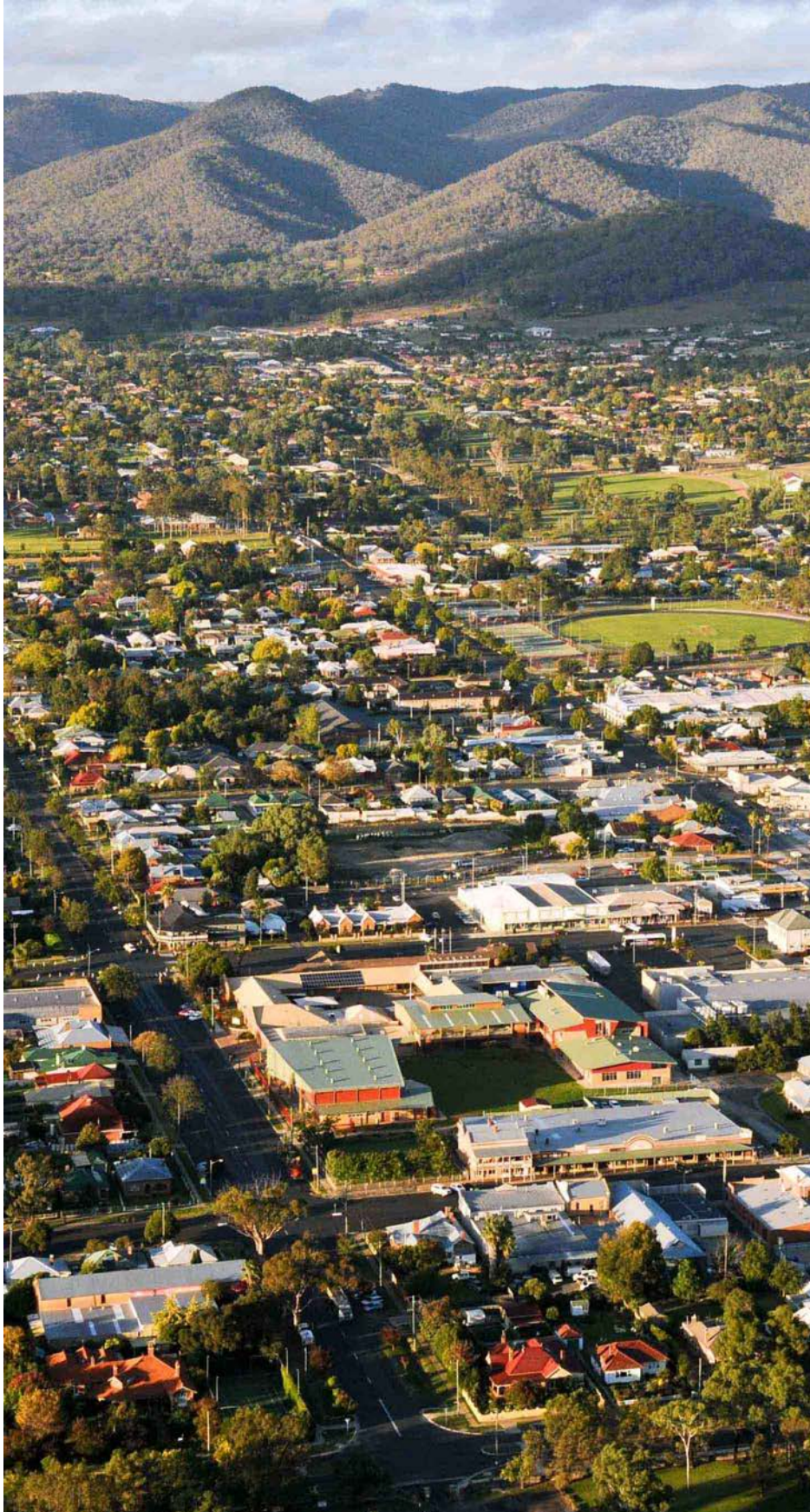




*Looking After
our Community*

PLANNING PROPOSAL

Rezone to R5 land in Spring Flat
Road Lot 52 DP 633029 Spring
Flat

Amend the Lot Size Map on land
in Adams Lead Road Lot 76 DP
755434 Gulgong

Rezone to part R1 and part RE2
land in Market Street Lot 41 DP
703056 and Lot 1 DP 564729
Mudgee

Insert a provision relating to the
permissibility of subdivision &
dwellings on certain split zoned
Residential land

3 NOVEMBER 2014

MID-WESTERN REGIONAL COUNCIL
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



THIS DOCUMENT HAS BEEN PREPARED BY MID-WESTERN REGIONAL COUNCIL.

DATE OF PUBLICATION:

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Overview

Following receipt of Planning Proposal documents from three individuals Council has resolved (17 September 2014) to prepare an amendment to the Local Environmental Plan 2012 (LEP2012) to;

- amend the Lot Size Map Sheet 006 in Spring Flat Road to facilitate the subdivision of Lot 52 DP 633029 to 20ha minimum lot size;
- rezone land to R2 Low Density Residential and amend the Lot Size Map on land in Adams Lead Road Lot 76 DP 755434 Gulgong
- rezone land in Market Street to facilitate a boundary adjustment, create an opportunity for an additional dwelling and facilitate the future acquisition of land linking Market Street with the Cudgegong River; and
- insert a provision in Local Environmental Plan 2012 which allows for the subdivision of split zoned land provided the area containing a dwelling or an opportunity for a dwelling meets the minimum lot size for land within that zone.

The first three amendments are encapsulated in individual Planning Proposals attached as Appendices 2 - 4. The fourth is an amendment proposed by Council to clarify the intention of development for the purposes of dwellings on split zoned residential land stemming from the Market Street proposal.

