

1.1.1 Rural Residential Development (2ha Lots) in Mudjee & Planning Proposals “Menah” and Broadhead Road, Mudjee

REPORT BY THE MANAGER STRATEGIC PLANNING TO 20 MAY 2015 COUNCIL MEETING

Planning Proposal Menah & Broadhead

GOV400043, LAN900053, LAN900054, LAN900044, LAN900043

RECOMMENDATION

That:

1. **the report by the Manager Strategic Planning on the Rural Residential Development (2ha Lots) in Mudjee & Planning Proposals “Menah” and Broadhead Road, Mudjee be received;**
2. **the Comprehensive Land Use Strategy be amended to include criteria for the suitability of land to be rezoned for 2ha rural residential development;**
3. **Council support in principle the intent of the Planning Proposal in relation to part Lot 2 DP 136904 and Lot 3 DP 578806 (known as “Menah”) for 2ha rural residential lots with an additional requirement that the documentation be amended to:**
 - (i) **delete reference to 12ha lots;**
 - (ii) **amend the layout such that the land that is rezoned is limited to an area sufficient to accommodate 20 lots; and**
 - (iii) **all of the 2ha lots are fully above the 1 in 100 year flood level;**
4. **Council support the Planning Proposal in relation to part Lot 4 DP 1206488 Broadhead Road Mudjee; and**
5. **the Planning Proposals be forwarded to the Department of Planning and Environment Gateway for determination.**

Executive summary

Council has received three Planning Proposals for 2ha rural residential development. The first of these is from Minespex on behalf of the landowner Mr de Kantzow seeking an amendment to Local Environmental Plan 2012 to facilitate the development of land in Part Lot 2 DP 136904 and Lot 3 DP 578806 known as “Menah” into 2ha and 12 ha lots.

A second proposal also prepared by Minespex on behalf of Mr Peter Consadine has been received for 2ha rural residential lots in Broadhead Road. These two proposals are being considered under a single report.

A third proposal for the same form of development has been received from Barnson on behalf of Burrundulla Pty Ltd. This has been considered under a separate report. If necessary for efficiency of administration the proposals will be combined for the purposes of the Gateway Determination.

The former abattoir site (currently owned by Frome Street Investments) while no formal proposal has been received, has been the subject of a Planning Proposal for 2ha lots that was subsequently withdrawn but the site was none the less included as a potential area for 2ha lots in the Urban Release Strategy despite being tagged as having potential for industrial uses. Council has also received a pre-lodgement enquiry for a proposal from Barnson on behalf of Clr & Mrs M Walker

again for a small number of 2ha rural residential lots. While neither of these sites have been included in terms of the formal assessment, the report considers the inclusion of the suitability of rural residential development within the context of the Mudgee town and any criteria that might be adopted will apply in considering the suitability of these sites as well as any other land as yet unanticipated.

On November 5 2014 Council resolved that a *“report be presented to Council to amend the Comprehensive Land Use Strategy including the Mudgee Town Structure Plan to incorporate options for future urban expansion including identification of opportunities for rural residential development”*.

The 2ha issue is addressed in this report to the extent that would enable the Comprehensive Land Use Strategy (CLUS) to be amended to include criteria for rural residential development and confirms that the three sites subject of the current proposals are considered to generally meet that criteria. The issue in relation to the amendment of the Town Structure Plan for general residential development is yet to be resolved, however, at this stage it is generally acknowledged that long term expansion could occur either south in the direction of Spring Flat or north across Hill End Road and “Menah”, therefore, the criteria for the location of the 2ha rural residential lots has had regard to the higher order potential of these areas and excludes them.

In terms of the release of land, this report concludes that, consistent with the principles previously applied to large lot residential development, where there are opportunities available at alternative locations, rezoning should not be limited to a single site, however, the area of land within each of these sites that is actually rezoned should be limited to an area equivalent to a yield of 25 lots as the first stage of the release. The take up of zoned land will continue to be monitored consistent with the recommendations of the Urban Release Strategy.

Detailed report

AMENDMENT OF COMPREHENSIVE LAND USE STRATEGY

As identified above, on November 5 2014 Council resolved that a *“report be presented to Council to amend the Comprehensive Land Use Strategy including the Mudgee Town Structure Plan to incorporate options for future urban expansion including identification of opportunities for rural residential development”*.

In assessing a planning proposal the first question the Department of Planning will ask in relation to the justification of the proposal is ***“Is the planning proposal a result of any strategic study or report”***. In the case of Mudgee the predominant “strategic study” is the CLUS which fails to consider 2ha lots in the context of Mudgee and it was for this reason that consideration of proposals for this form of development has been previously deferred.

