

1.1.1 Planning Proposal – Additional Dwellings Adams Lead Road Gulgong, Spring Flat Road and Market Street Mudgee

REPORT BY THE MANAGER STRATEGIC PLANNING TO 17 SEPTEMBER 2014 COUNCIL MEETING
Planning Proposals
GOV400038, LAN900046

RECOMMENDATION

That:

- 1. the report by the Manager Strategic Planning on the Planning Proposal – Additional Dwellings Adams Lead Road Gulgong, Spring Flat Road and Market Street Mudgee be received;**
 - 2. Council prepare a Planning Proposal to**
 - 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;**
 - 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**
 - 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 Cudgegong River; and**
 - 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.**
 - 3. the Planning Proposal be forwarded to the Gateway for determination.**
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Executive summary

Council has received three Planning Proposals all of which propose to enable subdivision to allow one additional lot for the erection of a dwelling. Two of the three proposals are straight forward. The third proposal will allow an additional dwelling but also will enable amendment to the LEP to address the uncertainties surrounding the subdivision and dwelling provisions for split zoned residential land. This is discussed further below.

Generally, the approach for minor Planning Proposals, where it is practical to do so and timing allows, is that they are bundled together to reduce administration and time for both staff and the proponents.

This report represents such a process of combining three matters into a single amendment. It is important to note that, if a particular issue threatens to delay a separate proposal, the amendment can once again be divided and those controversial issues dealt with as a separate amendment so as not to disadvantage individual proponents or proposals.

In this case the report relates to three Planning Proposals as follows:

- 1. 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;**

2. Rezone land to R2 Low Density Residential and amend the Lot Size Map on land in Adams Lead Road Lot 76 DP 755434 Gulgong;
3. Rezone to part R1 and part RE2 land in Market Street Lot 41 DP 703056 and Lot 1 DP 564729 Mudgee and insert a provision relating to the permissibility of subdivision & dwellings on certain split zoned Residential land

Detailed report

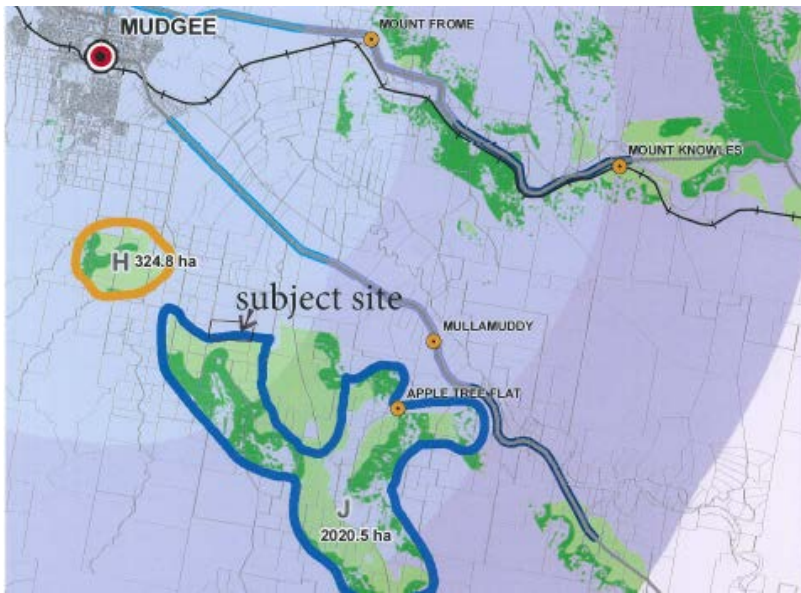
1. AMEND LOT SIZE MAP SHEET 006 IN SPRING FLAT ROAD LOT 52 DP 633029 SPRING FLAT TO REFLECT A 20HA MINIMUM LOT SIZE.

This proposal involves an amendment to the lot size map to facilitate the subdivision and additional rural dwelling. The site falls on the edge of the area identified in the Comprehensive Land Use Strategy (CLUS) as being identified as rural lifestyle opportunities within 15 km of Mudgee. The proposed amendment is generally consistent with the strategic direction established in the CLUS for lifestyle lots.