This Planning Proposal document encapsulates the four amendments. Reference is made throughout to the individual PPs for detail. The four amendments are considered to be minor in nature and Council is further seeking delegation to deal with this proposal.

Part 1 – Objectives or Intended Outcomes

The Planning Proposal combines four proposals into one amendment to the LEP. The Objectives of the amendment are outlined in the table below.

OBJECTIVES OF INDIVIDUAL AMENDMENTS

Amendment	Land to which it applies	Objective/Outcome
(a) amend the Lot Size Map Sheet 006 in Spring Flat Road to facilitate the subdivision of Lot 52 DP 633029 to 20ha minimum lot size;	 Lot 52 DP 633029	Enable the subdivision of Lot 52 DP 633029 into 2 lots with a MLS of 20ha consistent with an earlier consent (now lapsed)
(b) rezone land to R2 Low Density Residential and amend the Lot Size Map on land in Adams Lead Road Lot 76 DP 755434 Gulgong	 Lot Size Map	Enable the subdivision of Lot 76 DP 755434 into 2 lots.



Land Zoning Map
Lot 76 DP 755434

(c) rezone land in Market Street to facilitate a boundary adjustment, create an opportunity for an additional dwelling and facilitate the future acquisition of land linking Market Street with the Cudgong River; and



Applies to all split zoned parcels where part of the lot is in a residential or village zone.

(d) insert a provision in Local Environmental Plan 2012 which allows for the subdivision of split zoned land provided the area containing a dwelling or an opportunity for a dwelling meets the minimum lot size for land within that zone.

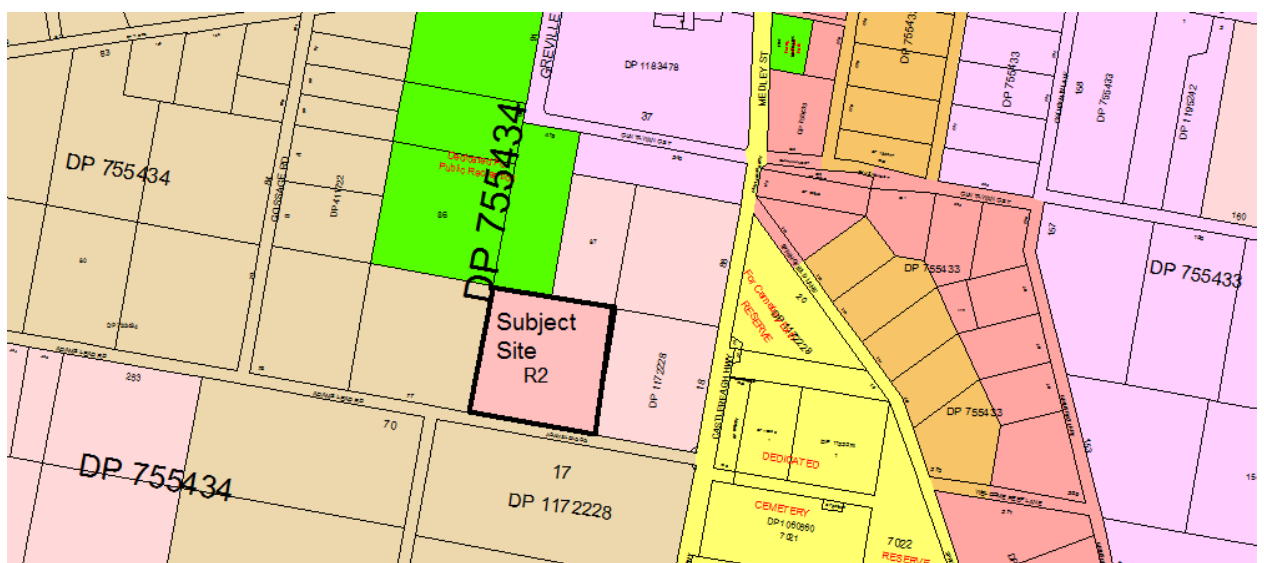
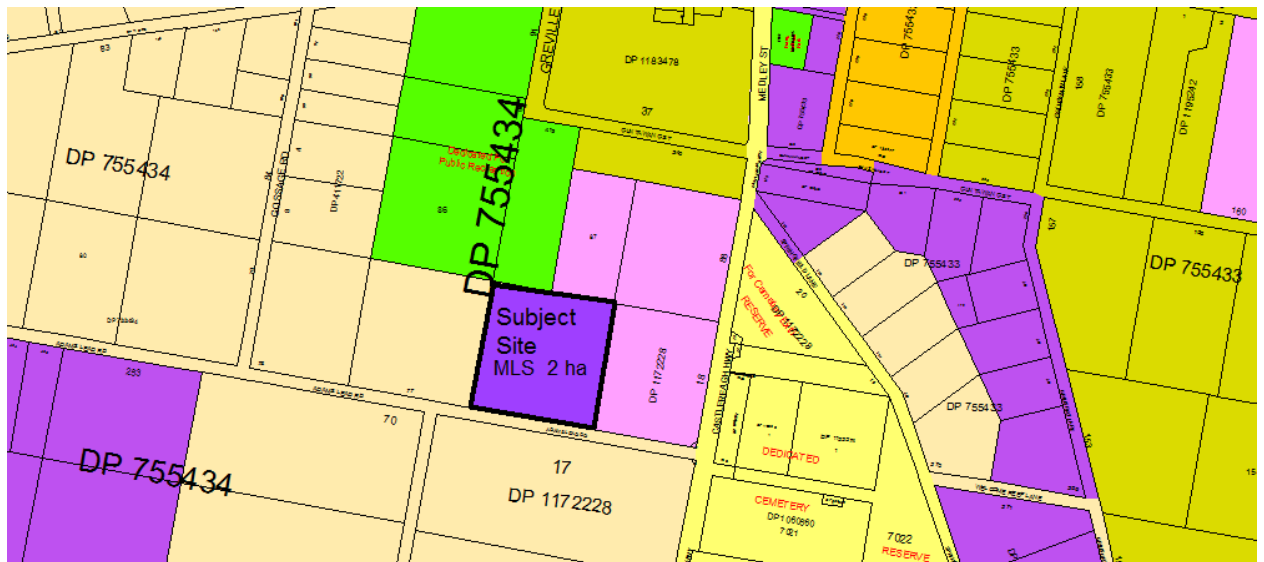
The intention at this site is to enable the land fronting Market Street with an existing dwelling (A) to be excised off, a building envelope to be created at the rear to facilitate the erection of a dwelling (B), a boundary adjustment between Lots 41 and 1 (C) and the creation of a lot for future recreation to provide a link to the river (D). Given the limitation to subdivision in the E3 zone, this may require an addition to Schedule 1.