FUTURE URBAN DEVELOPMENT

Significant work was undertaken in 2013 by way of reviewing the potential options for residential development in the very long term. While the Urban Release Strategy (URS) identifies sufficient land to cater for general residential development for the next 20 years, infrastructure planning has a much broader horizon. Mudgee is constrained by topography and limits to servicing to the south-east and the Cudgegong River leaving two areas adjacent to the existing urban fringe as options to accommodate urban expansion. For the purposes of this report, these areas have been shown as an overlay on the current Mudgee Town Structure Plan for *illustrative purpose only*. These areas have been highlighted as a constraint to development for 2ha rural residential lots because once land is fragmented to 2ha it becomes unviable or difficult to develop to a higher general residential density (ie 450-600m² minimum lot size). Therefore, the first identified constraint criteria for 2ha lots is to exclude land that might otherwise be suitable for general residential development.

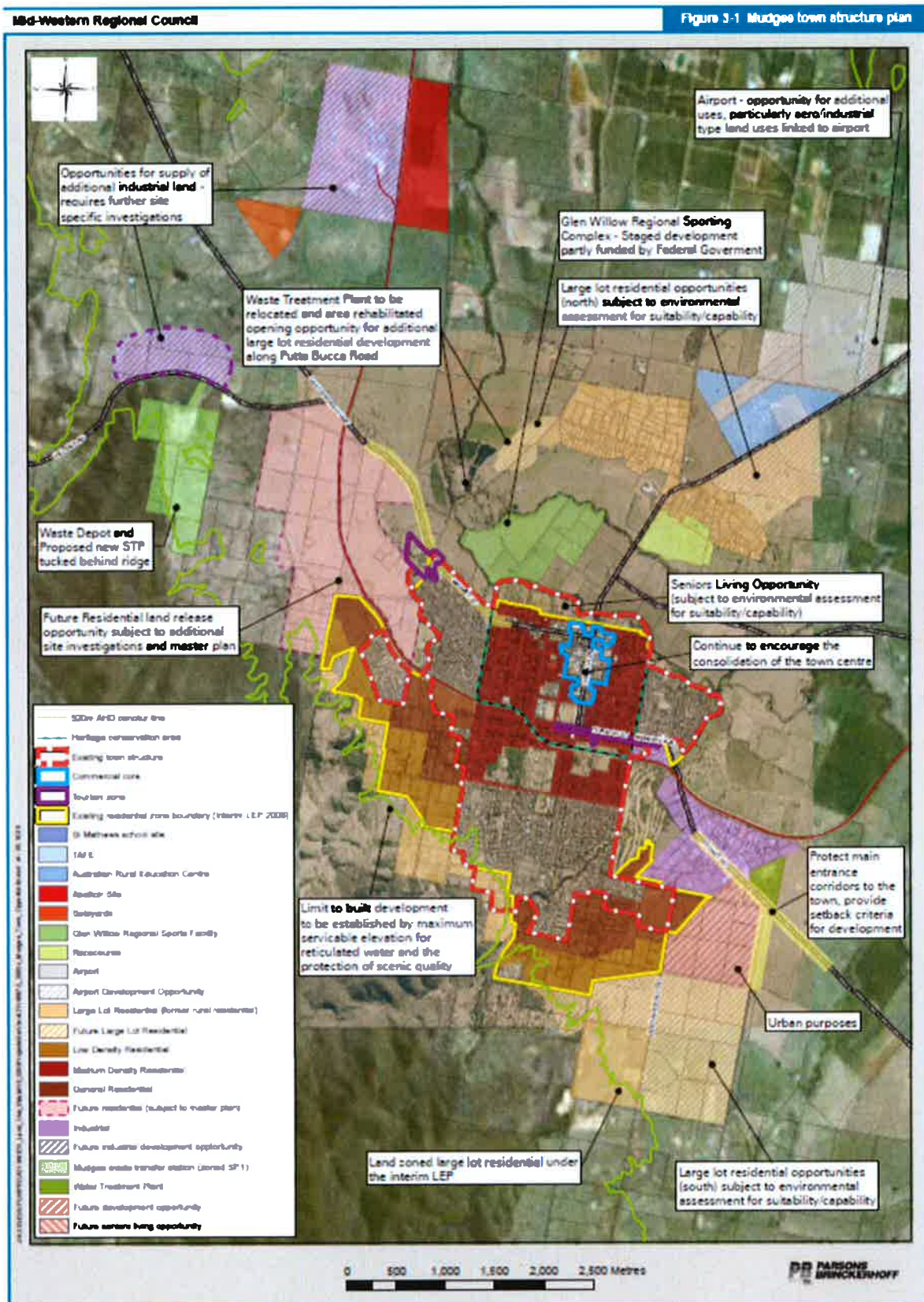
CRITERIA FOR 2HA RURAL RESIDENTIAL

There is a current supply of land zoned for the development of 2ha rural residential lots in Mudgee. The URS indicates that the supply in Mudgee is 63 lots equating to 9 years (Mudgee and Gulgong

