

8.8 Planning Proposal Lot 1 DP130555, Lots 93, 94, 97 and 98 DP755426 and Lot 1 DP712926, 37, 39, 139 and 141 Calderwood Road, Rylstone

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 17 FEBRUARY 2021 ORDINARY MEETING
GOV400088, LAN900120

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 1 DP130555, Lots 93, 94, 97 and 98 DP755426 and Lot 1 DP712926, 37, 39, 139 and 141 Calderwood Road, Rylstone;**
2. **provide initial support for the rezoning and change to minimum lot size of Lot 1 DP130555, Lots 93, 94, 97 and 98 DP755426 and Lot 1 DP712926, 37, 39, 139 and 141 Calderwood Road, Rylstone;**
3. **forward the Planning Proposal to amend the *Mid-Western Regional Local Environmental Plan 2012* to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*; and**
4. **undertake community consultation as outlined within any approved Gateway Determination.**

Executive summary

Council has received a Planning Proposal seeking an amendment to the Mid-Western Regional Local Environmental Plan 2012 to rezone the subject site from RU1 Primary Production with a current minimum subdivision lot size of 100 and 40 hectares to R5 Large Lot Residential with a minimum lot size of either 2 or 5 hectares. The minimum lot size will be determined by water source/s demonstrated. Further details of the water source/s will likely be a condition of any future Gateway Determination and will be further considered during any future development application for subdivision.

The subject site comprises 6 lots; Lot 1 DP130555 (a closed road), Lots 93, 94, 97 and 98 DP755426 and Lot 1 DP712926, with a combined area of 42 hectares. The subject site is located to the west of Rylstone and has frontage to Calderwood Road to the north. Calderwood Road extends around the site along the western boundary and then into the site. The site has frontage to the Cudgegong River to the south.

The Planning Proposal has been considered in accordance with Council's Comprehensive Land Use Strategy (CLUS), specifically, Part C. Part C outlines the future large lot residential land supply opportunities around Rylstone, this is visually displayed in Figure 3-3 Rylstone Town Structure Plan. The proposed rezoning and change to the minimum lot size is considered consistent with Part C of the CLUS.

The Planning Proposal provided as Attachment 1 has been prepared in accordance with the structure outlined in the NSW Department of Planning Industry and Environment (DPIE) Guide to Preparing Planning Proposals. The report outlines the context, intended outcomes, explanation of provisions and justification for the Planning Proposal.

The staff recommendation is to provide initial support for the Planning Proposal and to send to the Department of Planning Industry and Environment (DPIE) for a Gateway Determination. If the staff recommendation is supported, the Planning Proposal along with the Council resolution will be forwarded to DPIE for Gateway Determination.

Disclosure of Interest

Nil.

Detailed report

Planning Proposals

Planning Proposal is a term used to describe the process of rezoning or making an amendment to a Local Environmental Plan (LEP). A Planning Proposal application is a document that explains the intended effect of the LEP amendment and provides a strategic justification for doing so. DPIE has issued A Guide to Preparing Planning Proposals, to provide guidance and information on the process for preparing planning proposals.

The Gateway Process

DPIE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPIE's A Guide to Preparing Local Environmental Plans.