The intention is for the inclusion of an additional local provision in the LEP 2012 that provides clarification of the circumstances under which a dwelling may be erected on a lot which has a split zone. That is, provided that the land on which the dwelling will be erected has an area at least the size of the minimum area required for that particular zone. In the case outlined

above in Market St area (B) could support a dwelling only where at least 600m² is identified as R1 (MLS 600m²) even if the balance of the land within the lot is in the E3 zone which has a MLS of 400m² for the erection of a dwelling.

The development standards adopted for the R5 zone include a 12ha minimum lot size. As this is just a minimum and given the range of lot sizes on which dwellings are erected in the area and the preference of the applicant for 20ha lots, it is proposed to retain the RU1 Primary Production zone and amend only the Lot Size Map to indicate a 20ha minimum lot size over the land. Maintaining the zone will also retain the objectives of the land as rural rather than residential. This is consistent with surrounding development and consistent with the earlier subdivision approval while still creating a life style opportunity. Further, the traffic generated by the additional dwelling is likely to be less than that which is experienced by a cellar door and more akin to the surrounding pattern of land use. In this instance and under the circumstances a variation to the 1km to a sealed road requirement is reasonable.

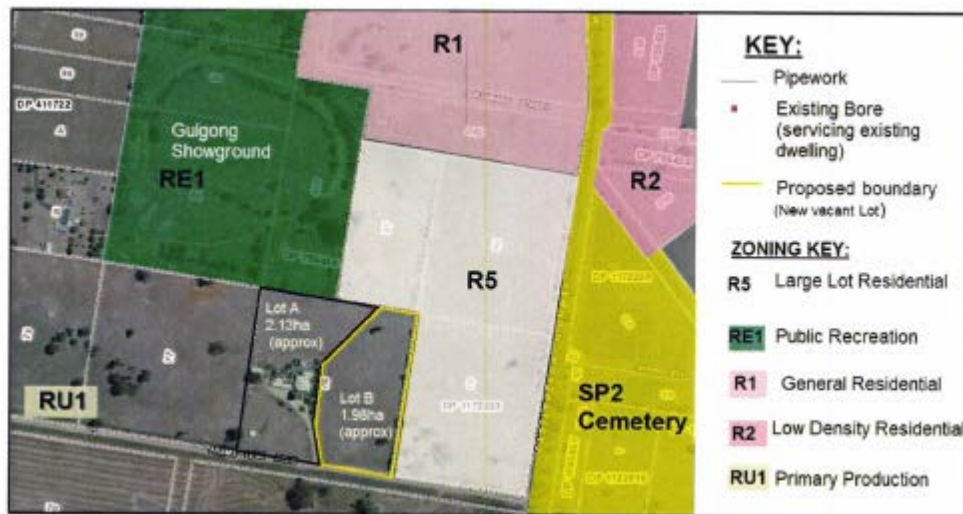
(b) rezone land to R2 Low Density Residential and amend the Lot Size Map on land in Adams Lead Road Lot 76 DP 755434 Gulgong



Background

Refer to Attachment 1, detailed planning proposal prepared by Minespex.

The land is located on the southern side of the residential area of Gulgong and adjoining an RE1 Public Recreation and R5 Large Lot Residential zone. The land itself has an area of approximately 4ha and houses an existing dwelling. The amendment proposed would enable the division of the land into two lots of approximately 2.13ha and 1.98ha.



Extract Planning Proposal prepared by Minespex August 2014

This site was not strategically identified in the CLUS, however, the CLUS does discuss a principle of development on adjoining zoned land in terms of maintaining consistency and continuity and providing opportunities for development on the fringe of residential areas. Under the provisions of the LEP 2012 a second dwelling could be achieved on the site as dual occupancy development, however, the land could not be subdivided.

The site is well situated on the edge of Gulgong town and could readily accommodate the development. In terms of the mechanism for achieving the desired outcome it is proposed to adopt the R2 Low Density Residential zone to the site with an accompanying 2ha minimum lot size. This will enable the subdivision and preclude detached dual occupancy on either the residue or newly created lot resulting in a similar land use outcome as currently enjoyed but with the benefit of being able to legally register the second title.