Urban Release Strategy, 2014, p 71). While in theory this provides an adequate short term supply, the land in question is generally constrained by both existing fragmentation but more fundamentally provisions that enable subdivision to 2000-4000m² should reticulated water and sewer become available. These lots are located between Henry Bayly Dr across to Bellevue Road and on the northern side of Mudgee opposite the AREC and TAFE sites. The opportunity to create a 2ha rural residential subdivision therefore is considered to be currently unavailable and supply at zero.

The CLUS did not include or identify, in the Mudgee Town Structure Plan (Figure1), the opportunity for this form of development. At that time, the focus was to ensure that the existing rural residential land could be serviced and subdivided to achieve the higher density, as the experience had been at Putta Bucca that once it became feasible to provide reticulated sewer land owners took the advantage of the smaller lot sizes.

Figure 1 Mudgee Town Structure Plan from CLUS



As 2ha rural residential development falls outside the CLUS, additional justification is required to demonstrate the consistency of the proposal in the context of the supply of residential land within the town. In order to overcome this, and to provide a holistic approach, the following criteria have been developed against which planning proposals of this nature can be assessed. It is proposed

that the CLUS be amended to include this criteria. The Mudgee Town Structure Plan Map has been marked up to reflect the areas subject to planning proposal considered suitable and provide a visual spatial context to these areas in relation to the existing urban areas (attachment 1). Other variations to the Town Structure Plan Map reflect the recommendations of the URS as it relates to land in Rifle Range Road in relation to future general residential land. It also includes the retagging of the former abattoir site to remove the future industrial tag and simply identify the site as the former abattoir to provide greater flexibility. The Town Structure Plan also highlights the north and south residential investigation areas simply to exclude them from further fragmentation beyond that which is currently permissible in the Local Environmental Plan.

Any amendment to the CLUS will require the concurrence of the Department of Planning and Infrastructure, strategic justification, community and public agency consultation and public exhibition. At this stage it is proposed that Council approach the Department with the view to including criteria for 2ha rural residential lots. Formal changes to the Town Structure Plan area not proposed at this stage without further review so as outlined above, the Town Structure Plan Map attached is to provide context and for illustrative purposes only.

CRITERIA FOR 2HA LOTS

As discussed above, criteria have been developed to guide assessment as to the suitability of land for 2ha rural residential lots.

The Development area:

- can be managed to avoid land use conflict. Rural residential development should have regard to the surrounding agricultural land use and may in itself provide a buffer between higher density general residential land and agricultural land;
- is unconstrained by flooding, that is above the flood planning level of the 1 in 100 ARL;
- can be connected to the existing road network by sealed road access and is fully serviced by a sealed road;
- is not visually intrusive and does not impact on the visual amenity or sensitive corridors identified in the CLUS on the Mudgee Town Structure Plan;
- will not undermine future residential land opportunities. It should be located on land that is not, or unlikely to be suitable for general residential land at some point in the future. To this end the Mudgee Town Structure Plan identifies through areas both north and south that may be considered suitable for urban purposes at some point in the long term;
- will not adversely impact on the groundwater system. Mudgee is fully within an area identified by the NSW Office of Water as being significant in terms of groundwater vulnerability. Any development, and in particular unserviced development should have regard to the potential impact on the groundwater system.
- can be justified in terms of supply and demand and reference is made to the URS in terms of the likely anticipated demand (excluding land zoned but having a 2000-4000 option subject to servicing);
- can be managed to reduce bushfire hazard;
- is not significantly constrained by an area mapped as a high biodiversity sensitivity area;
- should avoid agricultural land capability assessment class I-II agricultural land. The CLUS acknowledged that all of the land around Mudgee falls within the higher value agriculture land, however, preference should be given to land that is not within class I-II.