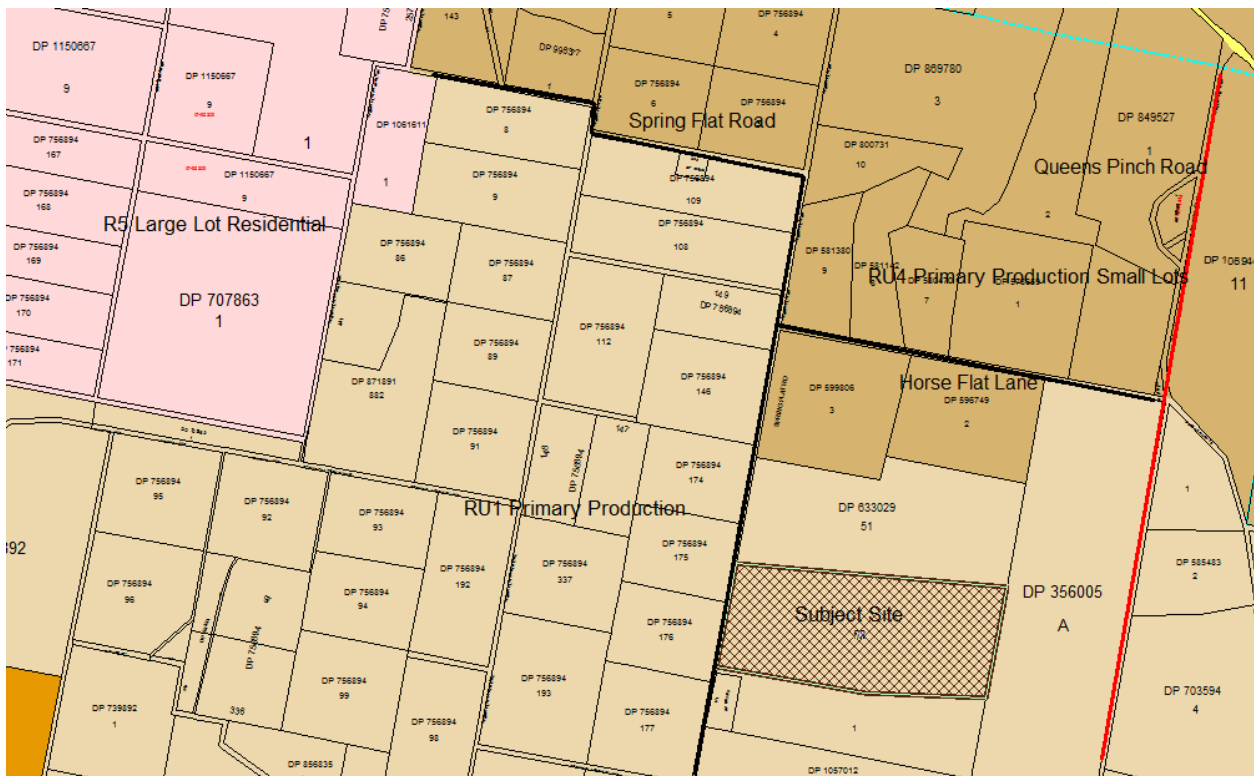
The site has an area of 44.05ha. In 2007 Council approved a subdivision for the land into two 20ha lots under the provisions for intensive agriculture. At this time part of the land use under grapes and a cellar door operated on the site. The subdivision consent included conditions relating to the availability of water which was not met resulting in the subdivision not proceeding at that time.

The CLUS through a constraints sieve process, identified land suitable for lifestyle development. This site is on the cusp of one such area identified at Spring Flat. To date, Council have not dealt with any proposals to rezone land to facilitate lifestyle development in the vicinity and the zone has not been applied to any other land at Spring Flat. In this instance the land is adjacent to the existing RU4 Primary Production Small Lots zone and within 2km of the sealed road network at Queens Pinch Road. The CLUS suitability criteria include a requirement that land be within 1km of the sealed road network. Clearly, this criterion has not been met. However, the circumstances are such that the rezoning proposes only one additional 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.