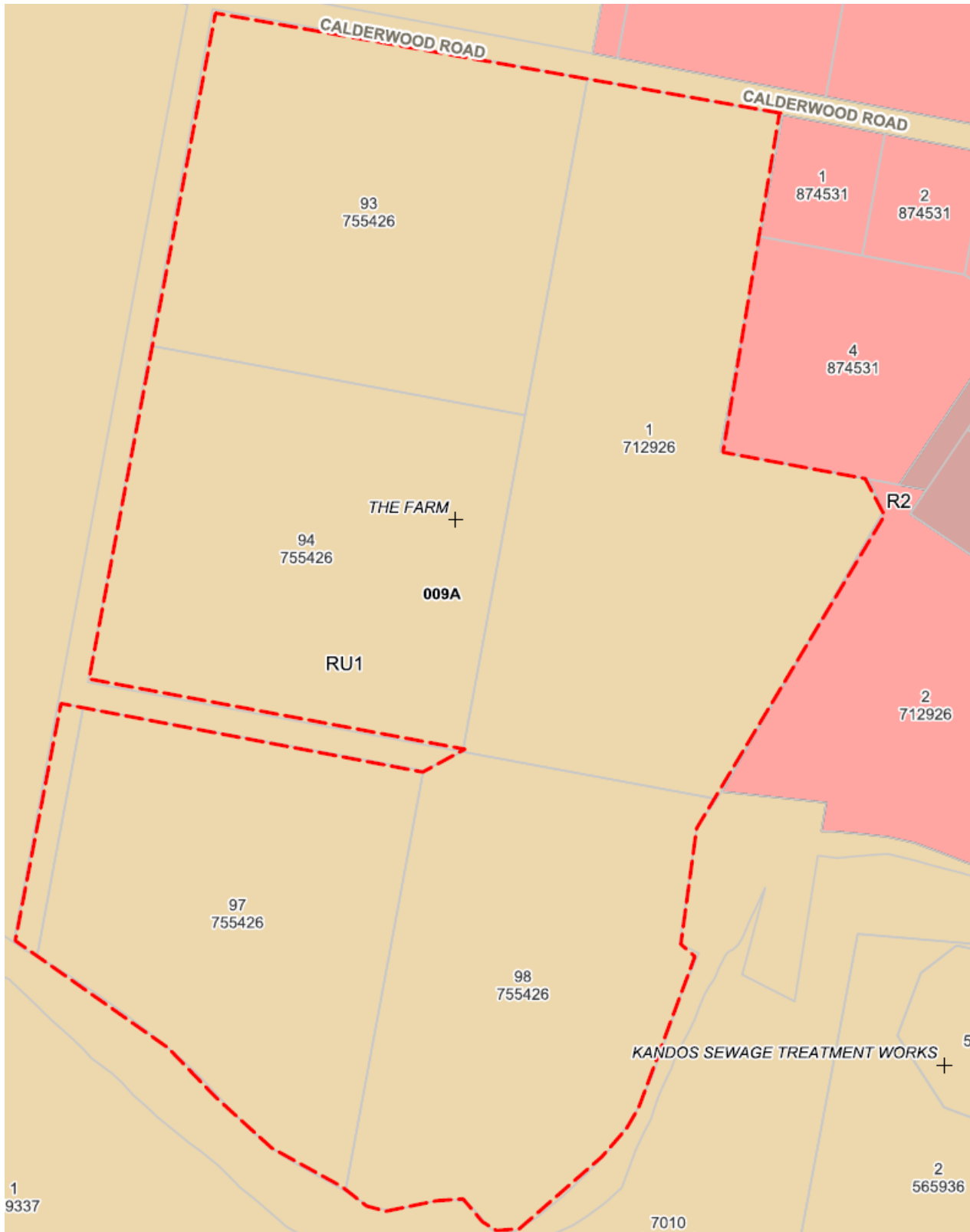
Gateway Timeline

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan and the progress of the current Planning Proposal through the various stages. The below table demonstrates the Planning Proposal is within the initial stage of the process.

| Stage | Completed | Comment |
|--|-----------|--|
| Preparation of a Planning Proposal | | |
| Planning Proposal lodged with Council | ✓ | October 2020 |
| Staff Undertake Initial Assessment | ✓ | October 2020 - January 2021 |
| Council Decision to Support Proposal | ✓ | The Planning Proposal is being reported to 17 February 2021 meeting. |
| Issue of Gateway Determination | | |
| Council Requests Gateway Determination | | |
| DP&E Issues Gateway Determination | | |
| Gateway Conditions Satisfied | | |
| Consultation | | |
| Consultation with Relevant Agencies | | |
| Public Exhibition | | |
| Post-Exhibition Report to Council | | |
| Finalisation of the Planning Proposal | | |
| Council Exercises Delegation to Prepare LEP | | |
| Draft LEP by Parliamentary Council | | |
| Opinion Issued and LEP Made | | |

PROPOSED

The Planning Proposal seeks to rezone the subject site from RU1 Primary Production with a current minimum subdivision lot size of 100 and 40 hectares to R5 Large Lot Residential with a minimum lot size of either 2 or 5 hectares. The below map highlights the subject site and current zoning.