Servicing

The Mid-Western Regional Local Environmental Plan 2012 (LEP) includes provisions relating to subdivision in clause 4.1, in particular clause 4.1 (3A) provides that despite the minimum lot size map, land in defined areas A and B on the map may be subdivided to 2000 and 4000m² respectively provided that they can be connected to reticulated water and sewer. These provisions were based on an historic provision in earlier LEPs providing for subdivision to 4000m² once the land could be serviced. An example of these provisions in action is the re-subdivision that occurred on the northern side of Putta Bucca Road following the extension of the reticulated sewer. Currently most of the land with the 2ha minimum lot size is also identified in either area A or B and

it is anticipated that these areas will develop to that density. The Development Control Plan (DCP) requires that where a dwelling is within 500m of a R1 General Residential or R2 Low Density Residential zone it must be connected to reticulated water and sewer. Neither the LEP or DCP clearly or specifically address the requirements for the subdivision to create 2ha lots.

By including suitability criteria that specifically rules out land that may be suitable for general residential development, Council is pushing this form of development into some areas that cannot, at this stage be connected to water and sewer without significant investment in infrastructure and it is assumed that these areas will be developed with on-site water and wastewater treatment. The type of systems be it on-site or reticulated, in particular wastewater management will need to be designed having regard to the individual lots and location in terms of soil type, groundwater sensitivity and system capabilities. The suitability of individual sites can be addressed as part of both the subdivision and individual dwelling applications.

Supply/Demand

The approach to the provisions of residential land in Mudgee in the past has been to provide a wide range of lot sizes and opportunities without monopolising one particular area. This is evidenced in the provision of General Residential R1 land both in the Caerleon area and South Mudgee, and the Low Density Residential R2 both north and south of the town centre. Applying this philosophy does not limit Council to singling out one particular area but providing choice and the opportunity to strategically identify a number of locations of the urban fringe that may be considered suitable based on the set criteria.

In terms of supply and demand, as discussed above, despite the URS the supply of land for 2ha lots is zero. Infrastructure demands and delivery of lots to the market have a different cost structure that general residential development which will always be fully serviced. Council need to balance the provision of supply with the need to avoid flooding the market. Based on the URS the requirement for this form of development is 7 lots per year. Allowing for five years supply, plus a sensitivity buffer of 5 years this would be 70 lots. Further, if Council takes the approach to the location of this form of development in terms of providing market choice in a manner consistent with other forms of residential land, these 70 lots could justifiably be distributed amongst the sites identified in the three proposals rather than singling one site out. The Broadhead Road site yields 21 lots. This leaves a 49 lot shortfall which could be distributed, at this stage between the "Menah" site and Spring Flat Road site. Therefore, it would be desirable that, should Council support the 2ha rural residential form of development at these locations it is, at this stage, limited to 25 lots at each site. If the three planning proposal have merit, it will bring the supply of zoned land back in line with the supply assumed in the URS (the URS estimated a supply of 63 lots and these proposals, if supported will yield up to 70).

The two planning proposals being considered in this report have been assessed against this criteria below.

"Menah" 2ha and 12ha Lots

The Planning Proposal seeks to amend the Mid-Western LEP 2012 to facilitate development of land in part Lot 2 DP 136904 and Lot 3 DP 587806 known as "Menah".

A similar proposal for the same site was considered by Council in December 2014 at which time Council resolved as follows:

the proponent be invited to withdraw the planning proposal with a full refund of their fees pending the outcome of the report into the review of the Comprehensive Land Use Strategy and Town Structure Plan.

The recommendation was on the basis that the proposal was inconsistent with the CLUS and the Mudgee Town Structure Plan which fails to identify the 2ha rural residential lot size as an option in the Mudgee urban context.

The Planning Proposal identifies two elements in terms of development, each discussed below.

Primary Production Small Lots 12ha MLS

The proposal includes the identification of land east of the railway line and bounded by Wilbertree Rd as an opportunity for 12ha lots which would yield 6 lots (as per the proposal submitted). This land is currently zoned Primary Production Small Lots with a 20ha MLS with a dwelling entitlement subject to the use of the land for intensive agriculture. The land is also constrained by the 1 in 100 year flood planning level.

This was dealt with in the Report to Council in December as repeated below and the assessment remains the same. The following three paragraphs have been extrapolated from the December report to Council.