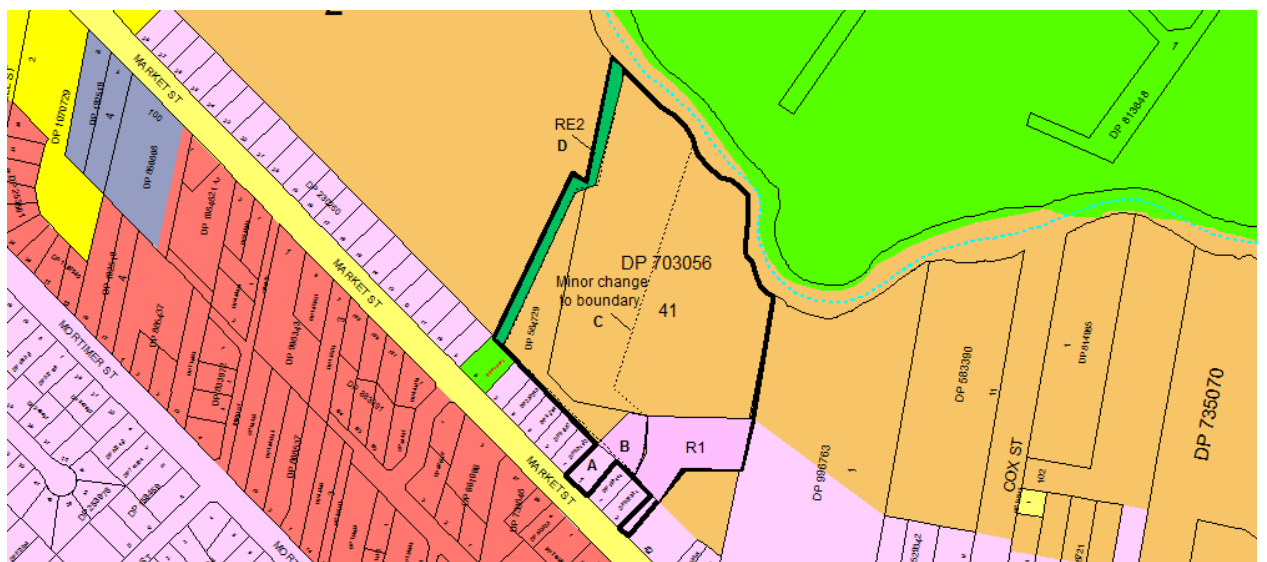
At 2ha the site would generally not be required to be connected to water and sewer, however, Adams Lead Road from the new lot to the Castlereagh Highway being a distance of approximately 260m may be required to be sealed though the development application process.

Draft Urban Release Strategy – the planning proposal is not in response to any perceived shortfall in residential land in Gulgong being only one lot and as stated above not creating opportunities for dwellings outside framework provided by the current zone (that is the state could accommodate a detached dual occupancy). However, the Draft Urban Release Strategy (URS) currently on public exhibition does identify a supply of 2ha lots in Gulgong sufficient for the demand of one lot per annum. As this is only a single lot it is not considered to significantly impact or undermine the Draft URS.

(c) & (d) Rezone to part R1 and part RE2 land in Market Street Lot 41 DP 703056 and Lot 1 DP 564729 Mudgee

The third of the proposal is the most complex. The intention is to enable a dwelling to be erected on land currently within the E3 Environmental Management zone by rezoning part of the land to R1 General Residential, rezone a strip of land to ultimately provide a link to the Cudgegong River and facilitate a subdivision and boundary adjustment.

The proposal offers a Public Recreation zone, however, at this stage and until Council is in a position to acquire the land a Private Recreation zone may be more appropriate. The RE2 Zone would run along Lot 1 DP 564729 154 Market Street and the north western corner of Lot 41 DP 703056 146 Market Street and provide a link to the Cudgong River from Interact Park in Market Street. This is shown on the map below.



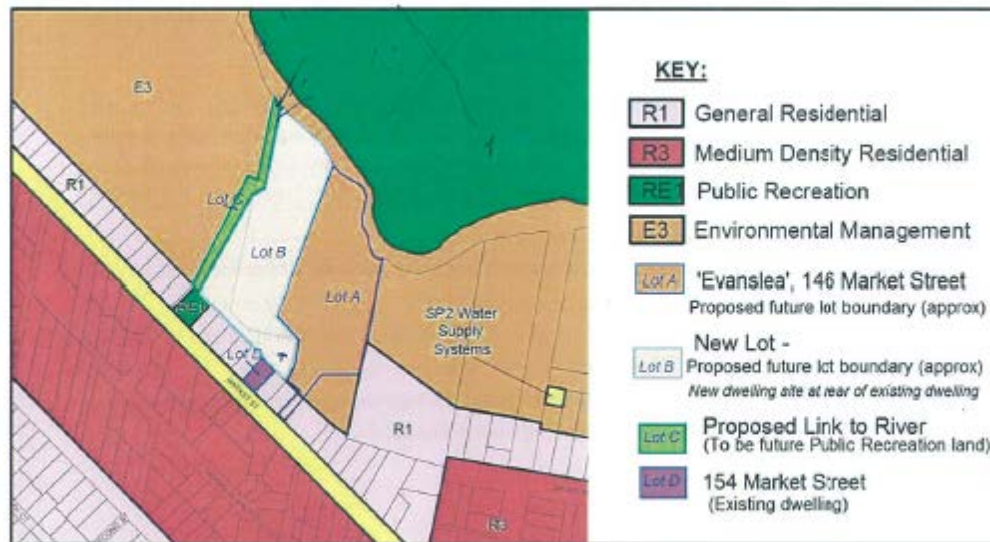


Figure 16: Overview of Concept Plan

Extract Planning Proposal prepared by Minespex

The proposal also seeks to realign the boundaries between Lot 1 and Lot 41 to achieve a more regular shape and a balance of river frontage as well as excising that part of Lot 1 which is wholly zoned R1 General Residential. There are two issues:

- (1) the erection of a dwelling on a split zoned parcel; and
- (2) Facilitating the subdivision and boundary adjustment between land zoned R1 General Residential and land zoned E3 Environmental Management.

Dwellings on Split Zoned Land

One of the issues plaguing Council is the difficulty and uncertainty around development of residential land with more than one minimum lot size as is the case in this planning proposal.

Currently, where a lot is split zoned with a split minimum lot size, provided that that part of the site on which a dwelling will be erected has an area at least consistent with the minimum lot size for the erection of a dwelling in that particular zone, Council will consider an application for a dwelling. In essence this practice applies the less of the two minimum lot sizes applicable to a single parcel of land.

