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Planning Proposal

Rural Lifestyle Development - "Darthula", Mudgee

Client: Shearman

Date: 23 August 2021

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28 August 2021	V2.1		Liz Densley	Updated

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1 Introduction

This Planning Proposal (PP) has been prepared by Elton Consulting (Elton) to support an amendment to the *Mid-Western Regional Local Environmental Plan 2012* (MWLEP). This PP has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), and 'A Guide to Preparing Planning Proposals' prepared by the (then) NSW Department of Planning and Environment [now NSW Department of Planning, Infrastructure and Environment (DPIE)].

The objective of the PP is to amend the land use zone and minimum lot size maps to accommodate rural lifestyle development on the property known as "Darthula", Mudgee.

The site is identified in the Comprehensive Land Use Strategy (CLUS) as meeting that criteria for notation as an "opportunity area" for rural lifestyle development. Further, part of the site also satisfies the two principles identified in the CLUS for this form of development and is subsequently included in priority areas.

The PP sets out the strategic merit assessment of the proposal for consideration by Council.

1.1 Summary of the proposal

Table 1 Summary of proposal

Applicant details	
Messrs. Peter, Walter and Robert and Ms Fiona Shearman	"Darthula, Hill End Road, Mudgee.
Property details	1/-/DP104244, 27/-/DP756897, 28/-/DP756897, 99/-/DP756897, 68/-/DP756897, 23/-/DP756897, 21/-/DP756897, 66/-/DP756897, 172/-/DP756897, 83/-/DP756897, 20/-/DP756897, 12/-/DP855845, 72/-/DP756897, 171/-/DP756897, 26/-/DP756897, 81/-/DP756897, 22/-/DP756897, 82/-/DP756897, 11/-/DP855845, 410/-/DP1112456, 84/-/DP756897, 13/-/DP756897, 35/-/DP756897, 1/-/DP795672, 1/-/DP510323, 97/-/DP756897, 3315/-/DP1112448, 34/-/DP756897, 96/-/DP756897, 11/-/DP756897 and 36/-/DP756897
Area	Approximately 898 ha
Proposal	<p>Amend the Mid-Western Regional Local Environmental Plan 2012 as follows:</p> <p>Land zoning map</p> <p>Rezone the following lots to R5 large lot residential: 1/-/DP104244, 68/-/DP756897, 172/-/DP756897, 83/-/DP756897, 12/-/DP855845, 72/-/DP756897, 26/-/DP756897, 82/-/DP756897, 410/-/DP1112456, 84/-/DP756897, 13/-/DP756897, 35/-/DP756897, 1/-/DP795672, 1/-/DP510323, 3315/-/DP1112448, 34/-/DP756897, 35/-/DP756897, 11/-/DP756897 and 36/-/DP756897</p> <p>Rezone part of the following lots R5 large lot residential: 81/-/DP756897, 11/-/DP855845 and 97/-/DP756897, 99/-/DP756897, 22/-/DP756897</p> <p>Lot size map</p> <p>Reduce the minimum lot size to 12 ha for the following lots: 1/-/DP104244, 68/-/DP756897, 172/-/DP756897, 83/-/DP756897, 12/-/DP855845, 72/-/DP756897, 26/-/DP756897, 82/-/DP756897, 410/-/DP1112456, 84/-/DP756897, 13/-/DP756897, 35/-/DP756897, 1/-/DP795672, 1/-/DP510323, 3315/-/DP1112448, 34/-/DP756897, 35/-/DP756897, 11/-/DP756897 and 36/-/DP756897</p>

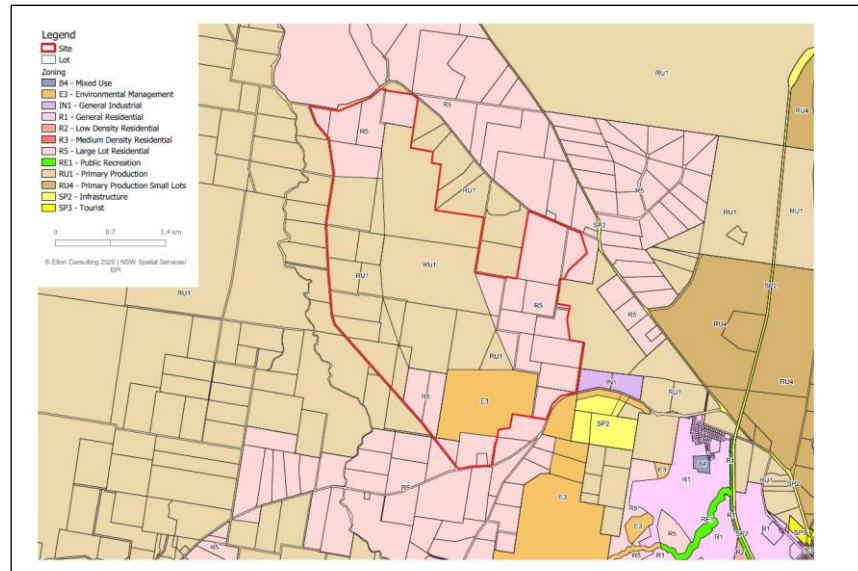
Applicant details

Reduce the minimum lot size to 12 ha for parts of the following lots:
81/-/DP756897, 11/-/DP855845 and 97/-/DP756897, 99/-/DP756897,
22/-/756897

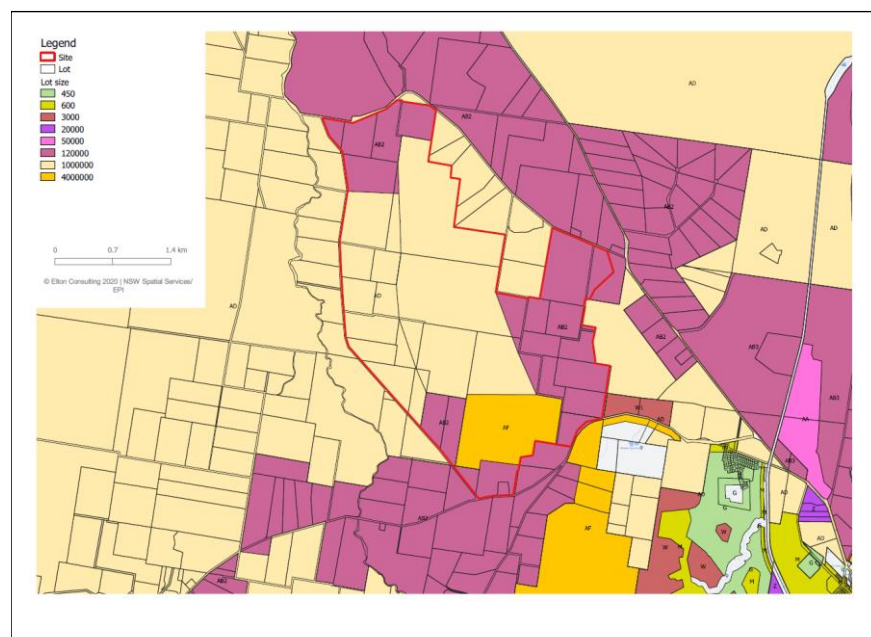
Mapping

The proposed maps are as follows:

Land Zoning Map



Lot Size Map



1.2 Objective of this report

The report provides sufficient detail to enable Council to undertake a strategic merit assessment of the proposed rezoning. Ecological Australia has undertaken a preliminary Biodiversity Assessment to support the proposal. In addition, Barnson have undertaken a yield assessment based on the area that has been identified as generally

meeting the criteria for lifestyle development and proposed to be rezoned in the PP. Finally, an AHIMS search was also undertaken which revealed no culturally significant sites. This PP is to be read in conjunction with the supporting documents listed in Table 2.

Table 2 Supporting documentation

Document	Prepared by	Date	Appendix
Preliminary Biodiversity Assessment	Ecological Australia	6 July 2020	A
Indicative Yield (General Arrangement)	Barnson	May 2021	B
AHIMS Search	-	6 July 2020	C
Preliminary Site Contamination Assessment	Barnson	May 2021	D

1.3 Strategic Overview

The PP has been prepared to achieve the objectives and planning priorities identified in the key strategic planning policies that influence development in the Mid- Western Regional LGA. These policies include:

- » *Central West and Orana Regional Plan*
- » *Mid-Western Regional Council Comprehensive Land Use Strategy*

Part 3: Justification of this report analyses and assesses how the PP is consistent with, and in many instances, promotes the objectives and planning priorities identified in each of these policies.

1.4 Gateway Process

The preparation of a PP is the first step in the DPIE's Gateway Process, the process for making or amending LEPs. It has a number of steps, as set out in Table 3, that require this report to be revised as it progresses through the Gateway Process.

Table 3 The Gateway Process

No.	Step	Explanation
1	Planning Proposal	Council prepares a document explaining the effect of and justification for making or amending a LEP.
2	Gateway Determination	The DP&E determines whether a PP should proceed. DP&E issue a Gateway Determination to the Council to enable the process to move forward. The Council (or proponent) address the conditions in the Gateway Determination which may include additional technical studies, agency consultation and public exhibition.
3	Community Consultation	The PP is exhibited.
4	Assessment	Council considers any submissions it receives in response to the public exhibition, changing the PP if necessary.

No.	Step	Explanation
5	Drafting	Parliamentary Counsels Office prepares a draft of the LEP.
6	Decision	The Minister (or delegated plan making authority) approves the LEP, making it law.

2 Site Context

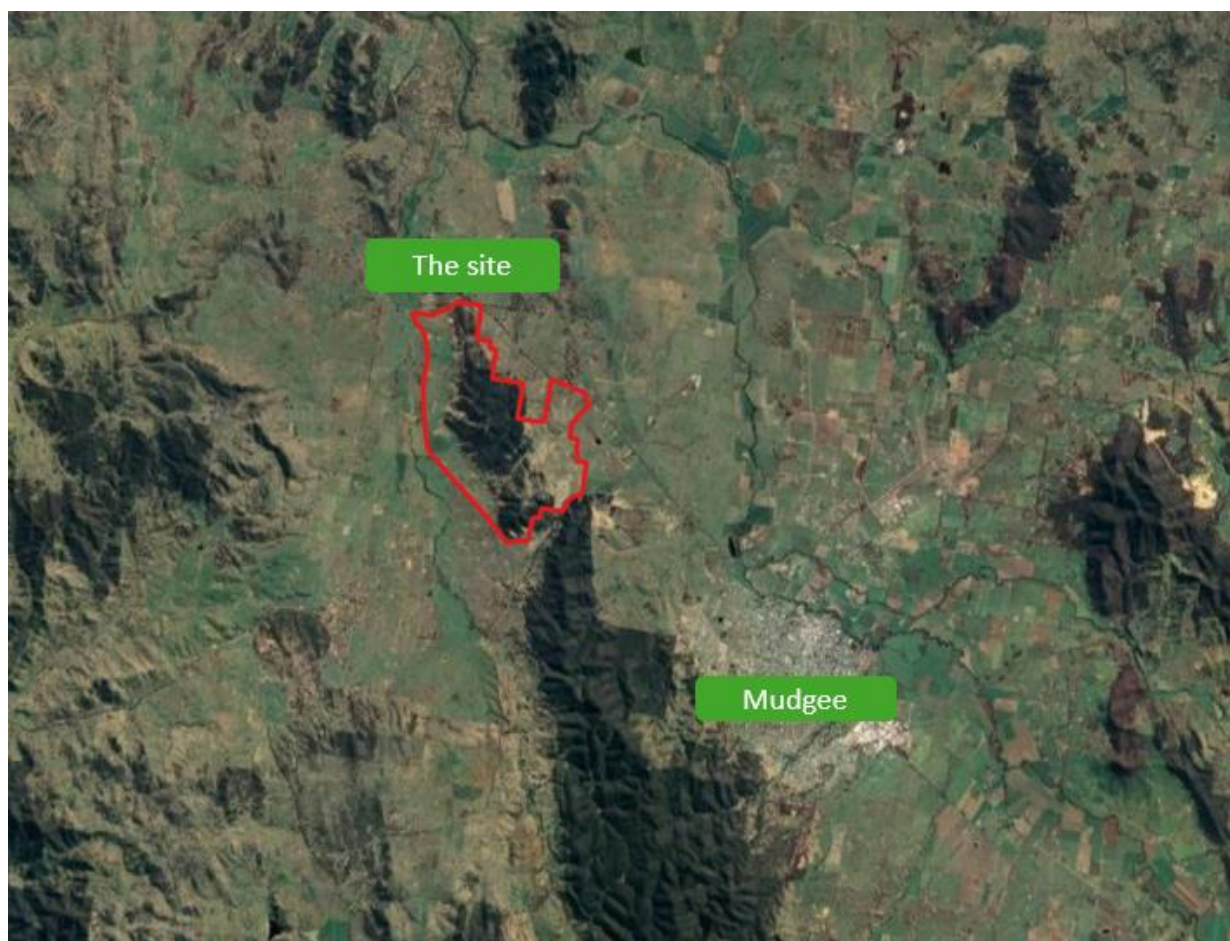
The site is located just off the Castlereagh Highway along Lower Piambong Road on the site's northern boundary, Hill End Road on the southern site boundary and the site also abuts Gibsons Lane to the west. The site is approximately 5 km outside of Mudgee to the north west and approximately 20km to the south of Gulgong.