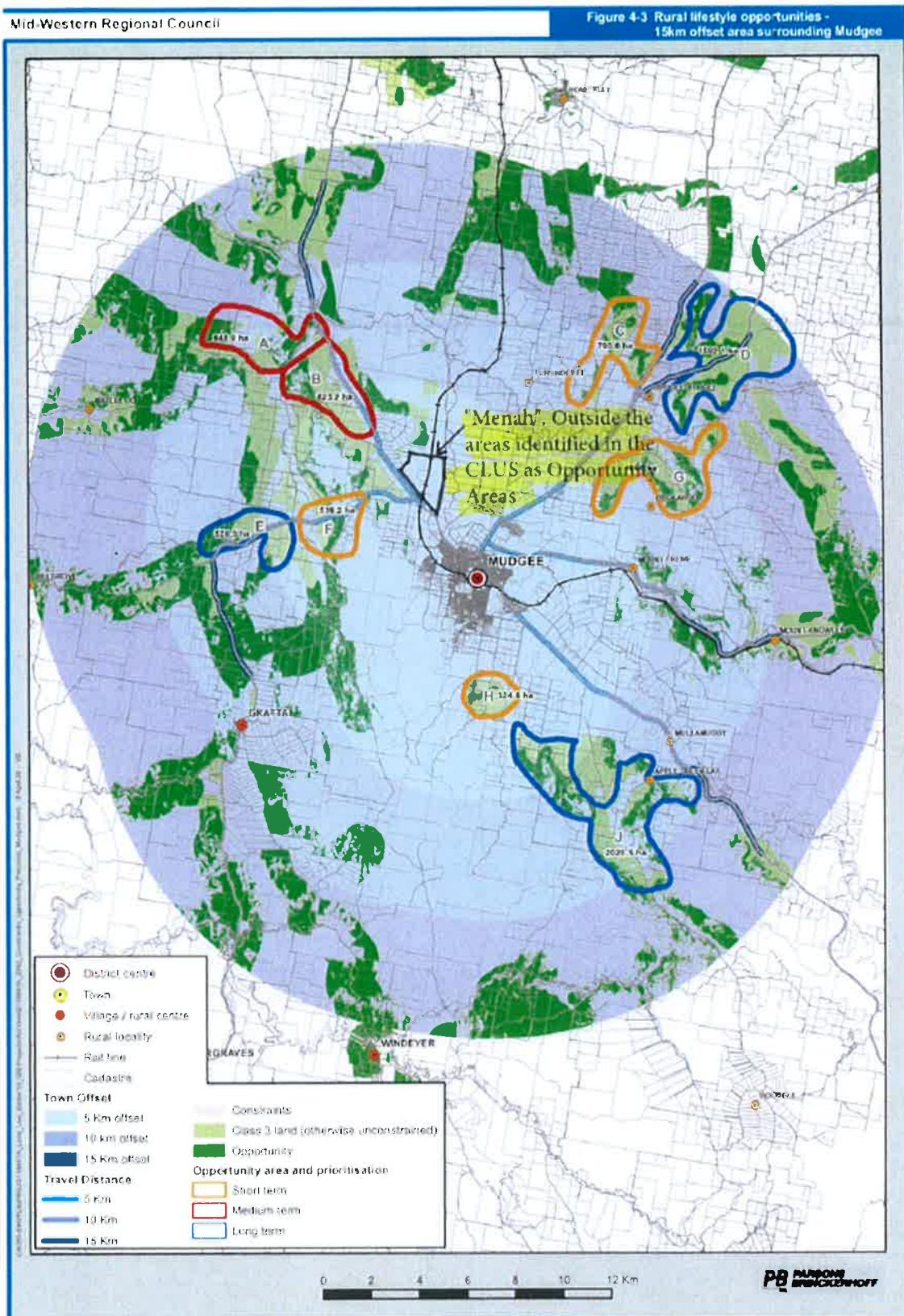
This is a form of development that was identified in the CLUS. The CLUS undertook a constraint analysis in order to determine what became known as “opportunity areas” for lifestyle development with a 12 ha MLS. The CLUS Part B – Constraints and Opportunities addressed this under 2.2 Rural Settlement Management. The CLUS states that “one of the key strategies for the rural areas is to restrict residential/lifestyle development to the most appropriate locations and in doing so, provide for sustainable and productive agricultural lands” and this was assessed by identifying constraints and limitations and (Parsons Brinkerhoff Pty Ltd, 2009, Comprehensive Land Use Strategy: Part B – Constraints and Opportunities, p6).

The primary rural land use constraints included the following; National Parks and Nature Reserves, Crown Land, coal mining titles, steep slopes (greater than 26%), Class I-III Agricultural land, water supply catchments, ecologically significant vegetation, rivers and streams, flood prone land, Cudgegong Valley Alluvium Groundwater Management Area, prime viticultural region and buffers between incompatible land uses. In addition there were a number of other secondary constraints that could be assessed on a site by site basis including: bushfire risk, ecological value, heritage, soil quality, moderate slopes and water supply.