In this case both lots are currently split zoned part R1 General Residential and part E3 Environmental Management and the minimum lot size in the two zones is 600m² and 400ha respectively. The objective of the E3 zone in this location is to protect the ecological and aesthetic values attributed to the river corridor. Part of both lots is also below the flood planning level, however, the site of a proposed building envelope immediately behind the existing house which fronts Market Street on Lot 1 is well above the 1 in 100 flood level. Based on current practice, if 600m² of the lot was included in the R1 General Residential zone as per the planning proposal Council would approve the erection of a dwelling on the lot provided the dwelling was located on land that is zoned R1 and land that has a MLS of 600m².

Facilitating the subdivision and boundary adjustment between land zoned R1 General Residential and land zoned E3 Environmental Management.

Rezoning part of the site alone will not overcome the difficulties in undertaking a boundary adjustment and subdivision as part of the lot will still be zoned E3 Environmental Management and the MLS for subdivision within this zone is 400m².

Clarifying the provisions around dwellings on split zoned land such that provided the area zoned R1 is at least 600m² consistent with a residential lot size on the Lot Size Map the dwelling could be approved.

The uncertainty surrounding land containing two areas of land mapped for different minimum lot sizes has been addressed by Post Stephens Council in a specific clause in their LEP which is extracted as follows:

4.1D Minimum lot sizes for certain split zones

(1) The objectives of this clause are as follows:

- (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,
- (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.

(2) This clause applies to each lot (an original lot) that contains:

- (a) land in a residential, business or industrial zone, or Zone RU5 village, and
- (b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:

- (a) one of the resulting lots will contain:
 - (i) land in a residential, business or industrial zone or Zone RU5 Village that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
 - (ii) all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living that was in the original lot, and
- (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

This clause assumes that the operation of clause 4.1 relating to subdivision does not apply to split zoned land. On the face of it, this is not the case, however, this local provision does provide some clarity in terms of subdivision of parcels with a split minimum lot size and a similar provision is being sort for the Midwestern Regional LEP 2012.

For subdivision the same practice has been adopted in that provided the minimum lot size for the R1 General Residential land can be achieved the lot can be excised leaving an undersized E3 or zoned parcel which, if it does not contain a dwelling would have no opportunity to do so in the future. In this case the land use remains consistent. Council is seeking clarification to this in a local provision in the LEP.

Part 3 – Justification

The justification for the planning proposal as it relates to Adams Lead Road and Market Street is further set out in Attachments 1 and 2. Attachment 3 provides some background into the Spring Flat site.

Section A - Need for the planning proposal

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

The planning proposal has come about in response to Planning Proposals lodged with Council. The amendments are site specific, however, the Market St site does raise the issue of the need to provide flexibility in approving subdivision and boundary adjustments in land affected by the E3 Environmental Management zone where there will not be a change in the land use or the dwelling entitlement.

Mid-Western Regional Draft Comprehensive Land Use Strategy

The Mid-Western Regional Council has prepared the *Mid-Western Regional Comprehensive Land Use Strategy*. The Strategy provides clear direction for future growth and land-use change in the area for the next 15 to 20 years. The proposed amendments are generally consistent with the strategic direction established in the Strategy.

State and Regional Policies

Whilst there is no specific State or Regional Environmental Plan that addresses future development in Mudgee or that has relevance to the LGA, there are a number of significant challenges common to strategic planning in inland and regional areas of NSW. These are to:

- Support sustainable agriculture
- Conserve valuable environmental assets
- Minimise land use conflict.

At a general policy level, the proposed amendment will facilitate the more efficient use of land and provide clarity in an otherwise complex planning document.

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

The Planning Proposal is the best means of achieving the outcomes explicit to the circumstances. The inclusion of a local provision will negate the need for further amendments to the LEP in similar circumstances.

Section B – Relationship to strategic planning framework

Q3: Is the planning proposal consistent with the application regional or sub-regional strategy?

There are no regional strategies in place.

Q4: Is the proposal consistent with Council's Community Strategic Plan or other local strategic plan?

Yes. Refer to Q1

Q5: Is the planning proposal consistent with applicable state environmental planning policies?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table. The proposal is either consistent with or not offensive to any applicable SEPP's.

SEPP	Consistency / Response
1 – DEVELOPMENT STANDARDS	Not relevant
4 – DEVELOPMENT WITHOUT CONSENT	Not relevant
6 – NUMBER OF STOREYS	Not relevant
10 – RETENTION OF LOW COST RENTAL ACCOMMODATION	Not relevant
14 – COASTAL WETLANDS	Not relevant
19 – BUSHLAND IN URBAN AREAS	Not relevant
21 – CARAVAN PARKS	Not relevant
22 – SHOPS AND COMMERCIAL PURPOSES	Not relevant
26 – LITTORAL RAINFORESTS	Not relevant
29 – WESTERN SYDNEY RECREATION AREA	Not relevant
30 – INTENSIVE AGRICULTURE	Not relevant
32 – URBAN CONSOLIDATION (Redevelopment of Urban Land)	Not relevant
33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT	Not relevant
36 – MANUFACTURED HOME ESTATES	Not relevant
39 – SPIT ISLAND BIRD HABITAT	Not relevant
41 – CASINO ENTERTAINMENT COMPLEX	Not relevant
44 – KOALA HABITAT PROTECTION	Not relevant
47 – MOORE PARK SHOWGROUND	Not relevant
50 – CANAL ESTATE DEVELOPMENT	Not relevant
52 – FARM DAMS AND OTHER WORKS IN LAND AND WATER MANAGEMENT PLAN AREAS	Not relevant