An aerial image of the site, showing its context is provided in **Figure 1**.

The proposal relates to land known as Darthula, 194 Hill End Road Caerleon described in the following table and shown in **Figure 2**.

The holding has a total area of approximately 898 ha.

Figure 1 Location



Source: Google maps

Property Details



Property Details

Address:	194 HILL END ROAD CAERLEON 2850		
Lot/Section	1/-/DP104244	1/-/DP795672	11/-/DP756897
/Plan No:	11/-/DP855845	12/-/DP855845	13/-/DP756897
	171/-/DP756897	172/-/DP756897	2/-/DP795672
	20/-/DP756897	21/-/DP756897	22/-/DP756897
	23/-/DP756897	26/-/DP756897	27/-/DP756897
	28/-/DP756897	3314/-/DP111244	3315/-/DP111244
	34/-/DP756897	8	8
	410/-/DP1112456	35/-/DP756897	36/-/DP756897
	72/-/DP756897	66/-/DP756897	68/-/DP756897
	83/-/DP756897	81/-/DP756897	82/-/DP756897
	97/-/DP756897	84/-/DP756897	96/-/DP756897
		99/-/DP756897	

The legal description of the property includes all of the following parcels:

1/-/DP104244, 27/-/DP756897, 28/-/DP756897, 99/-/DP756897, 68/-/DP756897, 23/-/DP756897, 21/-/DP756897, 66/-/DP756897, 172/-/DP756897, 83/-/DP756897, 20/-/DP756897, 12/-/DP855845, 72/-/DP756897, 171/-/DP756897, 26/-/DP756897, 81/-/DP756897, 22/-/DP756897, 82/-/DP756897, 11/-/DP855845, 410/-/DP1112456, 84/-/DP756897, 13/-/DP756897, 35/-/DP756897, 1/-/DP795672, 1/-/DP510323, 97/-/DP756897, 3315/-/DP1112448, 34/-/DP756897, 96/-/DP756897, 11/-/DP756897 and 36/-/DP756897

The property has road frontages to Hill End Road, Castlereagh Highway and Lower Piambong Road as well as Gibsons Lane to the west.

The productive agricultural land is undulating to hilly with a significant area of heavily wooded and steeper land through the middle of the site. The site is surrounded by agricultural land used for grazing and crops.

Castlepeach Road

Menah Road

Erudger Lane

Hill End Road

Plambong

Menah

Erudger

Caerleon

LOT 15 DP 1115448

LOT 16 DP 1115448

LOT 17 DP 1115448

LOT 18 DP 1115448

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LOT 2

3 Proposal

The PP seeks to amend the MWLEP by rezoning part of the site from RU1 Primary Production to R5 Large Lot Residential and change the minimum lot size (MLS) from 100ha to 12ha. The PP is generally consistent with the Mid-Western Regional Comprehensive Land Use Strategy (CLUS) and Council's Local Strategic Planning Statement (refer Part 3) and will deliver much needed supply of suitable located and accessible lifestyle development opportunities close to Mudgee.

The PP will realise the opportunity previously identified in the sieve process undertaken in the CLUS that resulted in part of the property being rezoned R5 Large Lot Residential in 2012. The CLUS Part B includes the clarification that the ***prioritisation is illustrative and serves to provide an interpretation that suggests that not all land identified as opportunity areas can or will be rezoned at once*** and that future rezoning would be determined in a Land Release Strategy and *"depend on the willingness of land owners to become "developers"*. In any case, part of the site, along with the other land identified as a short term opportunity area in the CLUS, was rezoned R5 Large Lot Residential under the MWLEP in 2012. This is discussed further in Part 2 Section A addressing the CLUS.

The PP has been informed by a constraints analysis which focused on topography, access and biodiversity. In addition, the PP relies on the intended outcome of the CLUS in the identification and delivery of additional rural lifestyle development opportunities in particular areas using a sieve process. Following this preliminary assessment, that included a desktop biodiversity assessment, approximately 462 ha of land was identified as suitable for lifestyle development under an R5 Large Lot Residential zone with an accompanying 12 ha minimum lot size.

It is proposed to rezone the land, on the eastern and western portions of the property between Lower Piambong Road, Castlereagh Highway and Hill End Road, R5 Large Lot Residential with a minimum lot size of 12ha. The PP is supported by an indicative subdivision layout to demonstrate the potential yield, and to achieve the greatest efficiency of land use. This is discussed further below.

The proposal excludes most land above the 525m contour to protect both the visual aesthetic of the hills and reduce the potential impact on biodiversity.

Following the rezoning of the site, the land would be developed in stages. The readily accessible lots fronting both Lower Piambong and Hill End Roads on the eastern side of the property being developed in the first stage.

In addition to access to the existing local roads, the proposal includes a small areas of land that, if subdivided, would have access via Gibsons Lane. The land east of Gibsons Lane meets the criteria for lifestyle development as outlined in the CLUS (refer Section B).

The land through the centre of the property will be retained in the RU1 Primary Production zone.

Yield and General Arrangement

Barnson have provided an indicative subdivision layout. This layout should be considered as a tool to determine the maximum yield for the site based on the constraints analysis.

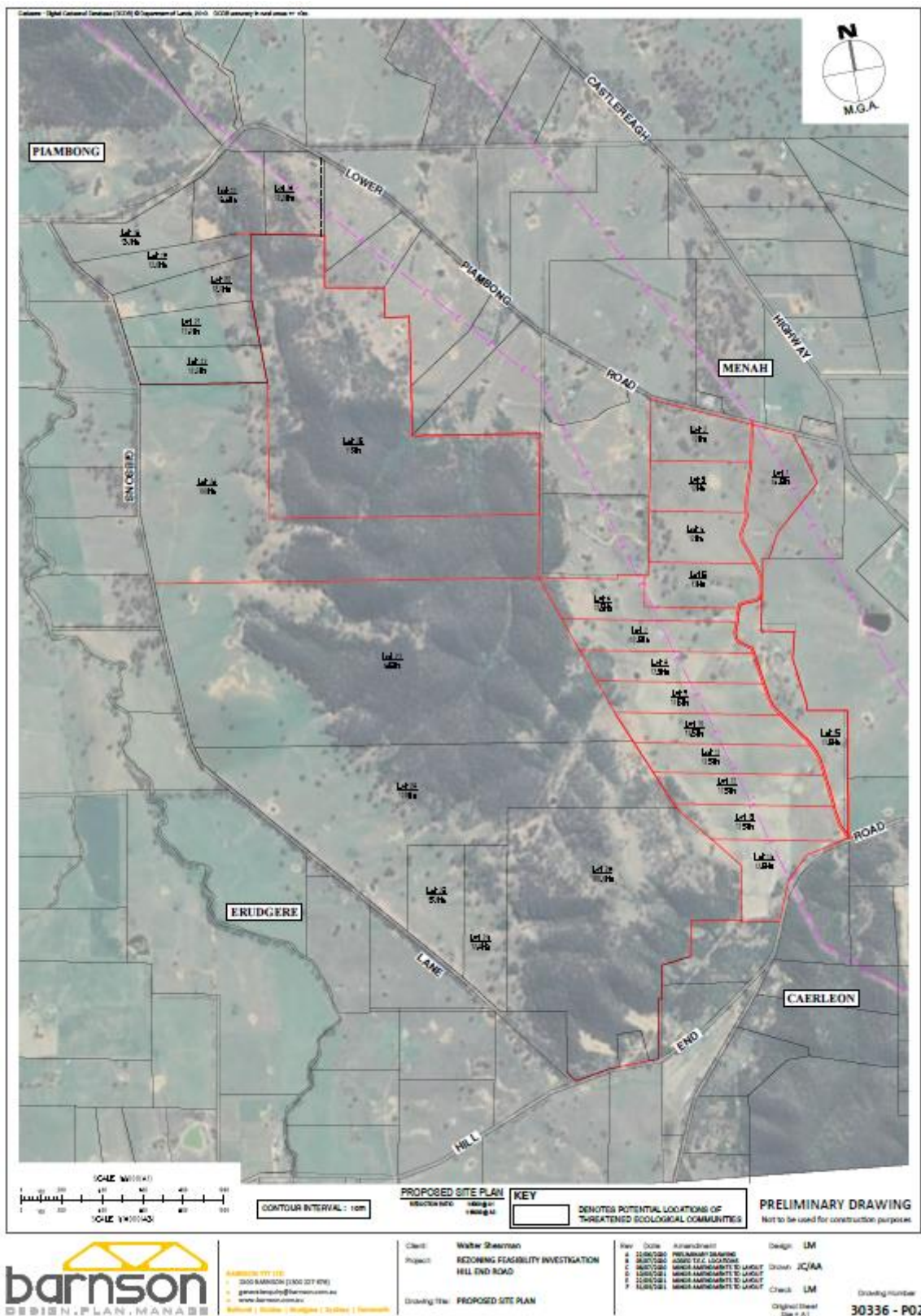
A copy of indicated subdivision layout is illustrated in below (refer also **Appendix B**). The plan shown in **Figure 3** demonstrates a maximum yield of 24 R5 Large Lot Residential lots and the opportunity for the subdivision of the RU1 Primary Production zone consistent with the existing MWLEP provisions. The purpose of the indicated layout is to demonstrate the orderly delivery on the site under the R5 Low Density Residential zone and provide a maximum yield. The final arrangement, staging and delivery will be subject to a detailed development application.

The residual land through the centre of the site would retain the RU1 Primary Production zone with a corresponding minimum lot size of 100ha.

Alternative Options Considered

Consideration was given to an alternative arrangement that included the land fronting Gibsons Lane that was further than 1000m from the existing sealed road network. However, Council in the ordinary meeting on 9th December 2020, resolved to exclude this land from the proposal.