Finally, in addition to the physical constraints, the CLUS identified a number of suitability factors to be considered in identifying rural lifestyle opportunity areas as well as in the case of Mudjee land within 15km radius and within 1km of a sealed road. A sieve process was applied and the opportunity areas were mapped.

The Opportunity Area Map for Mudjee is reproduced in Figure 2 below. Those areas that are green indicate land that satisfied the criteria. It is noted that “Menah”, in particular land fronting Wilbertree Road is not identified in the CLUS as an opportunity area for 12ha lifestyle lots.

Figure 2 Extract CLUS Rural Lifestyle Opportunity Areas (Mudgee)



The text of the report to December suggested that there may be an opportunity to re-visit the 12ha lots in the context of the review of the Town Structure Plan. Addressing this now, the planning proposal submitted does not provide sufficient justification to fragment otherwise productive agricultural land into lifestyle lots. The CLUS identifies sufficient land for this purpose within the 15km radius from Mudgee (as evidenced by the map above) that is neither as productive nor

subject to restrictions of flooding. The planning merits for supporting this aspect of the proposal lacks sufficient justification predominately due to the physical constraints of the site and the volume of land identified and as yet not developed for this purpose.

Large Lot Residential 2ha Lots

The Planning Proposal includes the rezoning to facilitate the development of 34 2ha lots east of the railway line extending north. Eleven of these lots are partly constrained by the 1 in 100 flood level however, all have building envelopes and access above the flood level.

The following Figure 3, extracted from the Planning Proposal document on page 3 shows the preliminary concept plan for the site.

Figure 3 – Concept Plan (Fig 1) from Planning Proposal

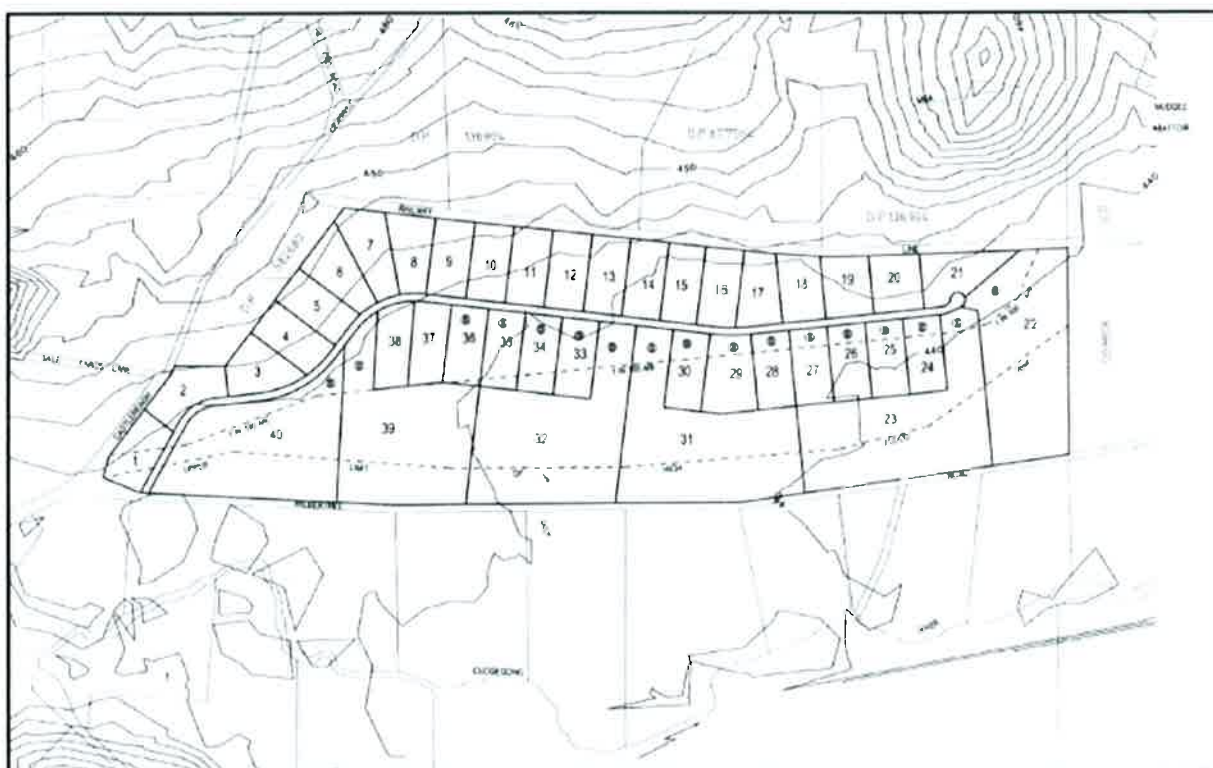


Figure 1: Concept Plan (nts)

The criteria as identified above have been applied to the site to determine suitability.