Extract CLUS Opportunity Area for Lifestyle Development Mudgee Map

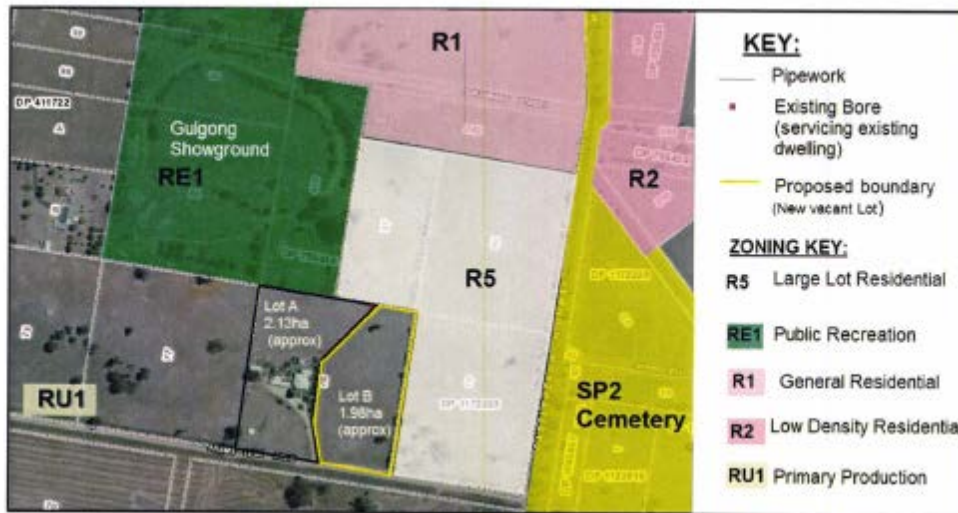


Extract Land Zoning Map

The amendment will require a change to LEP 2012 Map Sheet 5270_COM_LSZ_006_160_20140522.

2. REZONE LAND TO R2 LOW DENSITY RESIDENTIAL AND AMEND THE LOT SIZE MAP ON LAND IN ADAMS LEAD ROAD LOT 76 DP 755434 GULGONG

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.



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.

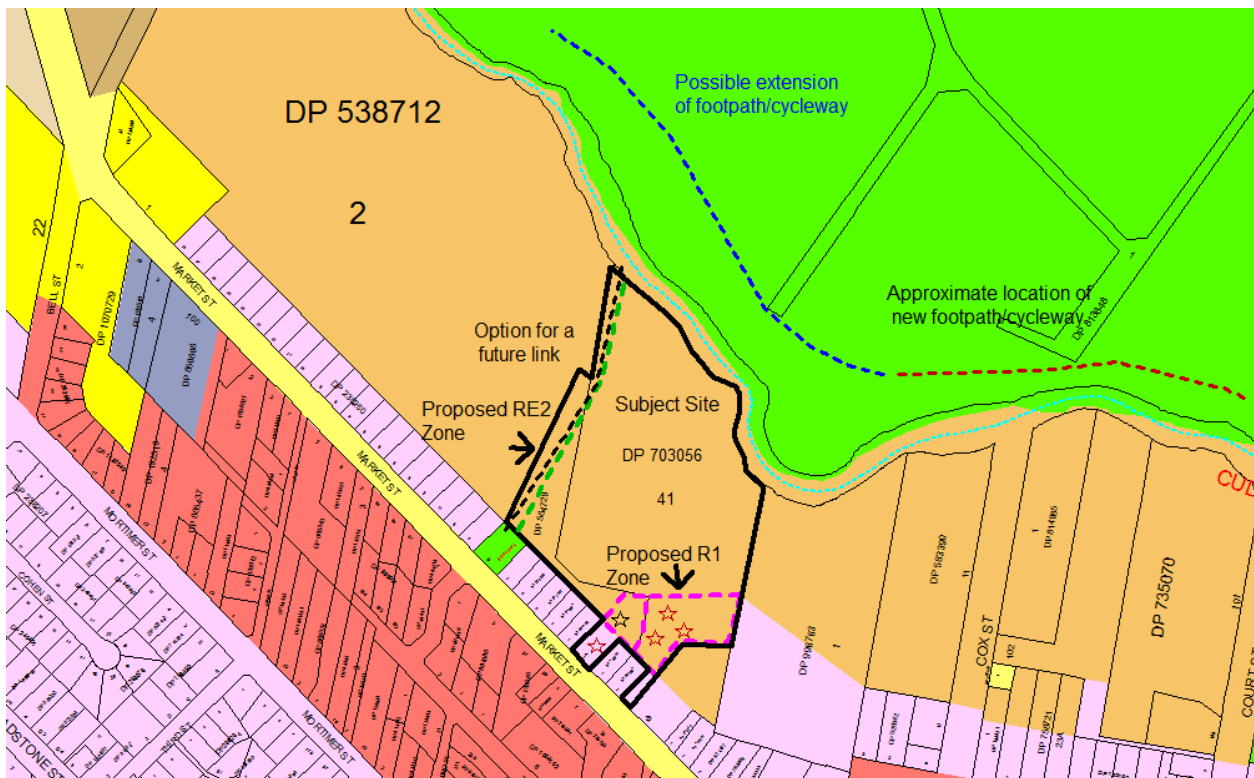
At 2ha the site would generally not be required to be connected to water and sewer, however, Adams Lead Road from the new lot to the Castlereagh Highway being a distance of approximately 260m may be required to be sealed though the development application process.