SEPP	Consistency / Response
53 - METROPOLITAN RESIDENTIAL DEVELOPMENT	Not relevant
55 – REMEDIATION OF LAND	Not relevant
59 – CENTRAL WESTERN SYDNEY ECONOMIC AND EMPLOYMENT AREA	Not relevant
60 – EXEMPT AND COMPLYING DEVELOPMENT	Not relevant
62 – SUSTAINABLE AQUACULTURE	Not relevant
64 – ADVERTISING AND SIGNAGE	Not relevant
65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT	Not relevant
70 – AFFORDABLE HOUSING	Not relevant
71 - COASTAL PROTECTION	Not relevant
BASIX 2004	Not relevant
EXEMPT AND COMPLYING DEVELOPMENT CODES 2008	Not relevant
HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2009	Not relevant
INFRASTRUCTURE 2007	Not relevant
KOSCIUSZKO NATIONAL PARK - ALPINE RESORTS 2007	Not relevant
MAJOR DEVELOPMENT 2005	Not relevant
SYDNEY REGION GROWTH CENTRES 2006	Not relevant
MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES 2007	Not relevant
TEMPORARY STRUCTURES AND PLACES OF PUBLIC ENTERTAINMENT 2007	Not relevant
RURAL LANDS 2008	Not relevant
EXEMPT AND COMPLYING DEVELOPMENT CODES 2008	Not relevant
WESTERN SYDNEY EMPLOYMENT AREA 2009	Not relevant
WESTERN SYDNEY PARKLANDS 2009	Not relevant
AFFORDABLE RENTAL HOUSING	Not relevant

There are no relevant Deemed SEPPs.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant section 117 Directions are addressed in Appendix 2. The proposal is consistent with those 117 Directions that are relevant to the site.

Section C – Environmental, social and economic impact

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

No applicable

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

As set out in *A Guide to Preparing Planning Proposals*, the purpose of this question is to ascertain the likely environmental effects that may be relevant. It states that technical investigations to address an identified environmental issue should be undertaken following the initial Gateway determination.

The nature of the planning proposal is such that no additional technical information is required.

Q10: How has the planning proposal adequately addressed any social and economic effects?

The proposal will facilitate the development of Adams Lead Road to provide a single residential lot and Spring Flat for the same result. The proposal as it relates to Market Street is more complex, however, will essentially enable the erection of a dwelling which could have been permissible in the form of a detached dual occupancy under the present framework. The amendment of the LEP will enable this dwelling to be subdivided off to create a separate title. Impacts will be negligible.

Section D – State and Commonwealth interests

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

Infrastructure is available to support the development generated by the planning proposal.

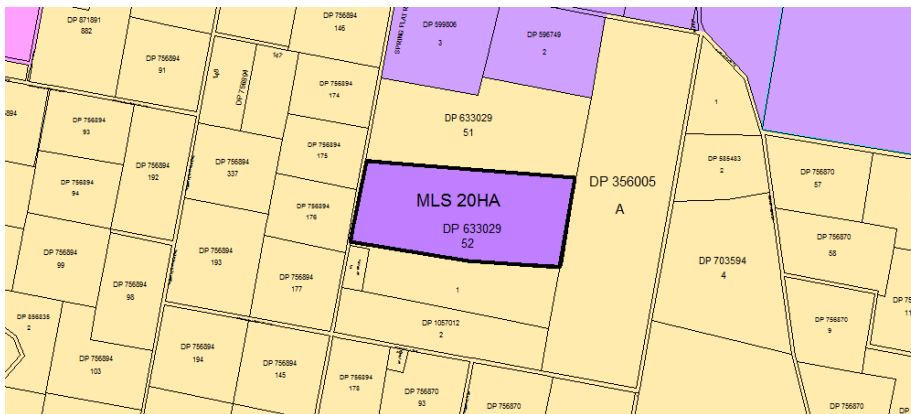
Q12: What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Not applicable

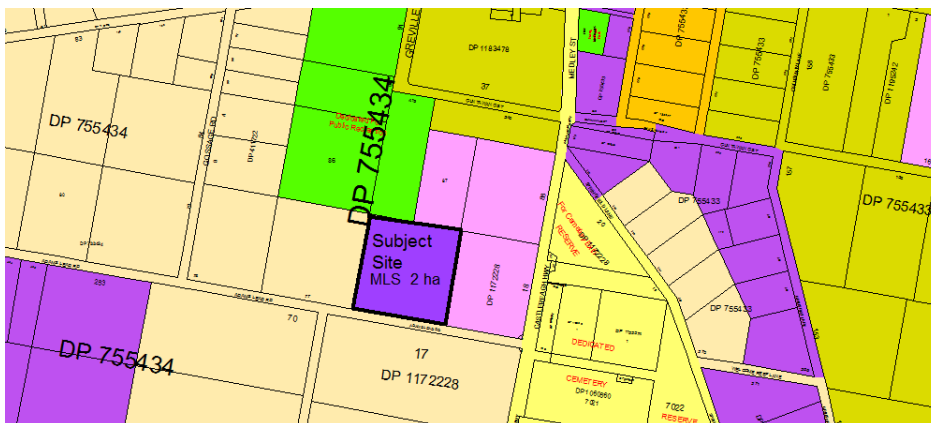
Part 4 – Mapping

The planning proposal will require an amendment to the following Map Sheets:

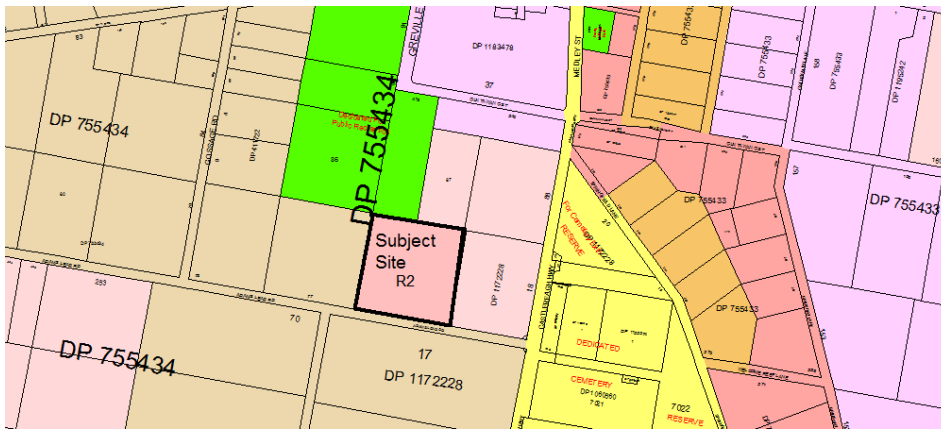
(a) Map Sheet LSZ_0006 (refer Figure 1 below). Council utilizes the assistance of the Department of Planning and Environment in drafting all map amendments and this will again be the case in this instance. Mapping amendments will be requested following the public exhibition to avoid duplication and re-drafting. This has been the practice with previous amendments. A scale version of the map below will be used for exhibition purposes.



(b) Lot Size Map Sheet LSZ_005C to Z 2ha and Land Zoning Map LZN_005C to R2 Low Density Residential as indicated below.

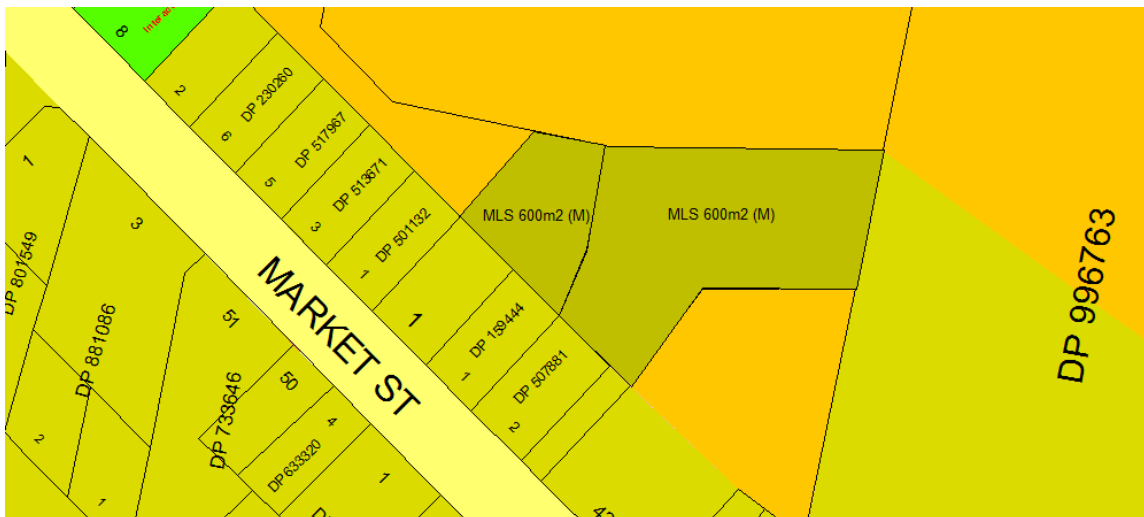


Lot Size Map

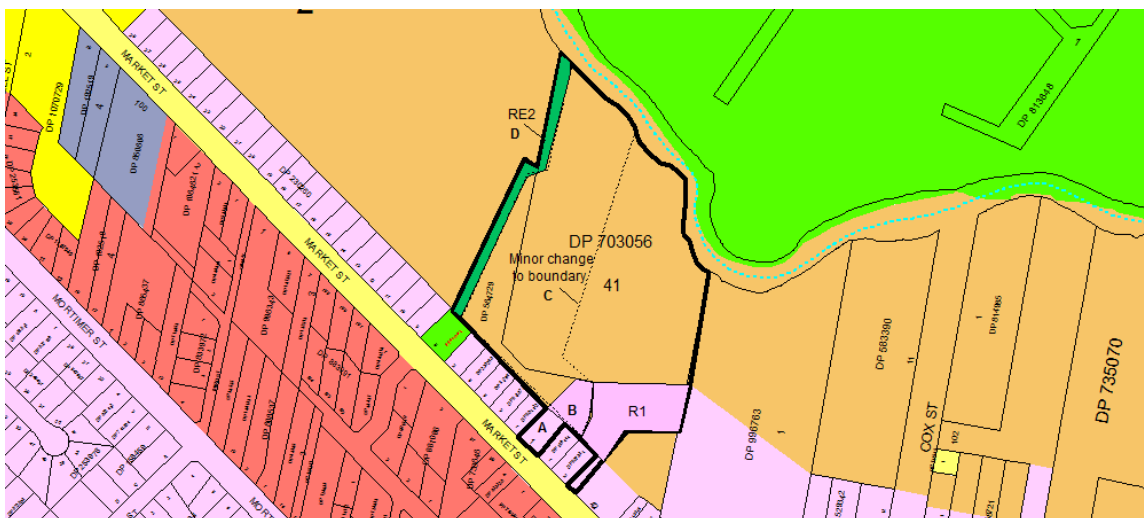


Land Zoning Map

(c) for part Lot 1 DP 569729 amend Lot Size Map Sheet LSZ_006C to M 600m2, Land Zoning Map LZN_006C to R1 General Residential and RE2 Private Recreation as indicated below.



Lot Size Map



Land Zoning Map

Part 5 – Community Consultation

The proposal is of minor significance and it is to a low impact proposal which as outlined in the “Guide to preparing local environmental plans” is:

- Consistent with the pattern of surrounding land use zones and/or land uses
- Consistent with the strategic planning framework
- Presents no issue with regard to infrastructure servicing
- Not a principle LEP
- Does not reclassify public land

As such the following consultation is proposed:

- An exhibition period of 28 days commencing on the date that a notice of exhibition is printed in the local news press
- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council's website for the duration of the exhibition period

Consultation with agencies external to Council is not considered necessary.