Figure 3 Indicative Layout

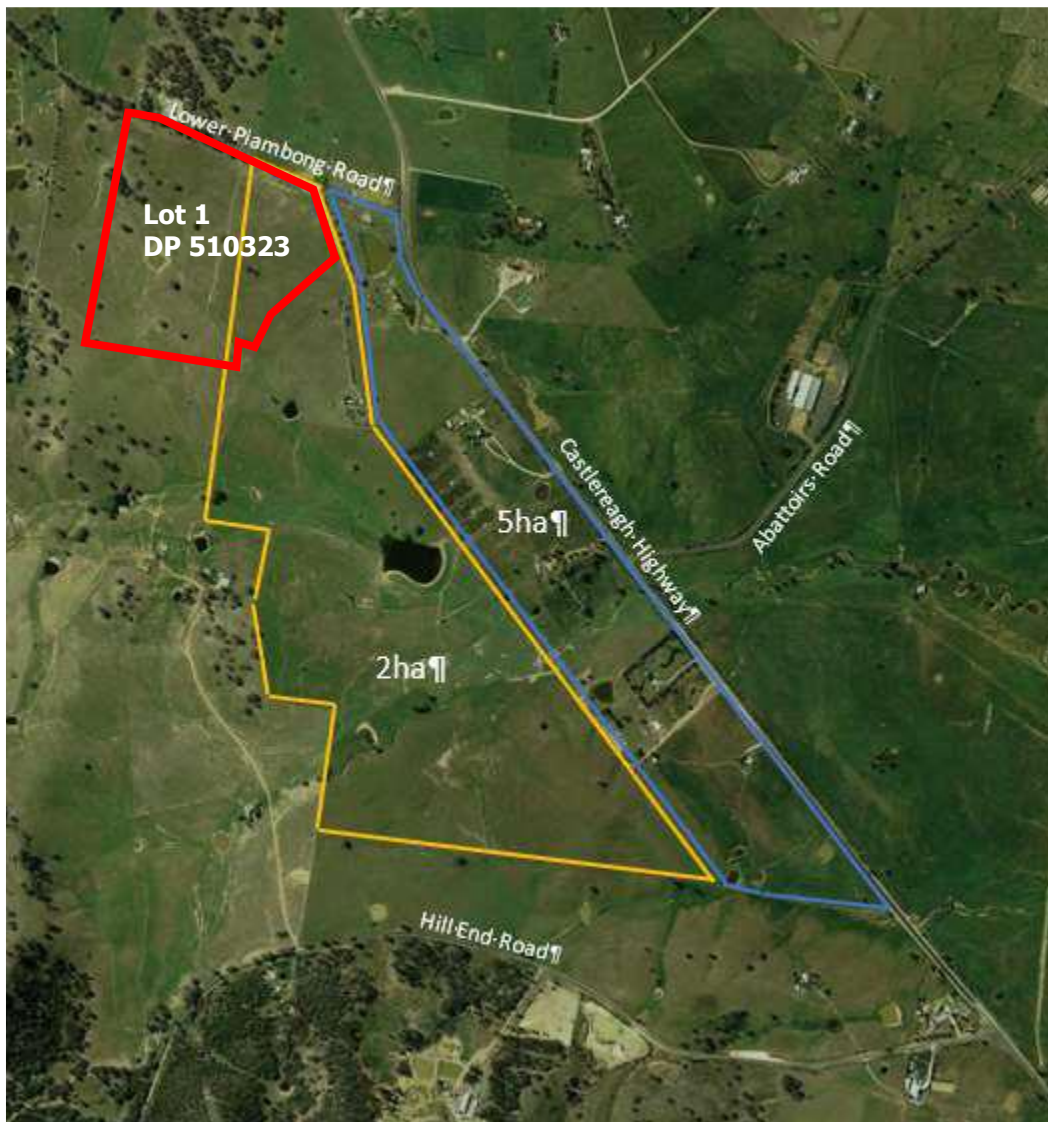


Additional Large Lot Residential Opportunity

Council has prepared a document titled "Strategically Identifying Large Lot Residential Opportunities around Mudgee" (the Study) which is on public exhibition until 11 September 2020. This Study utilised the criteria established in the CLUS and applies to land that might be considered suitable for future large lot residential development 2ha-5ha. The Study specifically identifies four areas, one of which, Area 3, includes part of the "Darthula" property to which this proposal relates. A submission was prepared and provided under separate cover, however, general consideration has been given to the Study in the context of the PP as follows:

The only access to the 2ha land identified in Area 3 (see **Figure 4** below) is via Lot 1 DP 510323 from Lower Piambong Road. This land is part of the "Darthula" holding. Further, only part of the lot is identified. If this were to be the gateway that would unlock this area for future Large Lot Residential Development, we would recommend that the whole of Lot 1 DP 510323 be including into Area 3.

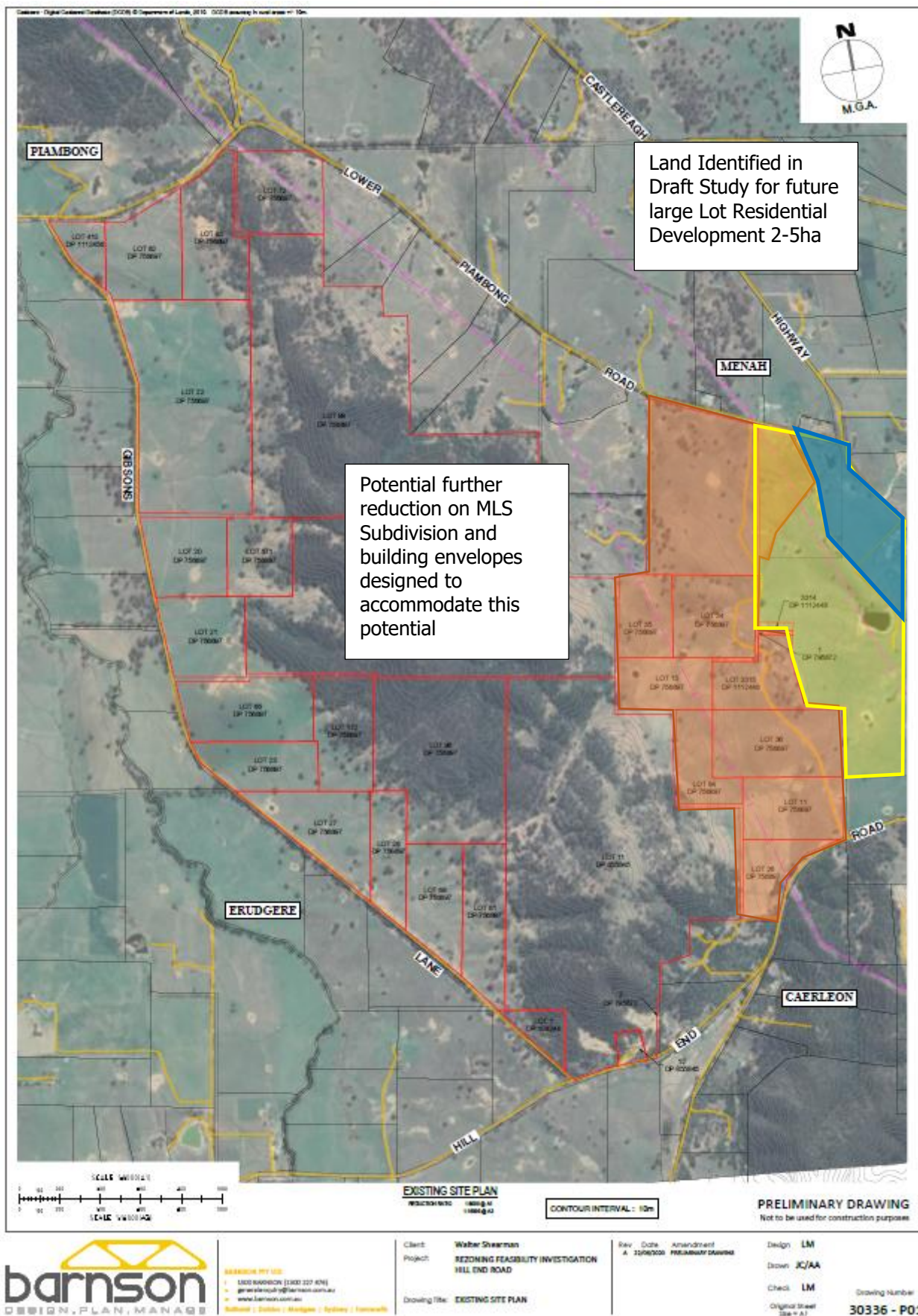
Figure 4 Area 3 Showing location of Lot 1



Source: Strategically Identifying Large Lot Residential Opportunities around Mudgee. Page 32.

If Council were to apply the principles used in the Study to the balance of the "Darthula" holding on the eastern side of the property, a larger area of land could be identified for future large lot residential development (refer **Figure 5** below).

Figure 5 Subject Site with Large Lot Residential Opportunity Area



The timing of the Study is not favourable in terms of re-considering the PP. However, we are interested in looking at the application of these principles and whether, should the rezoning of the land to achieve a 12ha minimum lot size be supported, the subsequent subdivision should be undertaken in such a way as to anticipate a further rezoning into the smaller lots.

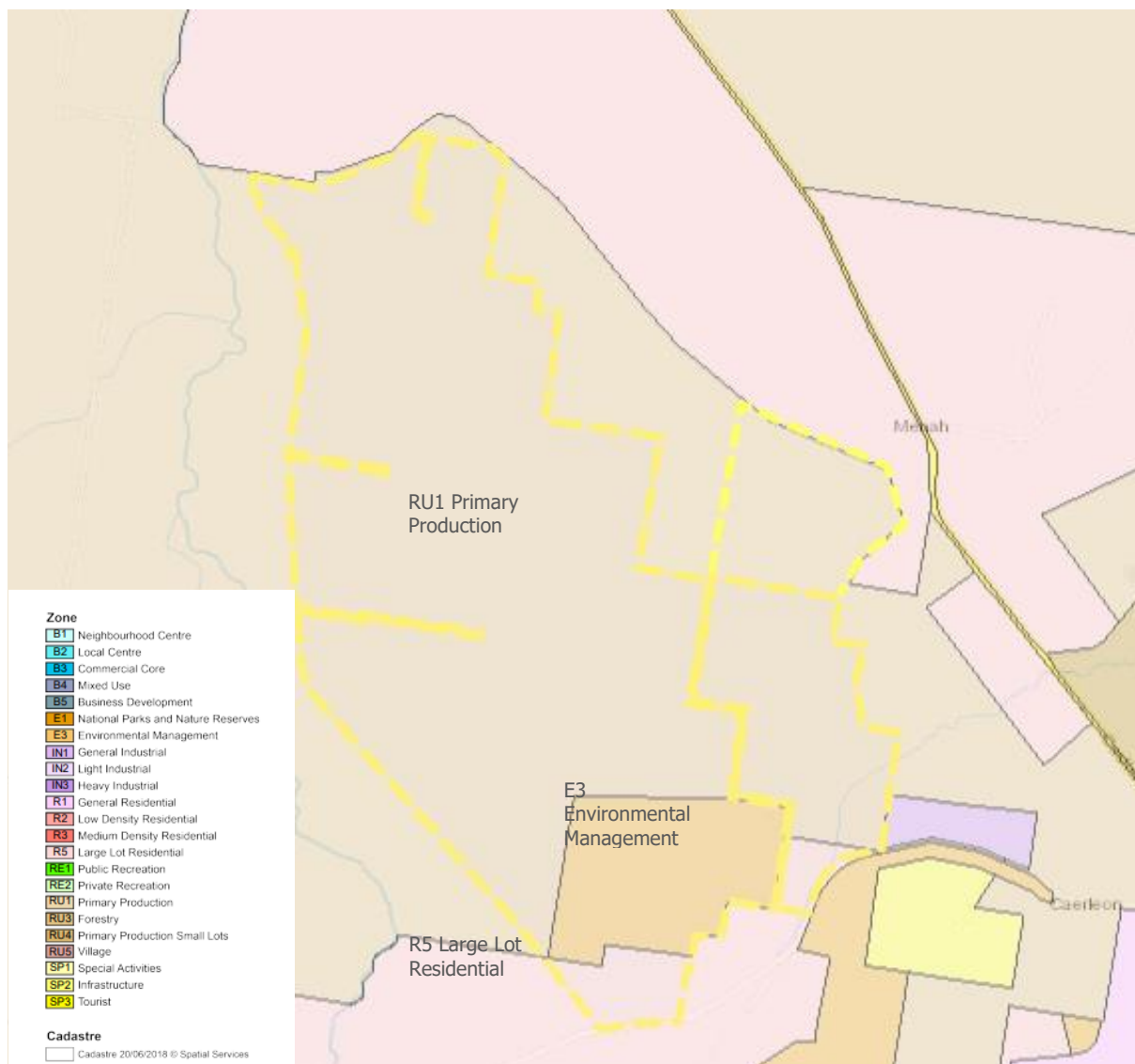
At this stage, we propose to proceed with the PP as outlined.

3.1 Current Planning Controls

Land use zone

The land is predominately zoned in the MWLEP as RU1 Primary Production, with a small area of E3 Environmental Management and R5 Large Lot Residential fronting Hill End Road, this is shown in **Figure 6**. The objectives of the zones are as follows.