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 site 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.

3. REZONE TO PART R1 AND PART RE2 LAND IN MARKET STREET LOT 41 DP 703056 AND LOT 1 DP 564729 MUDGEES AND INSERT A PROVISION RELATING TO THE PERMISSIBILITY OF SUBDIVISION & DWELLINGS ON CERTAIN SPLIT ZONED RESIDENTIAL LAND

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 Cudgegong River from Interact Park in Market Street. This is shown on the map below.



Extract Planning Proposal prepared by Minespex

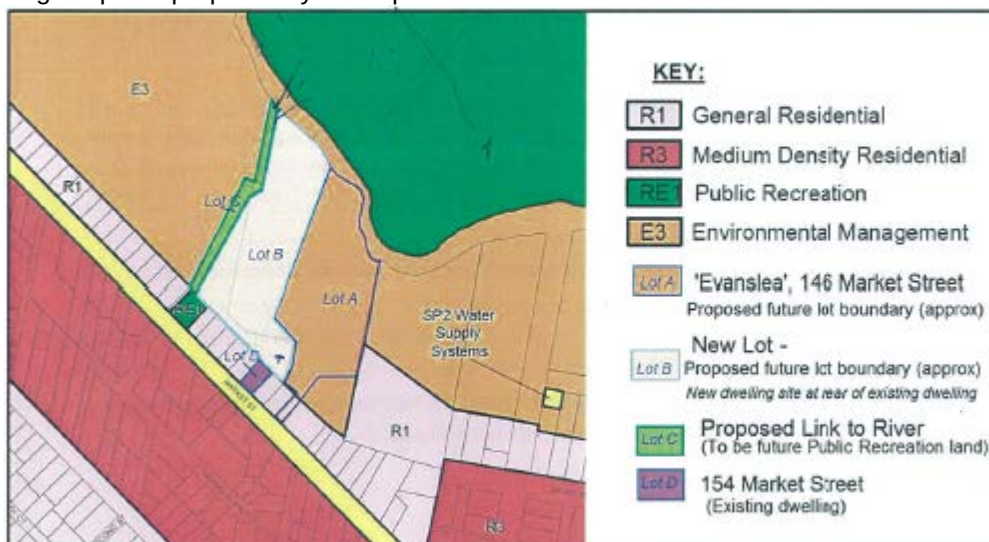


Figure 16: Overview of Concept Plan

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.

One of the issues plaguing Council is the difficulty and uncertainty around development and subdivision of residential land with more than one minimum lot size. This issue is again raised in this planning proposal and it is timely that Council seek clarification via a provision on the LEP 2012 which addresses this.

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.

Rezoning part of the site alone will not overcome the difficulties in undertaking a boundary adjustment and subdivision as part of the site will be E3 Environmental Management. 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.

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. The intention of the amendment is to clarify the LEP in relation to the split zoned parcels requiring that minimum lot size is required to be achieved in the applicable zone for the erection of a house and/or subdivision.

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.

At this stage it is recognised that further discussion with the Department of Planning & Environment as to the mechanism for achieving the desired outcome may be required.

Financial and Operational Plan implications

Not applicable.

Community Plan implications

The strategic planning function sits under the theme Looking After Our Community in the Community Plan. Should be recommendation proceed it will have implications for land use development as a result of an amendment to the LEP 2012.



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CATHERINE VAN LAEREN
DIRECTOR, DEVELOPMENT & COMMUNITY SERVICES

5 September 2014

Attachments: (included at the end of the business paper)

1. Planning Proposal Spring Flat Road
2. Planning Proposal Adams Lead Road Gulgong
3. Planning Proposal Market Street Mudgee.

APPROVED FOR SUBMISSION:



BRAD CAM
GENERAL MANAGER