Subject site and current RU1 Primary Production zoning.

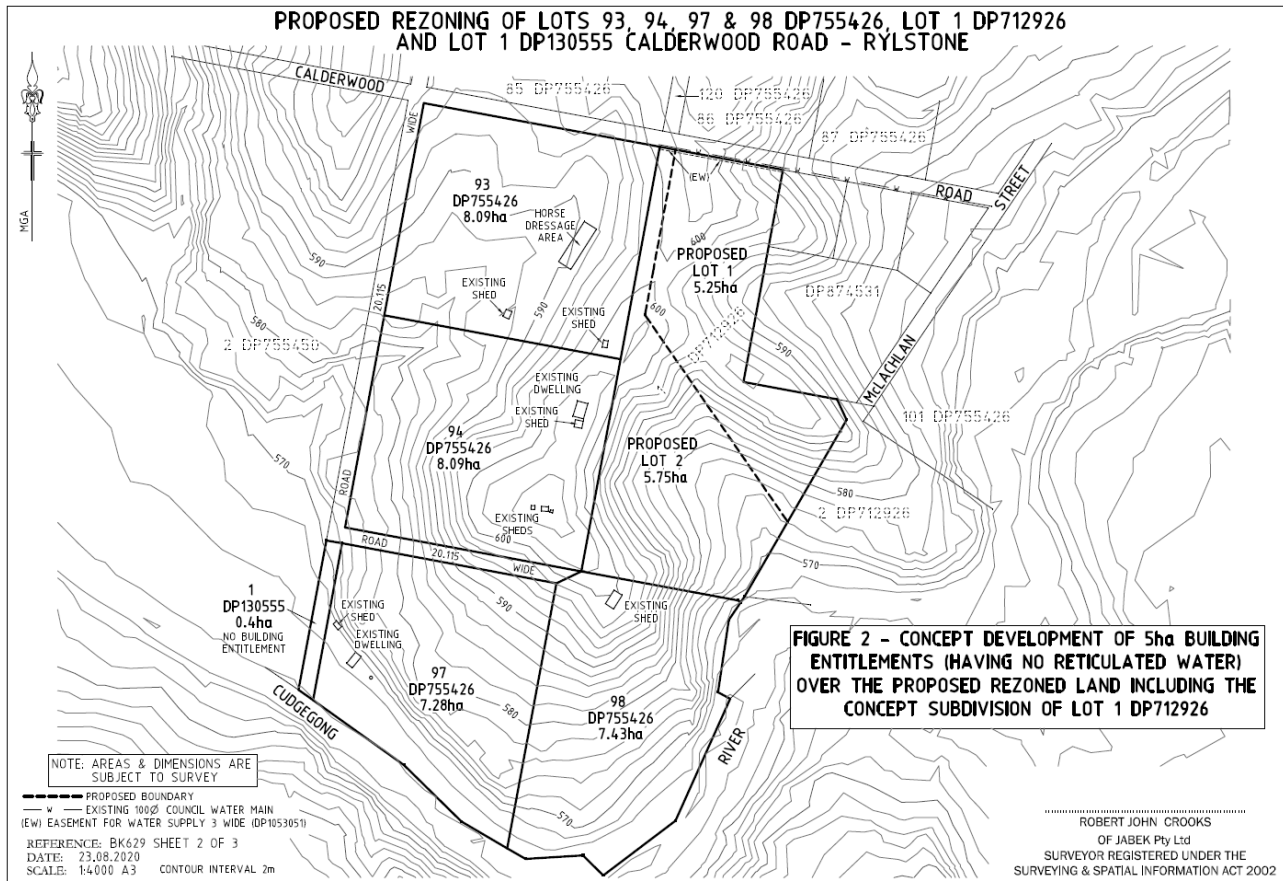
The proponent has stated the future source/s of water will determine the future minimum lot size. Council has previously received advice from the Department of Primary Industries – Office of Water (DPI – Office of Water) in relation to water supply volumes and source. The DPI – Office of Water publication ‘How much water do I need for my rural property’ stipulates the required water volumes for rural properties, including rural lifestyle properties. Previous experience in considering water supply for rural lifestyle lots has demonstrated that in this region with rainfall volumes, roof rainwater catchment is not of a sufficient volume to satisfy the required volumes, therefore a secondary source is required. Further, specific advice was provided in relation to lots with a minimum lot size of 5 hectares. Lots of this size can generally achieve the required bore buffers to onsite sewerage disposal management systems.