Figure 6 Existing Zone

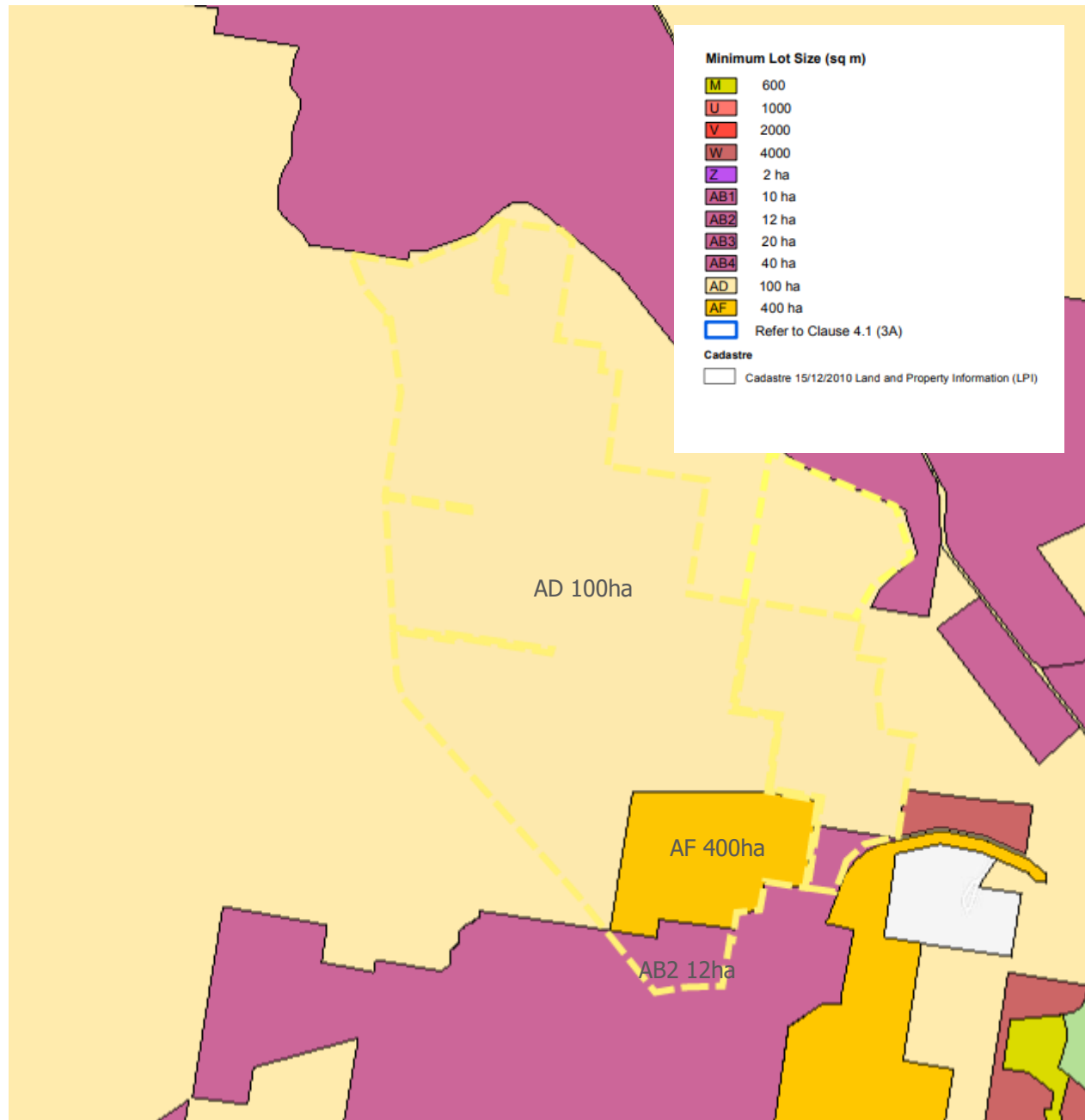


Source: NSW DPIE Planning Portal accessed 5 March 2020

Minimum Lot Size

The minimum lot size for subdivision varies across the three zones, 400 ha in the E3 zone, 100ha in the RU1 zone and 12ha in the R5 zone. An excerpt of the lot size map can be seen in **Figure 7**.

Figure 7 Lot Size

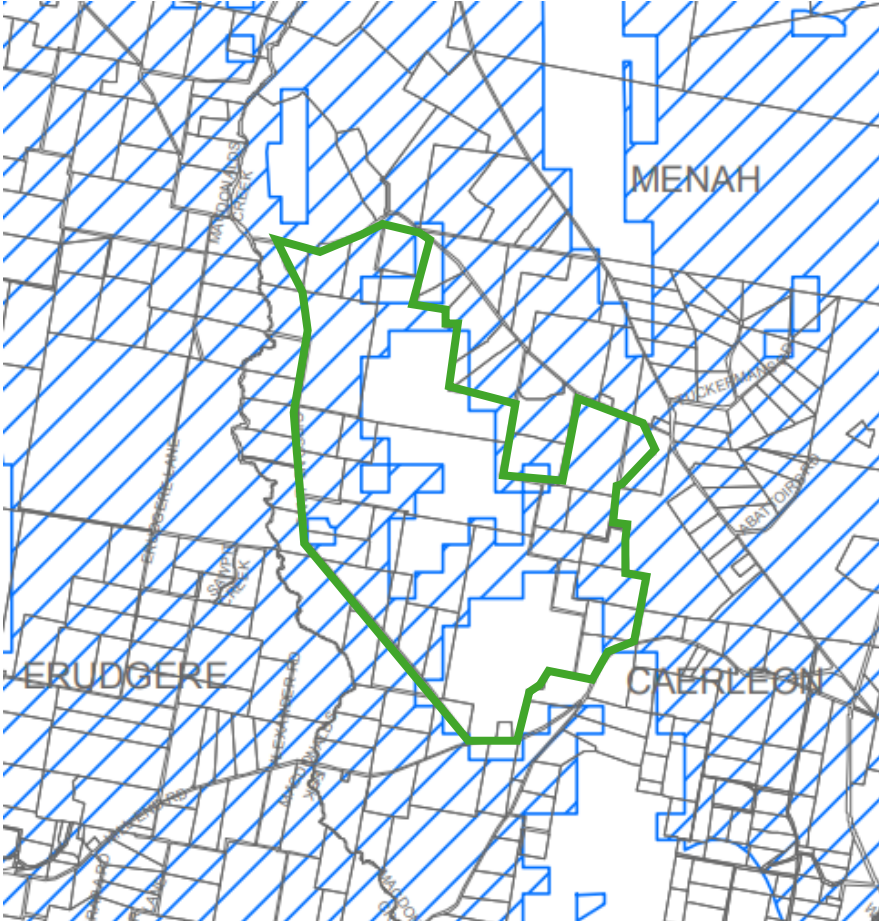


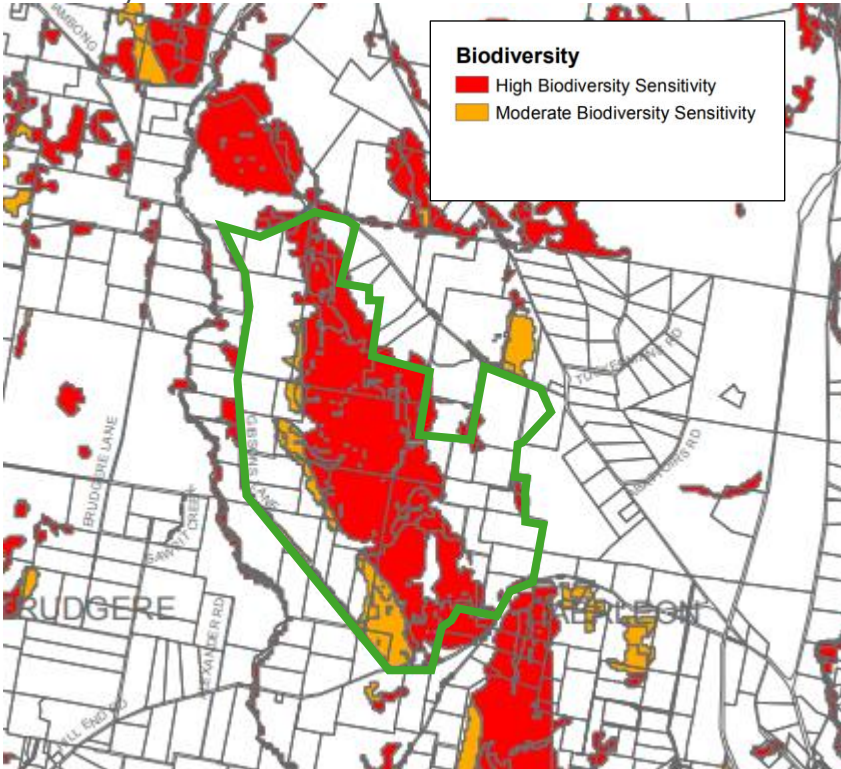
Source: NSW DPIE Planning Portal accessed 5 March 2020

Planning Controls

The following table includes a summary of the MWLEP planning controls applicable to the site.

Table 4 MWRLEP 2012

Planning Control	Comment
4.1 Minimum Lot Size	<p>Lot sizes align with zone boundaries</p> <p>AF 400 ha – E3 Zone</p> <p>AD 100 ha – RU1 Zone</p> <p>AB2 – 12 ha – R5 Zone</p>
Additional local provisions	
6.4 Groundwater vulnerability	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to maintain the hydrological functions of key groundwater systems,</p> <p>(b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.</p> <p>The site has been mapped as being groundwater vulnerable on Council's mapping. This will need to be assessed at DA stage.</p>
MWRC Mapping	
Groundwater Vulnerability	<p>The site is identified as being 'Groundwater Vulnerable' (MAP GRV_006)</p>  <p>Source: MWLEP Groundwater Vulnerability Map - Sheet GRV_006</p>

Planning Control	Comment
Sensitivity Biodiversity	<p>» The vegetated slopes are identified as having moderate to high biodiversity value</p>  <p>Source: MWLEP - Sensitivity Biodiversity Map - Sheet BIO_006</p>

Part 1 – objectives or intended outcomes

The primary purpose of this PP is to amend the LEP to facilitate the development of rural lifestyle development on the site.

The intended outcomes of the PP are to:

- » Allow for the subdivision of part of the subject site into small rural lots.
- » Provide for additional rural lifestyle development within close proximity to the services and facilities of Mudgee in a rural setting.
- » Achieve the strategic objectives of the CLUS by delivering land for development as identified in the strategy.

Part 2 – explanation of intended outcomes

The current zoning and minimum lot size (MLS) standards applying to the site are identified below. The outcome will be achieved by rezoning part of the site from RU1 Primary Production to R5 Large Lot Residential with a corresponding change to the MLS from 100 ha to 12 ha (refer Part 4 Mapping).

Part 3 – Justification for the Provisions

Part 3 of the PP provides the justification of the proposal within the relevant strategic planning context, and provides consideration to environmental, heritage, social and economic impacts.

In accordance with the guidelines the level of justification is to be proportionate to the impact of the proposal and the stage of the of the LEP amendment process. At this initial stage the issues relevant to the proposal must be identified to provide sufficient confidence to DPIE the amendment may be completed within the timeframes identified in the PP.

Section A – Need for the planning proposal

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

Yes. The PP will deliver additional land for rural lifestyle development as anticipated under the Mid-Western Regional Comprehensive Land Use Strategy (CLUS) and support the planning priorities in the Local Strategy Planning Statement.

Local Strategic Planning Statement

The Draft Our Place 2040 Mid-Western Regional Local Strategic Planning Statement (LSPS) was prepared by Council earlier this year. The objective of the LSPS is to provide a strategic framework for land use planning in the LGA. The LSPS includes the following planning priorities relevant to the PP.

Planning priority 2 *"make available diverse, sustainable, adaptable and affordable housing options through effective land use planning."*

This proposal will endorse planning priority 2 by increasing the amount of large lot residential. The need for increased supply for large lot residential is noted in the LSPS, with the view to identifying opportunities for large lot residential for the next 20 years. This proposal will help council achieve planning priority 2 and help meet market demand for large lot residential properties ensuring that affordability can be maintained.

Planning priority 5 *"Ensure land use planning and management enhances and protects biodiversity and natural heritage."*

This proposal protects the biodiversity by maintaining an appropriate land use over the area of site that has significant biodiversity. The proposed change of land use, to large lot residential for land with limit biodiversity value will not cause land use conflict with the areas zoned Primary Production.

Comprehensive Land Use Strategy

Council has released a series of strategic policies for the land use within the Local Government Area (LGA). Of particular relevance to the site is the Comprehensive Land Use Strategy (CLUS).

