste.

Accessibility of passive recreational areas within vicinity to the subject area is not of significance due to the nature of the rural lifestyle lots. The parks and sporting grounds in Mudgee would be closest to the land.

Demand on public infrastructure will require consultation with appropriate public authorities; however the current infrastructure is considered sufficient to provide for the future residential development and therefore is considered acceptable for the Planning Proposal.

Q.12. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning proposal?

A summary of the views of State and Commonwealth Public Authorities will be provided following gateway determination.

PART 4 - DETAILS OF THE COMMUNITY CONSULTATION THAT IS TO BE UNDERTAKEN ON THE PLANNING PROPOSAL

Community consultation for the Planning Proposal would be undertaken in accordance with the consultation requirements set out in *A guide to preparing local environmental plans* (DoP 2009).

The consultation requirements for this Planning Proposal are expected to be confirmed by the Department of Planning and Infrastructure (DP&I) at the gateway determination.

CONCLUSION

This Planning Proposal relates to an amendment to *Mid-Western Regional Local Environmental Plan 2012* for land at Lot 110 DP1029542, 277 Black Springs Road, Mudgee. The aim of this report has been to describe the proposed amendment to the Mid-Western Regional Local Environmental Plan 2012 to permit the development of rural lifestyle lots to minimum 12ha on the site.

The need for mitigation of significant environmental, social or economic impacts to the surrounding locality has not been identified. The proposal is consistent with the applicable strategic planning frameworks as demonstrated in this report. The changes proposed will address the short to medium terms supply of rural lifestyle lots within close vicinity to Mudgee and remains in line with the current LEP zone objectives and Comprehensive Land Use Strategy.

References

- Department of Planning (DoP) (July 2009) *A guide to preparing planning proposals*.
- Department of Planning (DoP) (July 2009) *A guide to preparing local environmental plans*.
- Department of Planning (DoP) (July 2008) *Development Near Rail Corridors and Busy Roads Interim Guideline*.
- Department of Planning (DoP) (April 2009) *Draft Centres Policy Planning for Retail and Commercial Development*.
- Environmental and Earth Sciences (2004) *Statement of Environmental Effects (including Salinity Investigation) Lot 7 DP842243 and Lot 7 and Lot 8 DP1096571*, (unpublished report for DA0187/2005).
- Mandis Roberts (August 2012) *Mid-Western Regional Council – Local Services Assessment*.
- Mid-Western Regional Council (2010) *Mid-Western Region Economic Development Strategy A 10 Year Plan*.
- Mid-Western Regional Council (2012) *Planning Proposal: Caerleon Residential Area Sale Yards Lane Mudgee*.
- Mid-Western Region Community Plan – Towards 2030*.
- Murphy B.W. and Lawrie J.W. (1998) *Soil Landscapes of Dubbo 1:250000 Sheet*, published by Department of Land and Water Conservation.
- NSW Rural Fire Service (December 2006) *Planning for Bushfire Protection*.
- Parsons Brinckerhoff (October 2009) *Mid-Western Regional Comprehensive Land Use Strategy*.

APPENDIX A – AHIMS SEARCH RESULTS

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Office of
Environment
& Heritage

AHIMS Web Services (AWS) Search Result

Your Ref Number : A/en A53

Client Service ID : 109416

Date: 22 August 2013

Minespex Pty Ltd

Units 1 and 2 73 Market Street
Mudgee New South Wales 2850

Attention: Emma Yule

Email: emma.yule@minespex.com.au

Dear Sir or Madam:

AHIMS Web Service search for the following area at Lot : 110, DP:DP1029542 with a Buffer of 200 meters, conducted by Emma Yule on 22 August 2013.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

☐	1. Aboriginal sites are recorded in or near the above location.
☐	0. Aboriginal places have been declared in or near the above location. *

If your search shows Aboriginal sites or places what should you do?

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette](http://www.nsw.gov.au/gazette) (<http://www.nsw.gov.au/gazette>) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request.

Important Information about your AHIMS search

- The Information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not to be made available to the public.
- AHIMS records Information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date. Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings.
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.

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APPENDIX B – CONCEPT PLAN

Prepared by Jabek Pty Ltd.

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