Part 6 – Project timeline

The planning proposal is a minor amendment to the LEP 2102 and should be able to be achieved within 4 months of the date of the Gateway Determination.

TIMELINE

Milestone	Date
<i>Gateway determination</i>	<i>November 2014</i>
Completion of technical information	N/A
Agency Consultation	N/A
Public Exhibition	Mid November – Mid December 2014
Consideration of Submissions	Council Meeting December 2014
Mapping, legal drafting & Opinion	January 2015
RPA makes plan	February 2015

Appendix 1 – Section 117 Directions

The Section 117 Directions have been identified in the table below. The planning proposal is generally not inconsistent with the directions, however, 1.5 Rural Lands has been addressed specifically following the table.

SECTION 117 DIRECTION	APPLICABLE	CONSISTENT	COMMENT
1. Employment and Resources			
1.1 Business & Industrial zones	No		
1.2 Rural zones	Yes	Yes	
1.3 Mining, Petroleum Production and Extractive Industries	Yes	N/A	
1.4 Oyster Aquaculture	No		
1.5 Rural Lands	Yes	Yes	See comment below
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal Protection	No	N/A	
2.3 Heritage Conservation	No	N/A	
2.4 Recreation Vehicle Areas	No	N/A	
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	Yes		This direction seeks 'To encourage a variety and choice of housing types to provide for existing and future housing needs; to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and to minimise the impact of residential development on the environment and resource lands'. The planning proposal is consistent with this objective.
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use and Transport	No	N/A	

3.5 Development Near Licensed Aerodromes	No	N/A	
4. Hazard and Risk			
4.1 Acid Sulfate Soils			
4.2 Mine Subsidence and Unstable Land			
4.3 Flood Prone Land			
4.4 Planning for Bushfire Protection			
5. Regional Planning			
5.1 Implementation of Regional Strategies	No	N/A	
5.2 Sydney Drinking Water Catchments	No	N/A	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
6. Local Plan making			
6.1 Approval and Referral Requirements	Yes	Yes	consistent
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	Yes		consistent
7. Metropolitan Planning			
7.1 Implementation of the Metropolitan Strategy	No	N/A	

117(s) Directions

1.5 Rural Lands

Objectives

The objectives of this direction are to:

- protect the agricultural production value of rural land,
- facilitate the orderly and economic development of rural lands for rural and related purposes.

Where this direction applies

This direction applies to all planning proposals to which *State Environmental Planning Policy (Rural Lands) 2008* applies, which includes all local government areas in the State other than the following local government areas:

Ashfield
Auburn
Bankstown

Holroyd
Hornsby
Hunters Hill

Penrith
Pittwater
Randwick

Baulkham Hills	Hurstville	Rockdale
Blacktown	Kogarah	Ryde
Blue Mountains	Ku-ring-gai	Strathfield
Botany Bay	Lake Macquarie	Sutherland
Burwood	Lane Cove	Warringah
Camden	Leichhardt	Waverley
Campbelltown	Liverpool	Willoughby
Canada Bay	Manly	Wollondilly
Canterbury	Marrickville	Woollahra
City of Sydney	Mosman	Wollongong
Fairfield	Newcastle	Wyong
Gosford	North Sydney	
Hawkesbury	Parramatta	

When this direction applies

This direction applies when:

- (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.

What a relevant planning authority must do if this direction applies

- (4) A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.
- (5) A planning proposal to which clause 3(b) applies must be consistent with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

Note: *State Environmental Planning Policy (Rural Lands) 2008* does not require a relevant planning authority to review or change its minimum lot size(s) in an existing LEP. A relevant planning authority can transfer the existing minimum lot size(s) into a new LEP. However, where a relevant planning authority seeks to vary an existing minimum lot size in an LEP, it must do so in accordance with the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

Consistency

- (6) A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:
 - gives consideration to the objectives of this direction,
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and
 - is approved by the Director-General of the Department of Planning and is in force, or
- (b) is of minor significance.

Comment

Both clauses 4(a) and 4(b) apply in that the Planning Proposal affects rural land in Adams Lead Road in Gulgong and Spring Flat Road and Environmental Management zoned land in Mudgee, therefore triggering consistency with either/or the Rural Planning and Subdivision Principles of the SEPP (Rural Lands) 2008, extracted below. However, the proposal is considered to be of minor significance and the Rural Planning Principles have not been considered.

The proposals are considered minor as outlined as follows:

(a) Spring Flat – this proposal creates an opportunity of a second dwelling on rural land that is permissible under the existing LEP but for the provision of a sufficient supply of water for irrigation. Further, Council has, in the past approved the subdivision of the site consistent with the rezoning proposal, however, the consent lapsed for want of water supply.

The proposal is generally consistent with the Comprehensive Land Use Strategy in so far as it is at least partly identified as an opportunity area for large lot residential (12ha MLS) lots.

(b) Adams Lead Road – this is while zoned RU1 Primary Production has an area of only 5ha with an existing dwelling. Under the current LEP a second dwelling could be erected on the site (but separate title could not be created by subdivision). The proposal does not affectively alter the land use capability of the site and the rezoning is considered minor.

(c) Market Street Mudgee and the provision to enable a boundary adjustment between lots that include land in the E3 Environmental Management zone –in this instance the E3 zone is adjacent to the urban area of Mudgee, the lots are undersize and there is no physical change to the land use as a result of the proposal.

Appendix 2 – Evaluation Criteria for issuing of Authorisation



Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?	N			
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?	N			
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		✓		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		✓		
Is the planning proposal proposed to rectify an anomaly in a classification?		✓		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		✓		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		✓		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		✓		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		✓		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		✓		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		✓		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N			
NOTES - Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. - Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.				