Alternatively, if a community bore scheme were established to provide a supplementary water supply, individual bore buffers to be located on the subject site would not be a constraint and the minimum lot size could be reduced to 2 hectares.

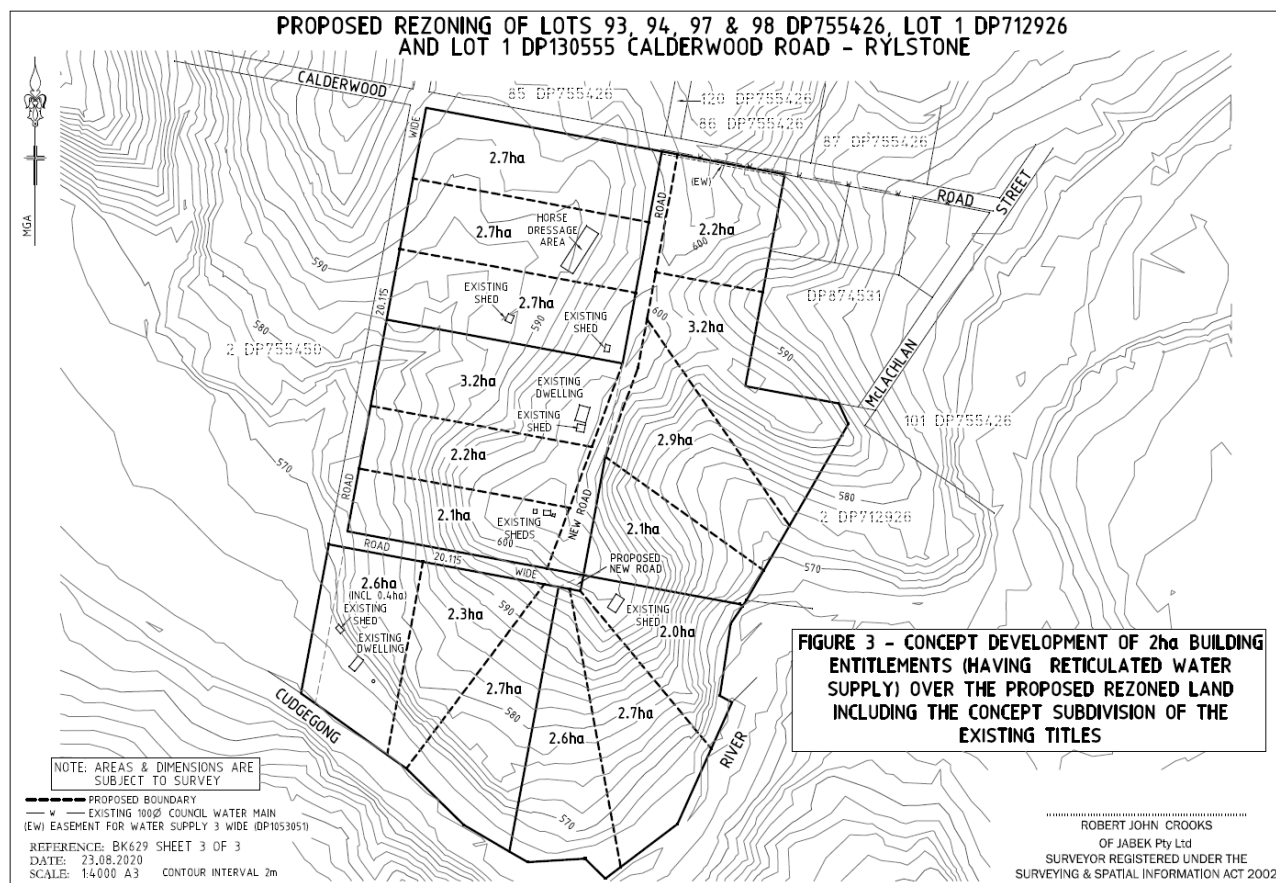
It is likely any future Gateway Determination will include a condition to engage with the DPI – Office of Water regarding water supply volumes and source. Further, any future subdivision development application will need to demonstrate the proposed water supply sources and volume.