Council adopted the CLUS in August 2010 (CLUS). The purpose of the CLUS included to:

- » Provide a decision making tool based on clarity, certainty and accurate data to assist Council in the decisions making process.
- » Determine the optimal location for development

The strategy acknowledges the need for rural lifestyle development in the order of 55-80 lots per annum, 40-50 of which are identified for delivery in Mudgee. In identifying the areas more suitable for lifestyle development, locational criteria were applied. While the CLUS generally identified Short (2010-15), Medium (2015-25) and Long (2025-35) Term Opportunity Areas, the release of this land was to be determined having regard to a Rural Land

Release Strategy. It is understood that this strategy is yet to be complete and as such, the areas indicatively mapped in the CLUS remain the only guide.

Based on the available data in terms of registered lots, take up of land in the Short and Medium Term Opportunity Areas has been slow.

The CLUS Rural Lifestyle Opportunity Areas Map for Mudgee shows part of the subject site in the Short Term Opportunity Area. The balance of the site is between Area F and Area B as shown in the **Figure 8** below.

The CLUS is in three parts, each discussed below.

Part A – Introduction and Background

This section includes the high level background providing context for the Strategy. It addressed rural settlement planning in chapter 10 and in 10.9 addresses the demand for rural lifestyle development. The following information has been taken from chapter 10.9.

10.9 Addressing the demand for rural lifestyle

Living in the rural landscape is increasingly a popular lifestyle choice across the Mid-Western Regional local government area. One of the aims of rural settlement planning is to address the demand for the rural lifestyle, while minimising impacts upon agricultural land. It aims to curb unnecessary subdivision of agricultural land in less desirable locations. Council recognises and supports the need to provide a range and choice of dwelling opportunities, both urban and rural. By the same token, we need to recognise that land is a finite resource both in terms of providing for rural lifestyle and maintaining an agricultural base.

There are approximately 2,066 lots within the Mid-Western Regional local government area and of these lots it is estimated that about 90 per cent have an existing dwelling. There is limited evidence to suggest that many of the more isolated lots are used as temporary accommodation with a shed, electricity but no permanent dwelling. Anecdotal evidence suggests that the demand is strong for rural lifestyle lots within close proximity to Mudgee.

As discussed, reports from local real estate agents suggest that there is an increasing demand for rural lifestyle. This is supported by the projected gross allotment demands produced by Ratio Consultants (2007), as summarised in Table 10-12, which indicates growth in the rural areas surrounding Mudgee and Rylstone to 2031.

Table 10-12 Gross allotment demands (1996/97 – 2030/31)

Geographic area	Historic and forecast dwelling units approvals per annum						
	1996/97-2001/02	2001/02-2005/06	2006/07-2010/11	2011/12-2015/16	2016/17-2020/21	2021/22-2025/26	2026/27-2030/31
Mudgee rural areas balance	30	35	43	45	50	52	54
Rylstone rural areas balance	15	18	18	19	20	22	23
Total	45	53	61	64	70	74	77

Source: Ratio Consultants 2007 (Tables C.1)

A desktop review of the existing zoned R5 land within the area identified in the CLUS as being within a 10km radius of Mudgee has revealed less than 20 lots that may be considered for dwellings. If Council are continuing to see a demand for 50-52 lifestyle lots annually, it is difficult to see where these lots are being delivered.

The CLUS also makes reference to demand from tree-changers. The recent COVID 19 pandemic is also likely to see an increase in demand in this category as people consider new ways of working, remote from metropolitan centres. There is a real opportunity for Council to leverage the regional strengths and look at additional opportunities for a similar approach in the region. The existing strategic planning framework is in place to support land use decision that provide additional housing and lifestyle opportunities.

Part A of the CLUS refers to the constraints and opportunities analysis undertaken (in Part B) to determine the areas most suited to rural residential and lifestyle development. In terms of land supply in Mudgee, the CLUS acknowledges that there is insufficient land zoned to satisfy the anticipated demand for lifestyle development.

Part B – Constraints and Opportunities

Part B discusses the strategic level spatial mapping and understanding of environmental, social and economic issues that have been examined through the use of GIS mapping techniques to determine the most suitable locations for additional rural lifestyle development.

Chapter 2.2 provides an outline of the primary rural land use constraints considered. The following table identifies the constraints and commentary in relation to the current PP.

Table 5 Rural Land Use Constraints

Constraint	Constraint satisfied by the proposal
National Parks, Reserves and Crown Land	Yes, excludes these areas
Coal mining titles	Yes, excludes these areas
Slope – avoid steep slopes greater than 26%	The proposal excludes land about the 500m contour and the steep upper slopes on the property
Class 1-3 Agricultural Land	Yes, excludes these areas
Water Supply Catchment	Yes, excludes these areas
Ecologically significant vegetation	Yes, excludes these areas
Land within the riparian zone	Yes, excludes these areas
Flood prone land	Yes, excludes these areas
Cudgegong Valley Alluvium Groundwater Management Area	Yes, excludes these areas
Prime Viticulture Area between Mudgee and Gulgong	Yes, excludes these areas
Buffers	Noted and can be accommodated

A number of secondary constraints are also identified and include bushfire risk, ecological values, heritage, soil quality, moderately steep slopes and water supply.

The CLUS also addresses land suitability factors. These are infrastructure, proximity to services, the changing value of the agricultural land resource which include looking at the attractiveness of land for rural lifestyle development and climate change.

From those land suitability criteria, the CLUS developed two principles for the identification of rural settlement opportunities:

Principle 1 - Develop close to existing towns, villages and rural centres (within a certain accepted radius)

For Mudgee this radius is 15km. The PP is well within this radius.

Principle 2 - Develop close to main roads (within one kilometre)

Rural development should not be located more than 1km of a sealed road. This is to reduce the maintenance burden of Council. The PP satisfies this, in the first instance by identifying land within the acceptable limits.

Opportunity Areas

The supply and demand analysis undertaken by Council indicated that there was an annual demand for 30-60 lots. This equates to 150-300 new rural lifestyle lots within the offset area in the next 5 years (i.e. the short term). The raw land required to satisfy this demand is 2500-3500 hectares of land, based on a minimum lot size of 12 hectares and assuming only a proportion of the identified opportunities (i.e. 70%) would be readily available for development. To date this land has not been delivered to the market.

The CLUS further stated that a Land Release Strategy will need to be implemented to guide rural lifestyle development in the medium to long term. As an interim measure, the CLUS identified opportunity areas A-K (**Figure 8**). Area F is a short term opportunity area and includes part of the subject property.

In relation to the Rural Land Release Strategy the CLUS includes the following paragraphs (refer CLUS Part B Page 15):

Rural Land Release Strategy

Based on the above discussion, it is evident that a more detailed analysis of rural lifestyle opportunities may be required as part of a Rural Land Release Strategy for the local government area. Beyond the short term supply of rural lifestyle development opportunities, it is considered appropriate that Council prepare a Release Strategy to further the constraints and opportunities analysis undertaken as part of this Strategy. A Release Strategy would be based on an investigation of roads infrastructure and other key criteria to identify which areas should be prioritised for development in a staged manner.

The supporting investigation would involve for example mapping the main access roads and determining existing and projected traffic volumes, their current condition, and the costs associated with upgrading the impacted roads. The Release Strategy would then provide recommendations for rural lifestyle land release in the medium to long term. The Release Strategy should also consider development of marginal Class III agricultural lands and the most appropriate forms of rural lifestyle development in these areas.

The Strategy directions and recommendation on page 30 of Part B confirm that priority will be given to the areas identified as short term. However, in addressing the issues raised throughout the strategy process in Table AA-1 the following comment is made by Council in response to a request to extend an opportunity area to include additional land:

*In terms of the opportunity areas [and] prioritisations, it is **not unreasonable or contrary to the methodology of the Strategy** to extend the "Short Term Area 3" to include this site.*

*It should be noted that the **prioritisation is illustrative** and serves to provide an interpretation that suggests that not all land identified as opportunity areas can or will be rezoned at once and it may be that **an area marked as long term is released ahead of one marked short term**. This will all need to be determined in the release Strategy and depend on the willingness of land owners to become "developers".*

The comment seems to acknowledge the ad-hoc nature of the selection of the short/medium/long term areas (there is no criteria for this in the document). All of the land identified as a short and medium term opportunity area has been rezoned in the MWLEP in 2012. It is unclear as to how many of these have significant potential to supply land for lifestyle development and how many were already fragmented parcels with limited subdivision opportunity. In any case, Council has not reviewed or updated the CLUS to address this nor has a Rural Land Release Strategy been prepared.

Regardless of the short, medium and long term opportunity areas, in the absence of a Rural Land Release Strategy the underlying constraints remain constant and the subject PP is consistent with the intent and methodology of the CLUS and extends to land identified as suitable for rural lifestyle development in Part B.

Part C –Strategy

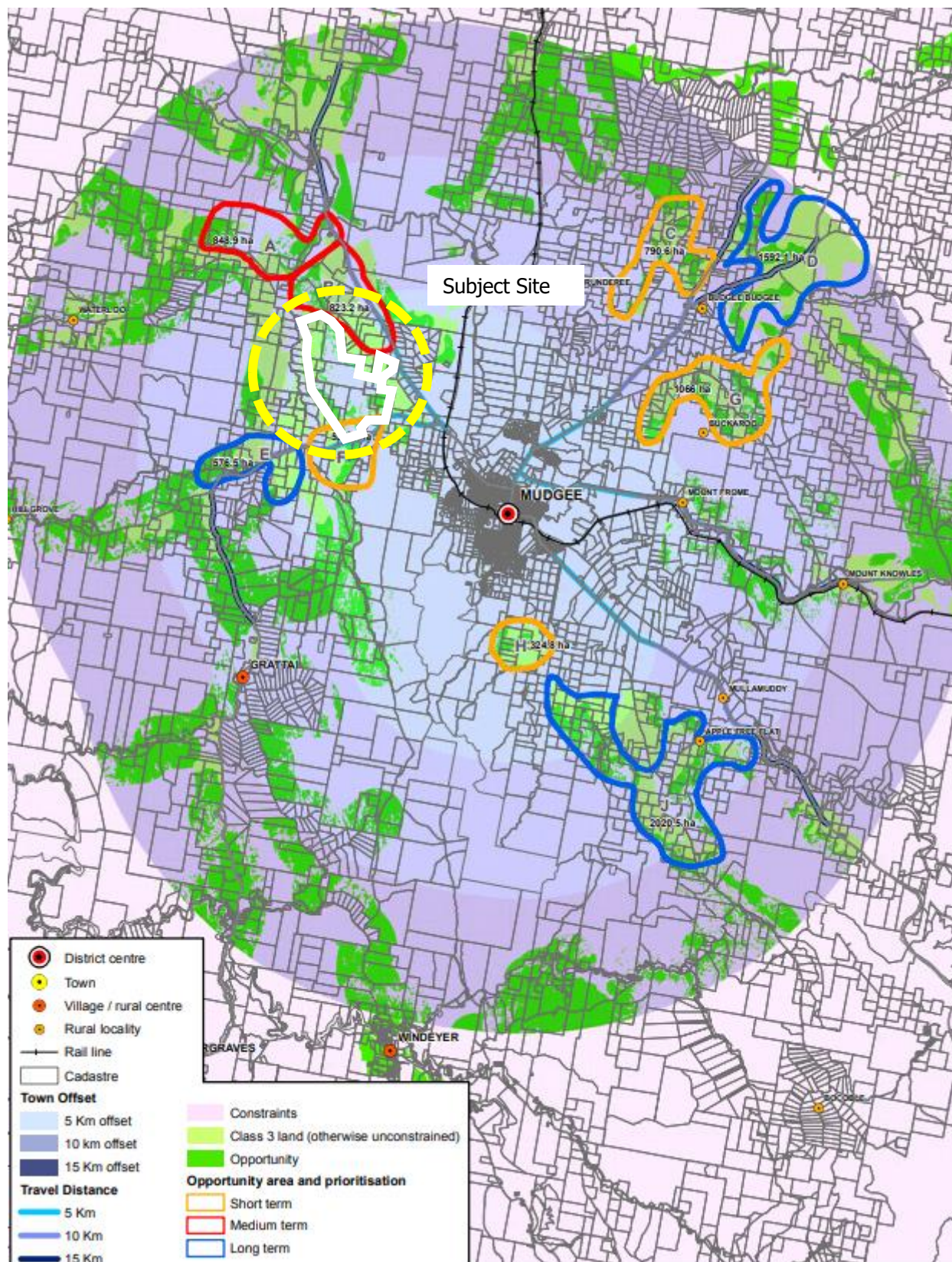
Part C is the Strategy. It consolidates the information and analysis in Parts A and B and provides a series of recommendations. Chapter 4 deals with the rural areas and includes rural lifestyle land use in section 4.8.