Criteria	Complies	Comment
will not undermine future residential land opportunities	Yes	is outside both the north and south future urban investigation areas
can be managed to avoid land use conflict	Yes	May need additional safeguards
is unconstrained by flooding	No	Only part of the site is unconstrained by flooding
can be connected to the existing road network by sealed road access	Yes	Will connect to Wilbertree Road
is not visually intrusive and does not impact on the visual	Yes	Is screened from the northern entrance to town
will not adversely impact on the groundwater system	Yes – however located within groundwater vulnerability area.	Is within the high groundwater vulnerability area. Proposal is supported by a hydrological study. Site is down stream of the Mudgee town water supply catchment

can be justified in terms of supply and demand	Possible – need to consider the context of URS	Supply and demand will continue to be difficult to measure until such time as this form of development reaches the market and Council has the sales data however based on the URS; providing a 5 year supply and 5 year buffer the proposal should be limited to 25 lots
Land is not constrained by identified biodiversity sensitivity	Yes	Unconstrained
can be managed to reduce bushfire hazard	Yes	Outside the bushfire hazard area.
avoid agricultural land capability assessment class I-II agricultural land	Yes	The site is identified in as class III in the eSPADE Google Maps-based information system administered by the Office of Environment and Heritage.

Based on the criteria, flooding, the groundwater vulnerability and the demand/supply remain the only inconsistencies. There is an opportunity to provide rural residential development that is not impacted by flooding both at this site and applying the criteria to other land on the fringe of Mudgee. In this case, only that land that is fully outside the 1 in 100 year flood level is considered suitable for rural residential development. While it is acknowledged that building envelopes and the road can be situated above that level other infrastructure, in particular fences and farm buildings may be below it. Any risk or liability, particularly when there may be opportunities that don't present the same level of risk, should be avoided.

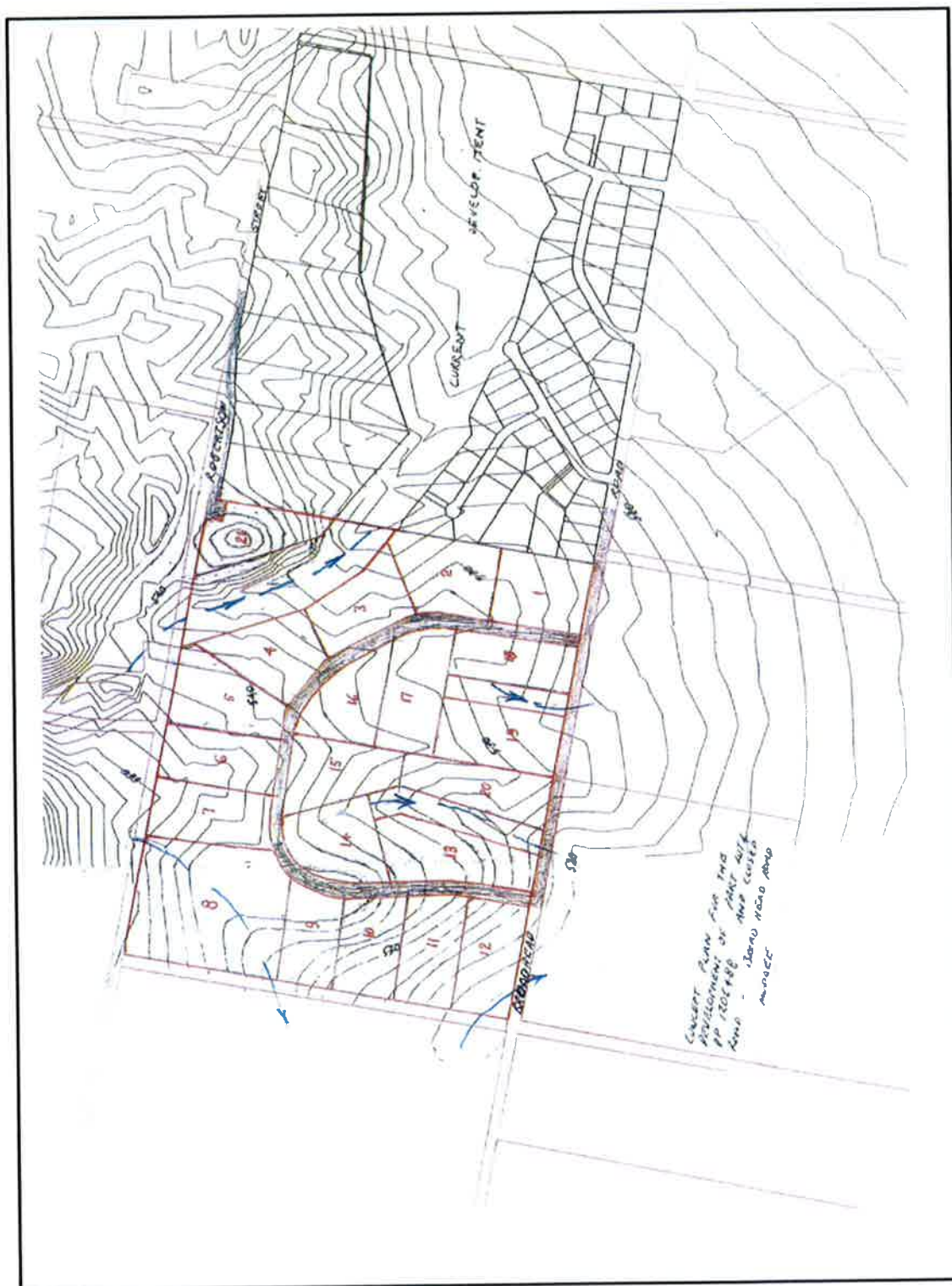
The proposal includes a hydrological assessment that satisfactory addresses the groundwater vulnerability issue for the purposes of the rezoning of the land.