A Council water main is located within Calderwood Road at the northern end of the site, it must be highlighted that Council will not connect any future lots with a minimum lot size of 2 hectares (or greater) to Council’s reticulated water system due to various operating challenges including maintaining water quality to properties.

The proponent provided two concept subdivision plans for a 2 and 5 hectare minimum, these plans are provided below:



Concept subdivision plan with a 5 hectare minimum lot size



Concept subdivision plan with a 2 hectare minimum lots size

It is noted that the plan states 'having reticulated water supply', it must be again highlighted that Council will not connect any future lots with a minimum lot size of 2 hectares (or greater) to Council's reticulated water system due to various operating challenges including maintaining water quality to properties.

INTENDED OUTCOMES

The Planning Proposal seeks to rezone the site to R5 Large Lot Residential land and change the minimum lot size to 2 or 5 hectares to facilitate either a 6 or 16 lot subdivision.

EXPLANATION OF PROVISIONS

The Planning Proposal details that the proposed outcome will be achieved by:

1. Amending part of the zone indicated on Land Zoning Map – Sheet LZN_009A from RU1 Primary Production to R5 Large Lot Residential.
2. Amending part of the minimum lot size indicated on the Lot Size Map – Sheet LSZ_009A from (AD) 100 hectares and (AB4) 40 hectares to (AA) 5 hectares, with a Lot Size Clause Area D overlay across the site. The overlay will relate to Clause 4.1 (3B) Minimum subdivision lot size, that allows lots to be created of at least 2 hectares if the appropriate water supply can be provided.

JUSTIFICATION

The DPIE guide to preparing Planning Proposals outlines eleven questions to be addressed in the Planning Proposal, the proponent has addressed the eleven questions. The questions most applicable in the consideration of this Planning Proposal are discussed below.

Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal has been considered in accordance with Council's Comprehensive Land Use Strategy (CLUS), specifically, Part C. Part C outlines the future large lot residential land supply opportunities around Rylstone, this is visually displayed in Figure 3-3 Rylstone Town Structure Plan. Figure 3-3 Rylstone Town Structure Plan is provided below –