This section reiterates the targets for the release of lifestyle lots (Mudgee 40-50 per annum) and the location of lots close to the major towns. The MLS is identified as 12 ha, however, the CLUS permitted the consideration of

smaller lots close to Mudgee. It again proposes that the timing and staging of the release of land will need to be determined having regard to Rural Land Release Strategy.

The PP has been prepared having regard to the CLUS and found to be consistent with the objectives, methodology and criteria used to determine opportunity areas.

Figure 8 Lifestyle Opportunity Areas



Source: Extract CLUS

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

The proposed delivery of lifestyle development cannot be accommodated under the current MWLEP planning controls. A PP is necessary in these circumstances.

Section B – Relationship to strategic planning framework.

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Yes, the PP will give effect to the Regional Plan.

Central West and Orana Regional Plan

The Central West and Orana Regional Plan was developed by the NSW Government to provide overarching goals for the region's development, for the next 20 years. The plan has been developed to guide land use planning decisions in the region to achieve the 4 goals at the centre of the plan. The 4 goals are as follows:

- » Goal 1: The most diverse regional economy in NSW
- » Goal 2: A stronger, healthier environment and diverse heritage
- » Goal 3: Quality freight, transport and infrastructure networks
- » Goal 4 Dynamic, vibrant and healthy communities

The plan also outlines the specific priorities of Mid-Western Regional Council. These priorities are:

- » Support appropriately located and serviced land for residential development.
- » Support the mining and resources sector and associated businesses.
- » Leverage opportunities from the Local Government Area's location and rural character to support the established food and tourism market.
- » Protect agricultural land from encroachment from residential development.
- » Support the provision and continued development of major regional sports, recreation and cultural facilities

This PP specifically endorses direction 28: manage rural residential development, under Goal 4 Dynamic, vibrant and healthy communities. The actions under direction 28 are:

- » Locate new rural residential areas:
 - > **close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure;**
 - > **to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and**
 - > to avoid areas of high environmental, cultural or heritage significance, regionally important agricultural land or areas affected by natural hazards.
- » **Enable new rural residential development only where it has been identified in a local housing strategy prepared by Council and approved by the Department of Planning and Environment.**
- » Manage land use conflict that can result from cumulative impacts of successive development decisions.

This PP is proposing to rezone land that is approximately 5km from Mugdee CBD. In addition, the proposed rezoning is located in an area that has existing rural residential to north and south of the subject site. The PP proposes a minimum lot size of 12 ha and zoning of R5 Large Lot Residential to parts of the subject site interfacing with the existing RU1 primary production.

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

As noted above, the PP will give effect to the CLUS and LSPS.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes, please see the below table outlining the relevant State Environmental Planning Policies (SEPPs) and the proposals compliance with them.

Table 6 Applicable State Environmental Planning Policies

SEPP	Assessment
SEPP (Exempt and Complying Development Codes) 2008	
This Policy aims to provide streamlined assessment processes for development that complies with specified development standards.	Consistent
SEPP (Primary Production and Rural Development) 2019	
The aims of this Policy are as follows— (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations, (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts, (e) to encourage sustainable agriculture, including sustainable aquaculture, (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture, (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.	Consistent The proposal seeks to rezone the land from RU1 Primary Production to R5 Large Lot Residential. The subject land is adjoining land currently zoned and developed as large lot residential land. The land has been identified as a rural lifestyle opportunity area in the CLUS. The land represents a relatively small reduction in available agricultural land and is well suited for large lot residential development due to its location and proximity other urban land uses. The proposal excludes land identified as significant under the terrestrial biodiversity mapping in the MWLEP. The proposed changes under this PP are considered of minor significance and are considered to be consistent with the intent of this SEPP.
SEPP (Koala Habitat Protection) 2020	
This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.	Consistent. The extent of Koala Habitat has been identified in the ELA report (Appendix A). Areas of potential habitat have been avoided.

SEPP	Assessment
SEPP 55 Remediation of Land	
<p>(1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.</p> <p>(2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—</p> <p>(a) by specifying when consent is required, and when it is not required, for a remediation work, and</p> <p>(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</p> <p>(c) by requiring that a remediation work meet certain standards and notification requirements.</p>	<p>Consistent – Branson has prepared a Preliminary Contamination assessment the supported the rezoning of the land for the proposed purpose (Appendix D).</p> <p>Based on the findings of the desktop review and site investigation it can be stated with a reasonable level of confidence that the areas comprising the Subject Site that may be further developed for residential use, subsequent to the proposed re-zoning and sub-division, are unlikely to be contaminated. This finding is supported with analytical results of surface soil samples collected at the Subject site, in which no contaminants were detected above screening criteria. These areas are therefore considered suitable for the proposed re-development and use for residential purposes.</p> <p>The site investigation did reveal evidence of localised heavy metal contamination associated with the historical structures on Lot 34 DP756897 but these areas will not be available for future development, rather they will be retained in a lot with the existing homestead.</p> <p>Although the concentrations of heavy metals detected in this area of the Subject Site exceed both health and ecological risk-based screening guidelines, it was concluded that the contamination does not represent a risk to the proposed re-zoning and sub-division and future development of the Subject Site, as it does not represent a significant risk to human health or the environment in the location where it is.</p>

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)

Yes. The relevant directions are addressed in the following table.

Table 7 9.1 Directions

Directions	Aim of Direction	Consistency and Implications
1 — Employment and Resources		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Planning Proposal not affected by this direction.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	<p>This proposal seeks to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential. The Planning Proposal is consistent with the CLUS in relation to land suitable for R5.</p> <p>Therefore, the proposal is considered of minor significance and its impacts to the rural zone also negligible.</p>

Directions	Aim of Direction	Consistency and Implications
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials is not compromised by inappropriate development.	This Planning Proposal will rezone the land to R5 Large Lot Residential, which does not permit extractive industries. Given the proximity of the site to the existing rural residential areas, it is considered unlikely that the site would be deemed suitable for future mining. In this context, the Planning Proposal is considered to be consistent with the intent of this direction.
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	<p>This proposal seeks to rezone the subject land from RU1 Primary Production to R5 Large Lot Residential. The Planning Proposal is consistent with the recommendations of the CLUS.</p> <p>The land is not class 1-3, therefore not considered to be prime agricultural land and it will remain available for grazing. Further, the area to be impacted is insignificant in the context of the total land area available for agriculture in the LGA. The land the subject of this application is not prime agricultural land and it has been used for minimum agricultural activities in the past, predominantly grazing.</p> <p>The Planning Proposal is considered to be consistent with the intent of this direction. Any perceived inconsistencies with this direction are considered to be of minor significance.</p>
2 — Environment and Heritage		
2.1 Environment Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	<p>Part of the subject site is identified as Terrestrial Biodiversity in the MWLEP.</p> <p>A Preliminary Biodiversity Assessment was undertaken by ELA (Appendix A). The proposal avoids land that is sensitive and already zoned E3. Precise impacts cannot be known until the subdivision and development stage at which time additional assessment may be required. The conceptual subdivision layout avoids steep and highly vegetated areas. Further, the BC Act provides an offset mechanism for impacts of the future development on the natural environment if significant vegetation cannot be avoided.</p>
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<p>The property is not within a heritage conservation area and there are no heritage listed items within the site.</p> <p>An AHIMS Search was undertaken and there are no registered sites on or adjacent to the property.</p>
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983).	Planning Proposal not affected by this direction.
2.6 Remediation of Contaminated Land	The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	The Planning Proposal has been accompanied by a Preliminary Contamination Assessment (Appendix D). The assessment confirms the suitability of the site for the future residential use.
3 — Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	<p>It is proposed to rezone subject site to R5 Large Lot Residential. The Planning Proposal is consistent with the recommendations of the CLUS. The rezoning will make efficient use of existing infrastructure and services providing a logical extension to adjoining R5 zoned land.</p> <p>The Planning Proposal is considered to be consistent with the intent of this direction. Any perceived inconsistencies with this direction are considered to be of minor significance.</p>
3.2 Caravan Parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estate.	Planning Proposal not affected by this direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low impact small businesses in dwelling houses.	The home occupations are permitted without consent in the proposed zone under the MWLEP. The Planning Proposal is consistent with this direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Planning Proposal not affected by this direction.
3.5 Development near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning Proposal not affected by this direction.
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be	Planning Proposal not affected by this direction.

Directions	Aim of Direction	Consistency and Implications
	addressed when rezoning land adjacent to an existing shooting range.	
4 — Hazard and Risk		
4.1 Acid Sulphate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	Planning Proposal not affected by this direction.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Planning Proposal not affected by this direction.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Planning Proposal not affected by this direction.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	The PP has considered the potential need to provide APZ and included an indicative subdivision arrangement to enable adequate setbacks as required. It is anticipated that the PP will be provided to the RFS for comment as part of the Gateway Determination.
5 — Regional Planning		
<i>No directions in this section apply to this Planning Proposal.</i>		
6 — Local Plan Making		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	There are no additional requirements in terms of concurrence, consultation or referral proposed for development applications, or additional items defined as designated development within the subject area.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Planning Proposal not affected by this direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This direction does not apply as there are currently no site specific provisions relating to the subject site.
7 — Metropolitan Planning		
<i>No directions in this section apply to this Planning Proposal.</i>		

Section C – Environmental, social and economic impact

Q7. 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. The nature of the proposal is such that the amendment to an R5 zone with a 12 ha MLS does not lead to an assumption that all the land included in the new zone will be the subject of land clearing. Further, the *Biodiversity Conservation Act 2016* (BC Act) includes provision that allow clearing to be undertaken and in circumstances where that will impact on Threatened Species, a biodiversity credit system is now in place. The object of the biodiversity assessment was, therefore, to determine those areas that are more suited to lifestyle development and avoidance of areas that are potentially more constrained.

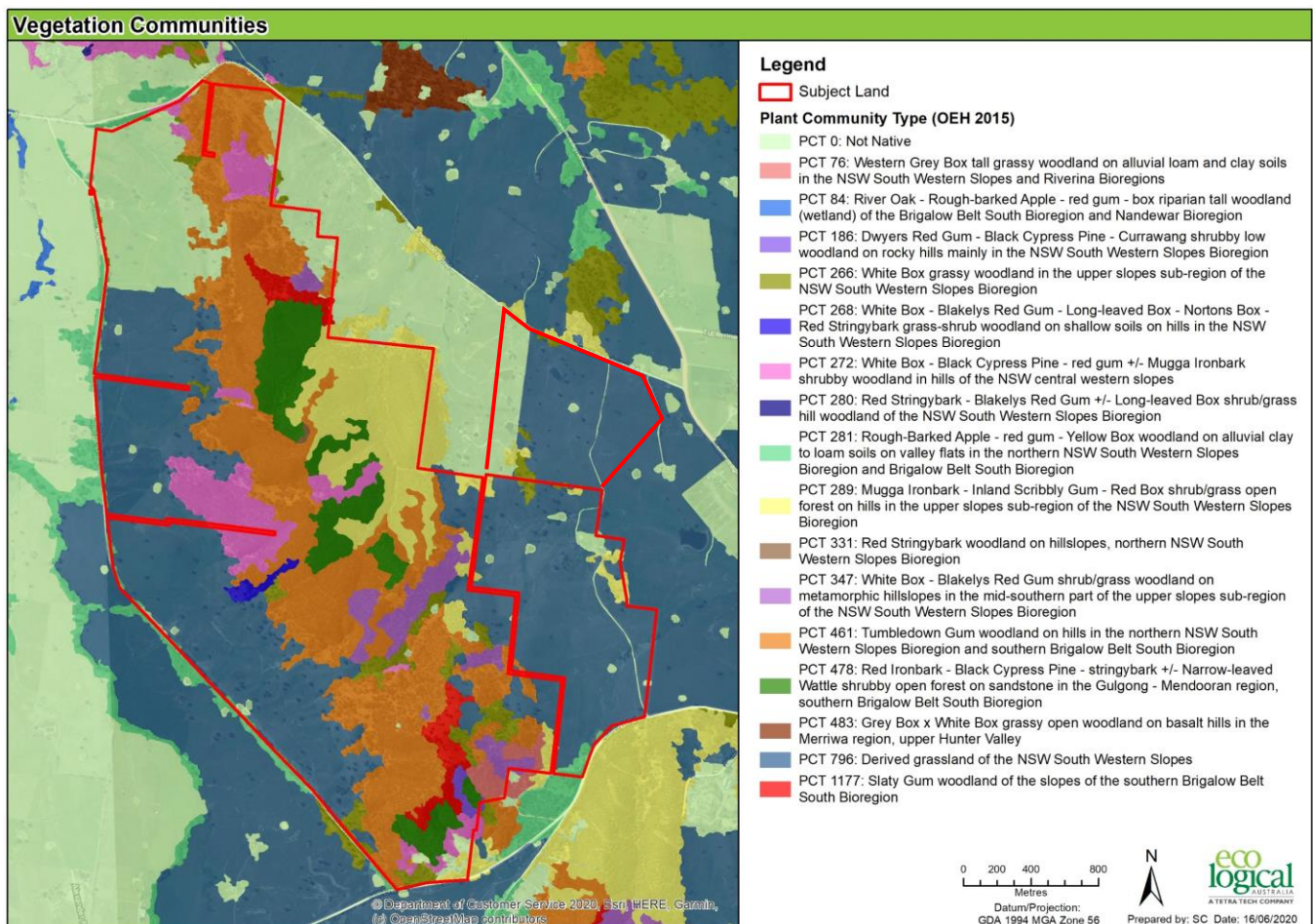
Consideration was also given to those areas identified in the MWLEP as having high biodiversity sensitivity.

The PP is supported by a preliminary assessment undertaken by Ecological Australia (ELA) (**Appendix A**). ELA have identified Plant Community Type (PCT) *Derived grassland of the NSW South Western Slopes* as potentially occurring in those part of the property that have been identified as most suitable for rezoning (**Figure 9**). This PCT is classified as containing a variety of native grasses and herbs and this PCT also forms part of the Box Gum Woodland communities listed under both the BC Act and EPBC Act. If a site assessment did confirm the presence of this PCT, a more detailed assessment may be required. However, as noted above, the extent of clearing will not be known until the subdivision stage where it is expected that the proponent will be required to identify building envelopes and area of impact for the purpose of determining the precise nature of the vegetation on the site and, if necessary, requiring consideration of credits or offsetting arrangements now available under the BC Act.

Utilising a combination of the ELA report and MWLEP mapping, the extent of the site to be rezoned has been limited to avoid the most sensitive areas.

At this stage of the PP process for this type of rezoning, until such time as there is more certainty as to the support for the proposal at a strategic level, specific biodiversity assessment on the entire site is onerous and specific areas of impact are unknown.

Figure 9 Plant Communities



Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The proposal itself is unlikely to trigger any additional environmental impacts.

Aboriginal Heritage

An AHIMS search was undertaken (**Appendix C**) and no known artefacts or sites have been registered on the property. It is noted that additional site specific assessment may be required as part of future development applications.

Groundwater Vulnerability

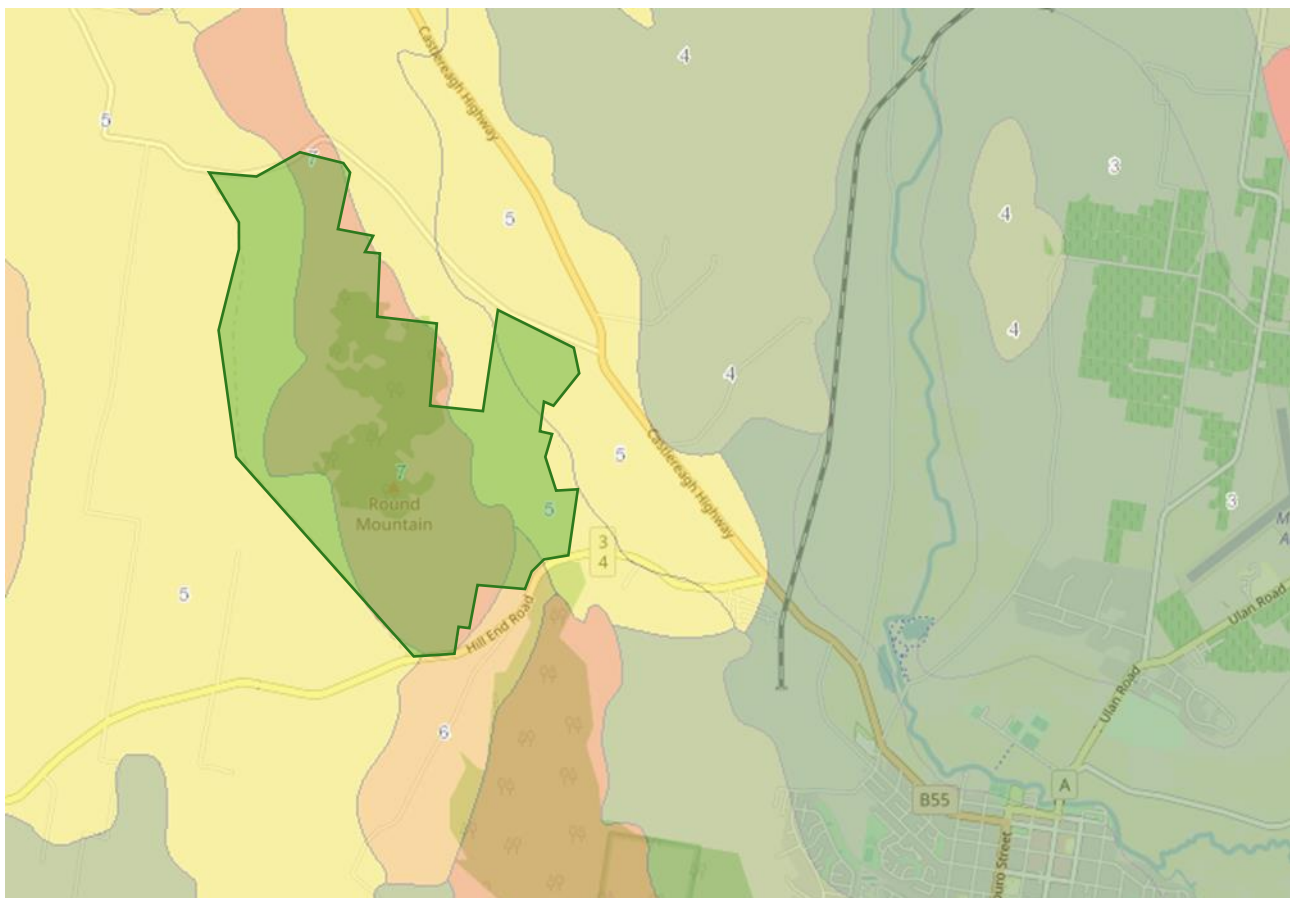
The site is identified as being within the high groundwater vulnerability area. This is consistent with the majority of the catchment. Consideration will need to be given to the management of on-site sewer and drainage as a part of any application for a dwelling. This is consistent with most of the rural land and un-serviced R5 zoned land. A 12 ha MLS will provide sufficient area in which to provide satisfactory on-site disposal.

Agricultural Land Capability

The property is predominately used for light grazing. Agricultural Land Capability was one of the criteria used in the CLUS (discussed above) to determine the opportunity areas for lifestyle development. Generally, development should avoid class 1-3 land having the least limitations for agricultural production.

The site is classified class 5 Severe limitation and class 7 Extremely severe limitations **Figure 10**. The CLUS has identified 37% (326,587ha) of the LGA as being within class 4-5. The PP will impact less than 0.0006% of total class 4-5 land. Further, grazing will be able to be continued under the proposal zone although it is acknowledged that the overall capacity of the property is likely to be reduced as a function of scale.

Figure 10 Land and Soil Classification



https://geo.seed.nsw.gov.au/Public_View/index.html?viewer=Public_View&locale=en-AU&runWorkflow=AppendLayerCatalog&CatalogLayer=SEED_Catalog.111

Reference: Office of Environment and Heritage, 2017, Land and Soil Capability Mapping for NSW, NSW Office of Environment and Heritage, Sydney.

Bushfire

The PP acknowledges the need to ensure that and development that may be undertaken, as a result of this proposal will satisfy the requirements of *Planning for Bushfire Protection 2006*. In that regard, the PP relates to land that is accessible and outside the existing densely vegetated part of the property. The indicative subdivision layout demonstrates that regular shaped lots can accommodate a dwelling with a sufficient asset protection zone. It is anticipated that any dwelling will be required to have an adequate supply of water for fire-fighting purposes and the subdivision itself could include a perimeter road to protect development where lots adjoin bushland.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The proposed rezoning would provide approximately 24 lots. The additional land would retain and continue to provide housing choice close to Mudgee.

Increased choice for housing locality will also benefit the housing industry and employment within the industry.

It is unlikely that there would be any adverse impacts in terms of either social or economic aspects associated with this PP.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

Yes. The proposal will provide an alternative housing opportunity. The proposal will directly impact the Council's current population projections, rather, absorb some of that housing demand. There is sufficient public infrastructure to cater for the anticipated population.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

To date, no formal consultation has been undertaken with the Government to progress the PP.

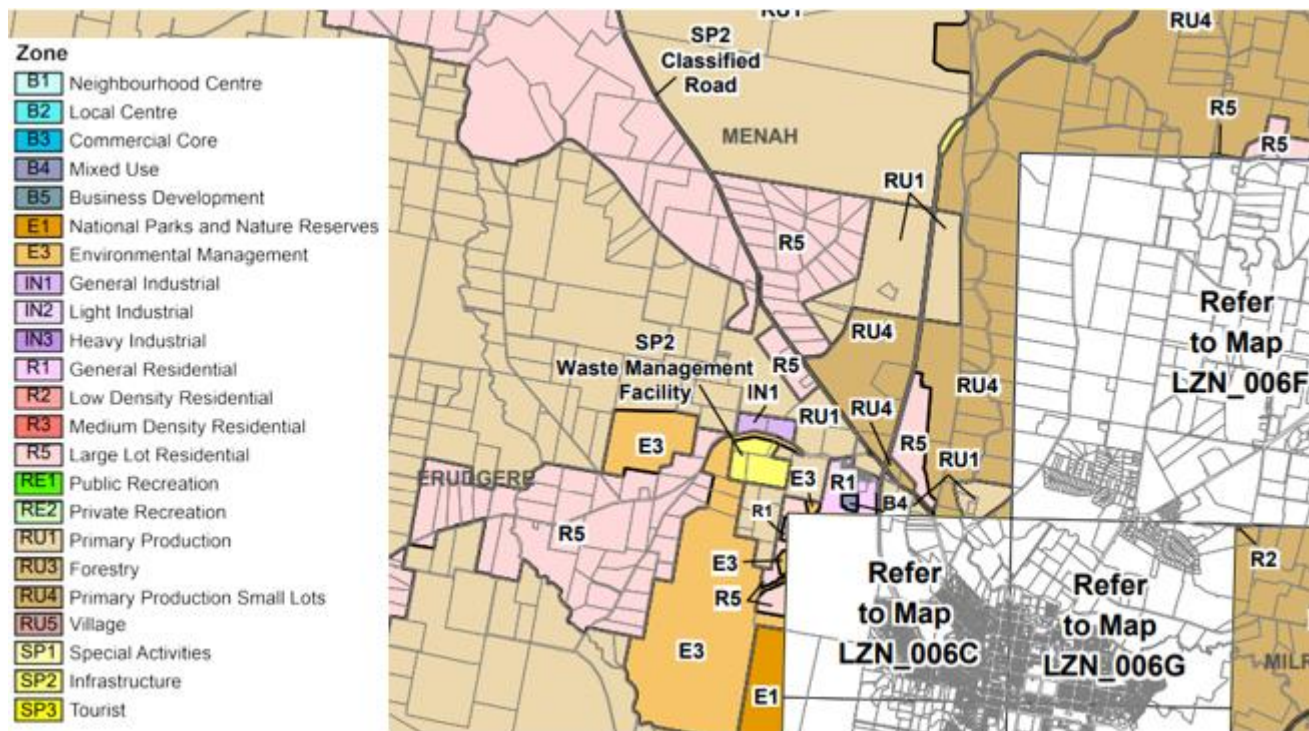
Part 4 Mapping

Part 4 of the PP is to contain clear and accurate mapping depicting relevant aspects of the PP. The subject PP seeks to amend and replaced the following existing maps:

- » Land zoning
- » Lot size

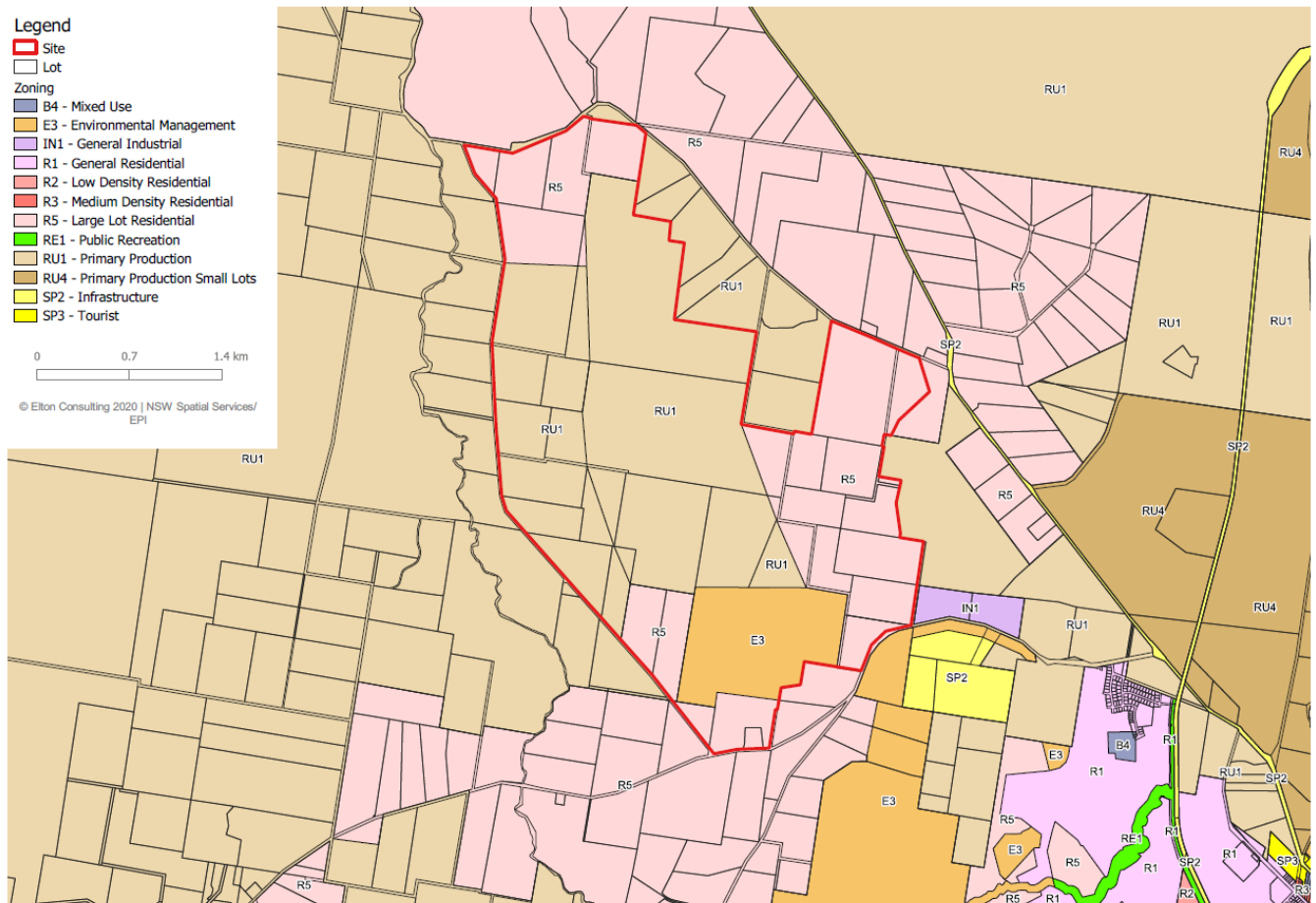
The existing and proposed amended LEP Maps are shown in the following figures.

Figure 11 Land Zoning Map Existing



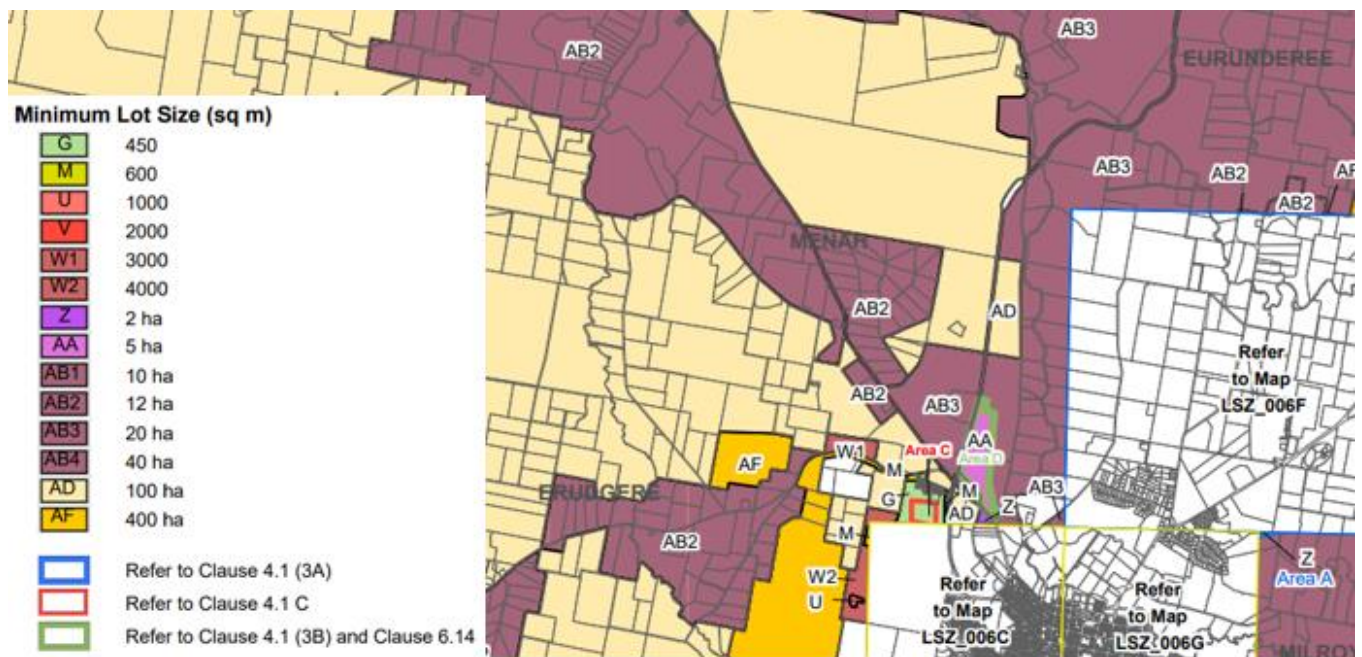
Source: Extract Land Zone Map – Sheet LZN_006

Figure 12 Land Zoning Map Proposed



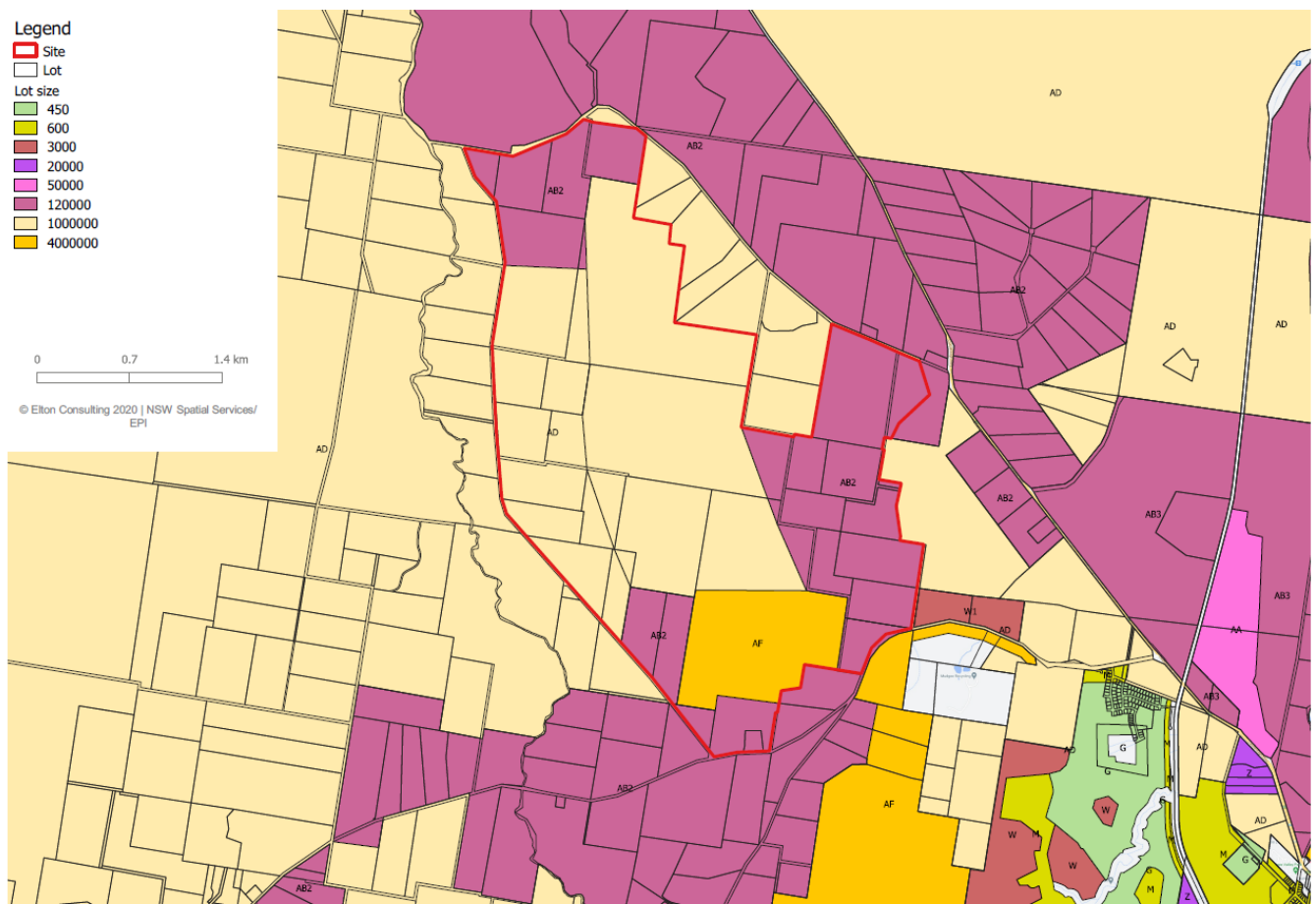
Source: Extract Land Zone Map – Sheet LZN_006

Figure 13 Lot Size Map Existing



Source: Lot Size Map – Sheet LSZ_006

Figure 14 Lot Size Map Proposed



Source: Lot Size Map – Sheet LSZ_006

Part 5 Community Consultation

The EP&A Act provides the statutory requirements for community consultation and public exhibition of PPs to be confirmed by the Minister at Gateway. Public consultation will occur in accordance with the Gateway Determination made by the Minister, in accordance with clause 3.34 and Schedule 1 of the EP&A Act.

It is anticipated that the PP will be required to be exhibited for 28 days.

Part 6 Project Timeline

Part 6 of the PP aims to set an indicative timeline for the progress of the PP through the plan making process. It is generally assumed that the process of determining a PP of this nature will be 6-9 months. The proposed timeline will commence from the date of PP submission to Council and assumes Council and DPIE support for progression.

APPENDIX

A **Preliminary Biodiversity Assessment**

B Indicative Layout Plan

C AHIMS Search

D Preliminary Contamination Assessment