In terms of supply and demand, as discussed above, despite the URS the supply of land for 2ha lots is zero. Based on the earlier assumptions in terms of land supply, the "Menah" site should be limited to 25 lots.

Broadhead Road 2ha Lots

The Planning Proposal (attachment 2) seeks to amend the Mid-Western Regional Local Environmental Plan 2012 to enable the development of 2ha rural residential lots on land at Lot 4 DP 1206488 Broadhead Road Mudgee. The site is illustrated in Figure 4 below.

Figure 4 – Concept Plan for Broadhead Road



Criteria	Complies	Comment
conflict		
is unconstrained by flooding	Yes	
can be connected to the existing road network by sealed road access	Yes	Will require extension of Broadhead road seal
is not visually intrusive and does not impact on the visual	Yes	
will not adversely impact on the groundwater system	Yes	About 30% of the site is identified as within the high groundwater vulnerability area & a combination of design and on site waste water management should be sufficient safeguards. Further assessment should be undertaken at DA stage.
can be justified in terms of supply and demand	Possible – need to consider the context of URS	Supply and demand will continue to be difficult to measure until such time as this form of development reaches the market and Council has the sales data however based on the URS; providing a 5 year supply and 5 year buffer the site can be justified
can be managed to reduce bushfire hazard	Yes	Outside the bushfire hazard area.
Land is not constrained by identified biodiversity sensitivity	No	Part of the site is identified as high biodiversity sensitivity along the watercourse which has been avoided in the layout, however, it is proposed to include this area within the rural residential zone. Further, the layout will need to be re-worked to include this site within proposed Lot 21 rather than as a reserve for drainage and subsequently a maintenance legacy for Council.
avoid agricultural land capability assessment class I-II agricultural land	Yes	The site is identified in as class IV in the eSPADE Google Maps-based information system administered by the Office of Environment and Heritage.

This site is considered to generally meet the criteria as identified. The only inconsistencies are in relation to part of the site on the edge of the groundwater vulnerability map, a small area of biodiversity sensitivity and supply and demand as discussed above all of which can be adequately addressed as part of the development application and mitigated.

Bombira and Abattoir Sites

The amendment to the CLUS to include criteria against which to assess future proposals will facilitate consideration of the Bombira and Abattoir sites at such time as these are submitted. In addition, amending the Mudgee Town Structure Plan to remove the “Future Industrial Area” tag from the abattoir site and inserting simply “Former Abattoir Site” will provide Council with greater flexibility to consider the future development of that site.

Financial and Operational Plan implications

Not applicable.

Community Plan implications

The recommendation is consistent with the Community Plan. The strategic planning function sits under the theme Looking After Our Community in the Community Plan in relation to the delivery of housing through effective land use planning.



ELIZABETH DENSLEY
MANAGER, STRATEGIC PLANNING



CATHERINE VAN LAEREN
DIRECTOR, DEVELOPMENT

4 May 2015

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

1. Town Structure Plan Map
2. Planning Proposal "Menah"
3. Planning Proposal Broadhead Road

APPROVED FOR SUBMISSION:



CLARE PHELAN
ACTING GENERAL MANAGER