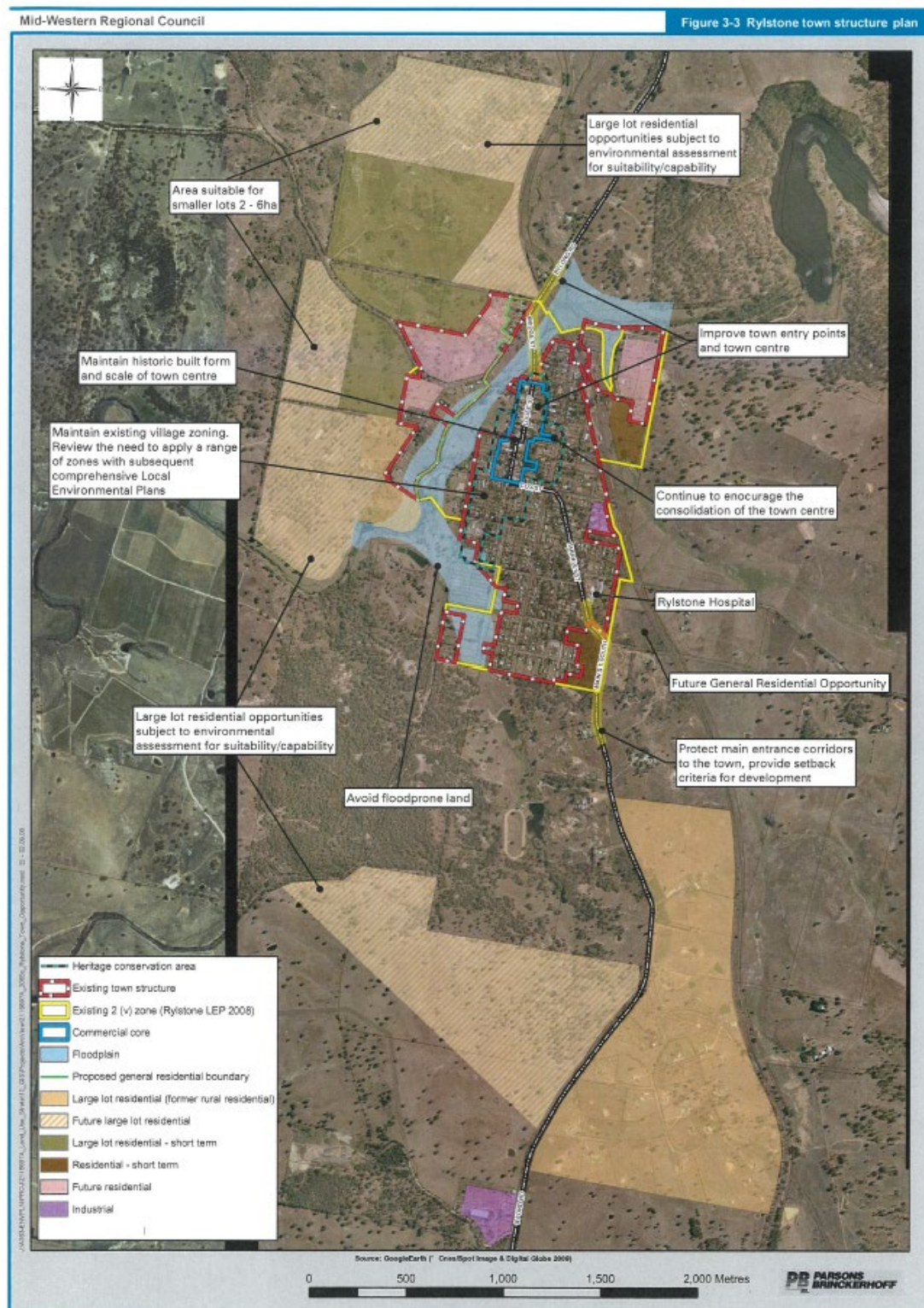


Figure 3-3 Rylstone Town Structure Plan identifies large lot residential opportunities to the north-west and in addition to the west and to the south. The north-west opportunity area is identified as a short term priority, while the west and south opportunities are long-term opportunities. No medium opportunities are identified.

To date the north-west opportunity has not been taken up. A third of this opportunity area has been the subject of a two lot subdivision. These two lots are developed, accordingly reducing the likelihood of this area of the opportunity being taken up. Therefore, it is reasonable to consider the rezoning of the subject site.

An estimated demand of 3 Large Lot Residential lots per annum is stated in Part C of the CLUS. There is currently no land zoned R5 Large Lot Residential available around Rylstone. It is sound strategic land use planning to have a 20 year zoned supply available. The north-west short term opportunity area and the subject site represents an approximate 12 year supply. Accordingly, the proposed rezoning and change to the minimum lot size is considered consistent with Part C of the CLUS and therefore initial support is recommended.

Criteria was developed for the consideration of land for rural lifestyle opportunities to be zoned R5 Large Lot Residential with a 2 hectare minimum. The criteria in an Addendum to Part C of the CLUS. The subject site has already identified for this Large Lot Residential opportunity, in addition the proposed has been considered against criteria.

The criteria is provided below and a staff comment provided:

The land:

1. Can be managed to avoid land use conflict

Rural residential development should have regard to the surrounding agricultural land use and must provide a buffer to agricultural land.

The submitted Planning Proposal does not address how land use conflict will be managed between land zoned Large Lot Residential and adjoining land. However, the Cudgegong river adjoining the site to the south and Calderwood Road to the north and west, provides buffers to adjoining sites.

2. Is unconstrained by flooding, as it is above the flood planning level of the 1 in 100 ARI The area is not affected by flooding and has unconstrained flood free access out of the property and/or locality.

The Planning Proposal did not consider potential flooding. However, the land rises significantly from the Cudgegong River, specific building envelopes will be determined at either the subdivision or dwelling development application stage.

3. Can be connected to the existing road network by sealed road access

The area can be connected to the existing sealed road network by sealed road access and is fully serviced by a sealed road.

Part of the Calderwood Road fronting the site is a sealed road. The proposed subdivision layout will utilise the Council network to provide access to the proposed lots. As required in other rural lifestyle subdivisions with a minimum of 2 hectares, the developer constructs a sealed internal road. In this instances, the developer will be required to upgrade Calderwood Road for the extent not currently sealed.

4. Is not visually intrusive

There is no impact on the visual amenity or sensitive corridors identified in the CLUS on the Mudgee Town Structure Plan.

Due to the sites location such a distance from the identified sensitive corridors located on the urban edge of Rylstone, the visual impact is considered minimal.

5. 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.

The proposed will not impact on the supply of general residential land in Rylstone.

6. Will not adversely impact on the groundwater system

Mudgee is fully within an area identified by the NSW Department of Primary Industries - Water as being significant in terms of groundwater vulnerability. Any development, and in particular unserviced development, needs to demonstrate that it will not adversely impact on the groundwater system.

The subject site is identified as groundwater vulnerable. A further study will be required to be submitted as a condition of any future Gateway Determination.

7. Can be justified in terms of supply and demand

Reference should be made to the Urban Release Strategy in terms of the likely anticipated demand (excluding land zoned but having a 2,000-4,000 square metre option subject to servicing).

As discussed, the demand for these lots is required.

8. Can be managed to reduce bushfire hazard

Bushfire hazards in the area can be appropriately managed or reduced.

The subject site is not mapped as bushfire prone, however a buffer area is located along the western edge of the site. A referral to the NSW Rural Fire Service will required as a condition of any future Gateway Determination.

9. Should avoid Biophysical Strategic Agricultural Land

Reference should be made to BSAL mapping which identifies the existence of any BSAL at the site of potential development.

The subject site is not biophysical strategic agricultural land.

10. Has access to a sustainable water supply

The proposed lot must demonstrate the provision of a sustainable water supply. A sustainable water supply can be achieved by various means including the provision of reticulated water, roof water catchment or accessing water from a river, lake or aquifer in accordance with the Water Management Act 2000. Department of Primary Industries – Water 'How much water do I need for my rural property' provides one methodology to calculate a required supply.

The proposed water supply has been discussed above.

NEXT STEP

If Council supports the staff recommendation, the next step would involve forwarding the Planning Proposal and a Council resolution of initial support to DPIE seeking a Gateway Determination.

Community Plan implications

| Theme | Looking After Our Community |
|----------|---|
| Goal | Vibrant towns and villages |
| Strategy | Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning |

Strategic implications

Council Strategies

Mid-Western Regional Local Strategic Planning Statement, Our Place 2040.
Mid-Western Regional Comprehensive Land Use Strategy, August 2010.

Council Policies

The forwarding of the Planning Proposal will not require any change to relevant policies.

Legislation

The Planning Proposal has been considered in accordance with Division 3.4 Environmental Planning Instruments - LEPs (previously Division 4) Local Environmental Plans of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Local Environmental Plan 2012*.

Financial implications

Nil.

Associated Risks

If Council does not wish to provide initial support for the Planning Proposal, Council may resolve not to proceed with the Planning Proposal and advise the proponent accordingly.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

14 December 2020

Attachments: 1. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER