

## Planning and Assessment

(IRF21/1482)

### Gateway determination report

<b>LGA</b>	Mid-Western Regional Council (MWRC)
<b>PPA</b>	MWRC
<b>NAME</b>	Rezone land from zone RU1 Primary Production to zone R5 Large Lot Residential and amend the minimum lot size from 100ha to 12ha for 6 lots at 705 Springfield Lane, Gulgong
<b>NUMBER</b>	PP-2021-3019
<b>LEP TO BE AMENDED</b>	Mid Western Regional LEP 2012 (MWRLEP 2012)
<b>ADDRESS</b>	705 Springfield Lane, Gulgong
<b>DESCRIPTION</b>	Various Lots at 705 Springfield Lane, Gulgong
<b>RECEIVED</b>	12 April 2021
<b>FILE NO.</b>	IRF21/1482
<b>POLITICAL DONATIONS</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

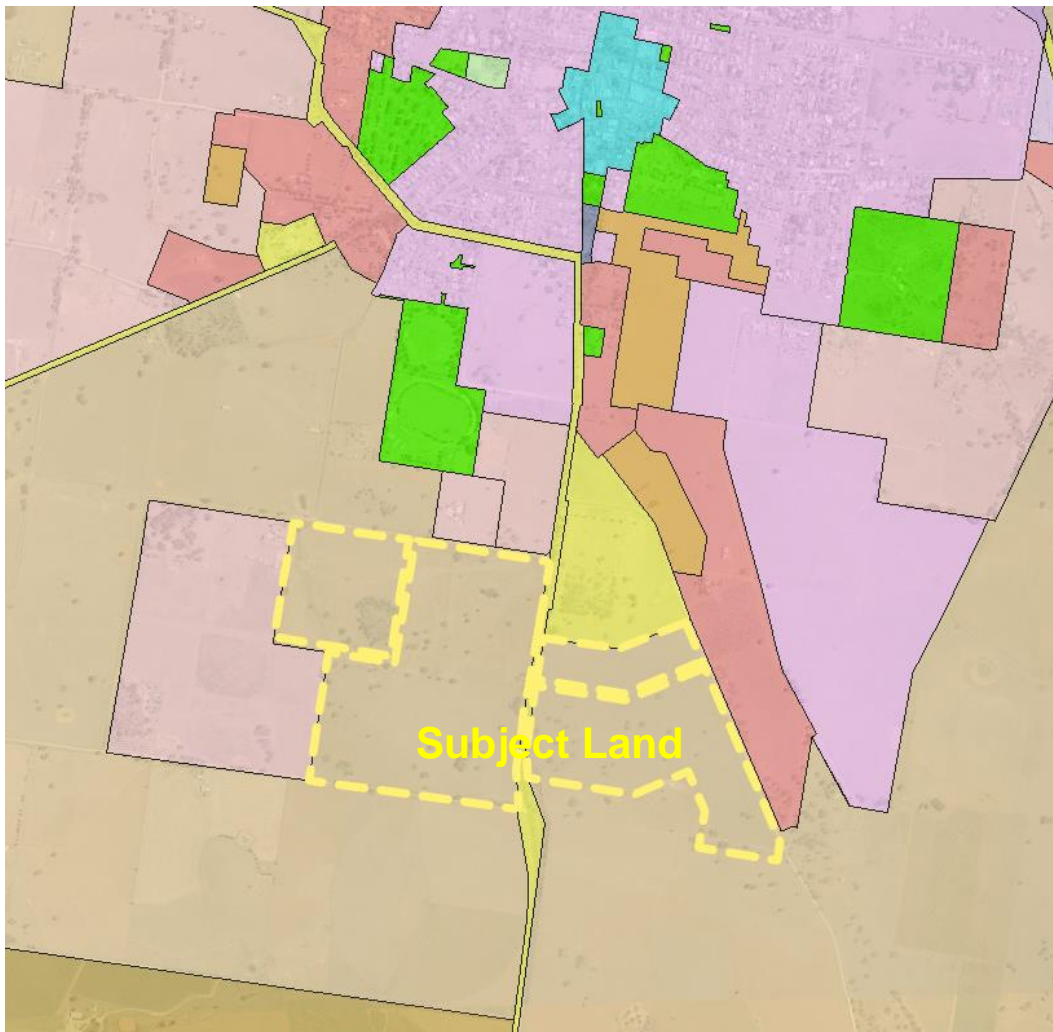
The planning proposal seeks to amend Mid-Western Regional Local Environmental Plan (MWRLEP) 2012 as follows-

- rezone subject land from zone RU1 Primary Production to zone R5 Large Lot Residential, and
- amend the minimum lot size (MLS) for the subject land from 100 ha to 12ha minimum lot size.

The planning proposal facilitates the consolidation/subdivision of 15 lots into 6 x 12ha large lot residential lots on the subject land. The planning proposal was reported to Mid-Western Regional Council (MWRC) on 17 March 2021 where Council resolved to support the rezoning of the site and minimum lot size amendment. The proposed Scotts Lane and road between Springfield Lane and Castlereagh Highway are included as part of this proposal.

## 1.2 Site and surrounding area description

The subject land is known as 705 Springfield Lane, Gulgong, is vacant land and contains 15 parcels with various site areas (refer to Appendix A of the planning proposal). The land has a total area of 82.3ha and has a frontage to Castlereagh Highway to the east, Adams Lead Road to the north and Bergalin Road to the south. The subject land is gently undulating and appears to be currently used for agricultural uses (grazing/cropping). The land contains some remnant vegetation as well an area of mapped as high biodiversity on the western portion of the site. The surrounding lands are mainly used for agricultural and grazing purposes although to the north-east is the 'Gulgong Cemetery'.



*Figure 1: Aerial View of the subject land. Source -ePlanning Spatial Mapping*

It is to be noted that the adjoining land to the east and west is zone R2- Low density residential with a mls of 2ha and zone R5 – Large lot residential with a mls of 2ha respectively.

### **1.3 Existing planning controls**

The subject land is zone RU1 Primary Production land and has a minimum lot size (MLS) of 100ha under MWRLEP 2012.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives and intent of the proposal are clearly stated on pages 1 and 4 of the planning proposal. The intent is rezone the land to zone R5- Large lot residential and change the mls from 100ha to 12ha. This will facilitate creation of a 6 large lot rural residential lots with dwelling house permissibility.

The proposal also identified the potential for 2ha lots however this is not part of the planning proposal or supported by Council.

### **2.2 Explanation of provisions**

The amendments to the MWRLEP 2012 are proposed to facilitate the intended outcomes of the planning proposal:

- Amend LZN\_005C and LZN\_005 to show the subject land as R5 Large Lot Residential (currently RU1 Primary Production); and
- Amend LSZ\_005C and LSZ\_005 to show the minimum lot size as 12ha (currently 100ha).

### **2.3 Mapping**

The proposal will amend map sheets LZN\_005C and LZN\_005 and amend LSZ\_005C and LSZ\_005.

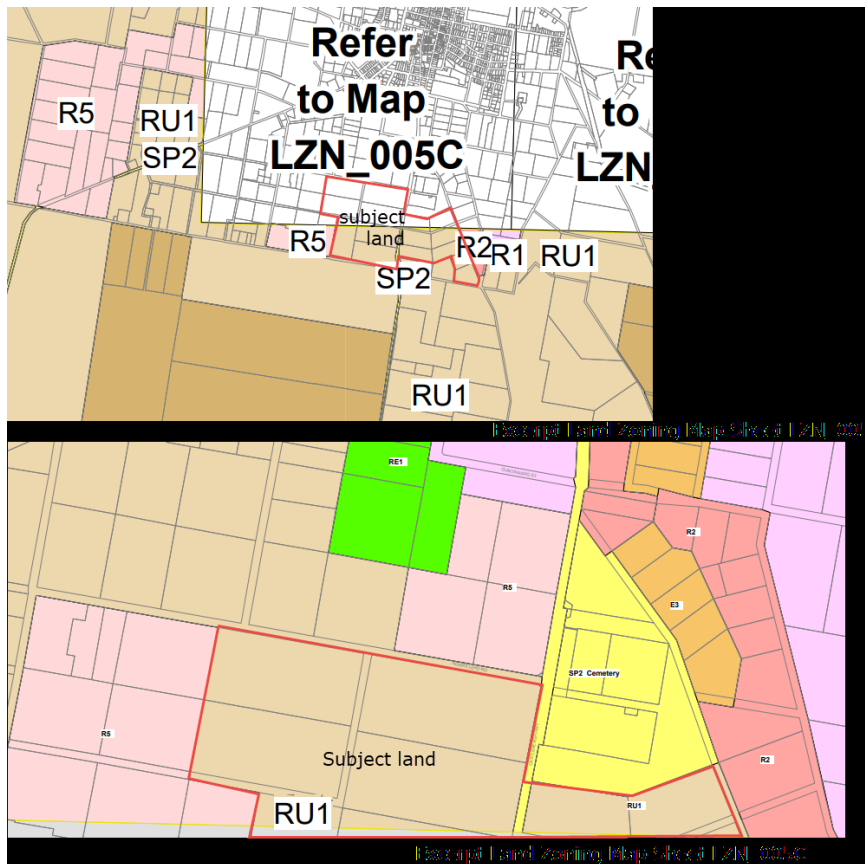


Figure 2: Zone Maps sheets to be updated. Source- Planning proposal report, 2021

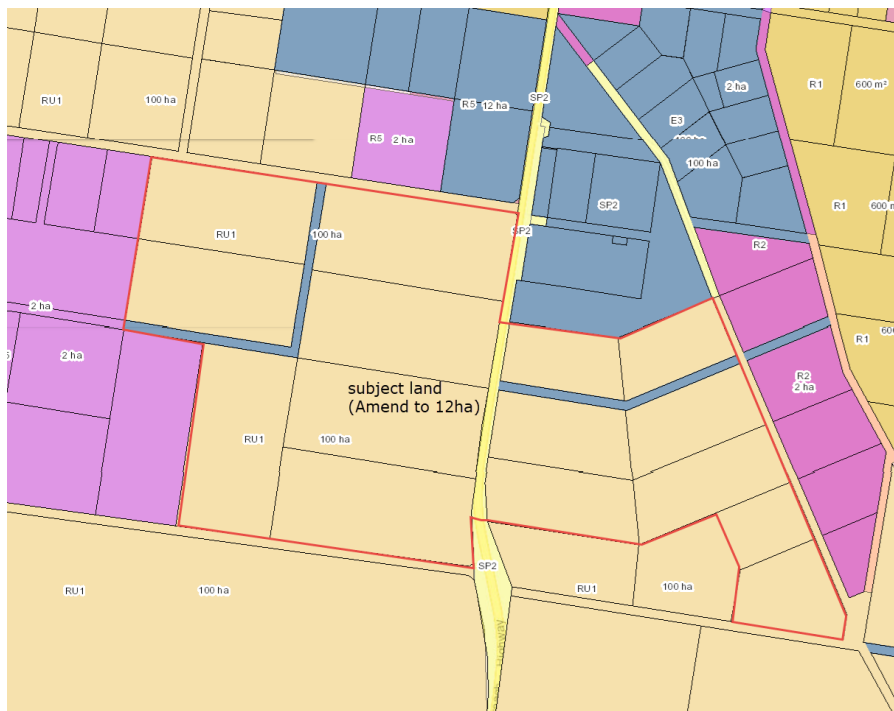


Figure 3: MLS Maps sheets to be updated. Source- Planning proposal report, 2021

### **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal seeks to increase the density of residential land use by permitting development of large residential lots on the subject site. The planning proposal acts on the strategic direction contained within the Mid-Western Regional Comprehensive Land Use Strategy (MWCLUS). It is agreed that proposal is the best means for achieving the intended outcome.

### **4. STRATEGIC ASSESSMENT**

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#### **4.1 State**

There are no State strategies applicable to the proposal.

#### **4.2 Regional**

The planning proposal provides it is consistent with the objectives of the Central West and Orana Regional Plan (CWORP) 2036. The CWORP broadly identifies areas for more economical expansion and associated housing opportunities throughout the region, including the Mid-Western Regional LGA.

In particular, Goal 4 - Dynamic, vibrant and healthy communities, discusses various actions for more housing variety including Direction 28 'Manage rural residential development'. The planning proposal will give effect to

- Direction 22: Manage growth and change in regional cities and strategic and local centres
- Direction 25: Increase housing diversity and choice
- Direction 28: Manage rural residential development

The site is in close proximity to Gulgong and therefore benefits and accessible to all required services.

Council and the planning proposal adequately addresses consistency with the CWORP.

#### **4.3 Local**

Mid-Western Regional LSPS (Our Place 2040) is the local strategic planning framework for Mid-Western Regional Council. The LSPS identifies twelve priorities focused around Mid-Western's communities, environmental, economy and governance. This planning proposal gives direct effect to priority 2: Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning. The proposal is to facilitate the creation of 6 large lot residential style lots that located near similar zones and within close proximity to Gulgong.

Mid-Western Regional Comprehensive Land Use Strategy (MWCLUS) (endorsed by the Department on 1 August 2011) provides direction and guides future land use changes in the Mid Western Regional local government area by identifying land suitable to meet the growing need for housing in the area. The MWCLUS considers detailed constraints and opportunity analysis and suggests "opportunity" areas which are identified areas within close proximity to the town centres. The CLUS identifies the subject site (described as the precinct E) as a short-term opportunity to develop rural lifestyle lots with a minimum lot size of 12ha. This proposal aligns with the MWCLUS. The subject site mostly contains short term opportunity land and Class 3 land (otherwise unconstrained).



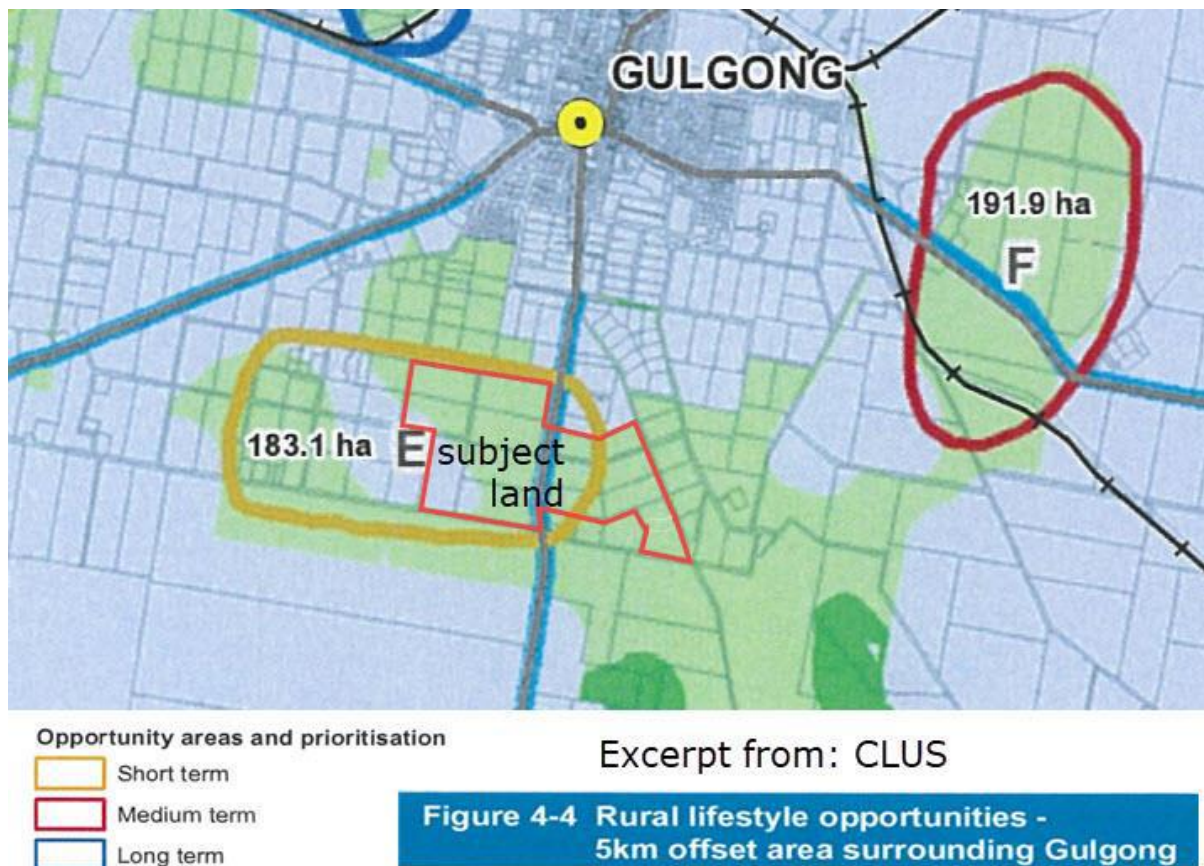


Figure 4: Excerpt from CLUS showing subject land in Precinct E – SHORT TERM RELEASE AREA. Source: Mid-Western Regional CLUS

Mudgee and Gulgong Urban Release Strategy (MGURS) (endorsed by the Department on 25 January 2015) is focussed primarily on the release of residential land uses. The subject land is partially identified as a future large lot residential release area. The eastern portion of the subject site is earmarked for possible 2ha large lot residential, fronting Springfield Lane. The proposed amendments will not jeopardise future subdivision of this area to be consistent with the MGURS recommendation for 2ha in this area.

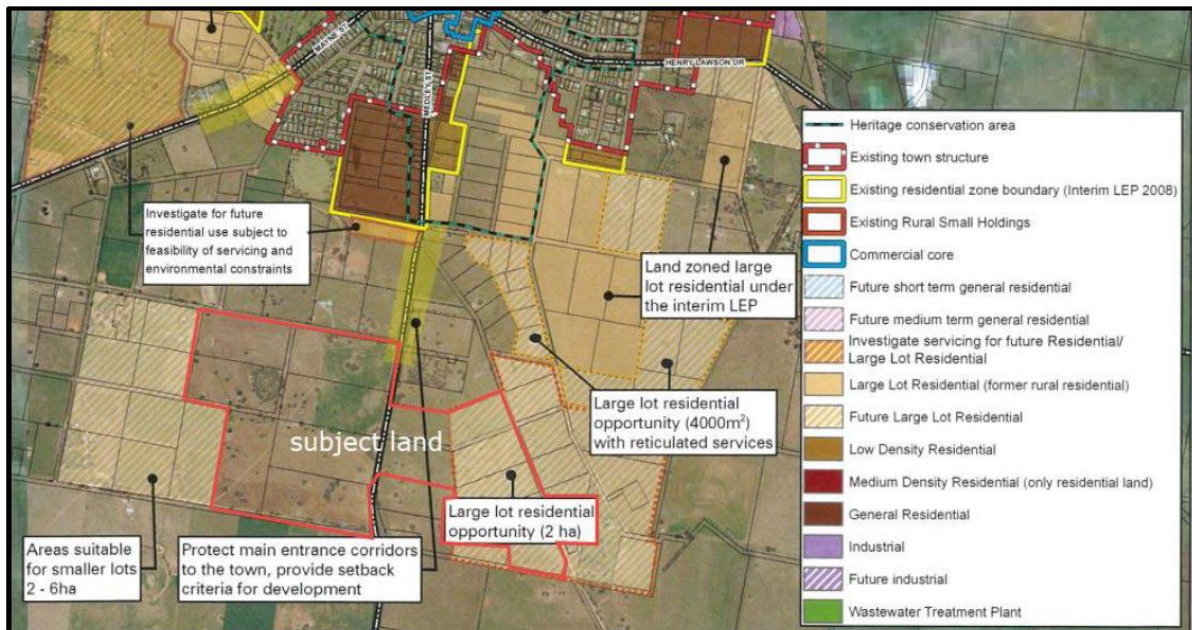


Figure 5: Gulgong town structure plan. Source: Mudgee and Gulgong Urban Release Strategy

Draft MWRC Strategically Identifying Large Lot Residential Opportunities around Mudgee- (recently exhibited, not endorsed) aims to investigate additional potential opportunities for large lot residential living based on the criteria established in the MWCLUS, within the 2ha-10ha lot size range. The planning proposal seeks to provide lots at a 12ha minimum lot size and therefore the opportunities recommended in this Draft Strategy are not relevant to the proposal at this time.

#### 4.4 Section 9.1 Ministerial Directions

Assessing the proposal, it is determined that the information provided by Council demonstrates consistency with the following section 9.1 Directions:

- Direction 1.3 Mining, Petroleum Production and Extractive Industries
- Direction 2.3 Heritage Conservation
- Direction 4.4 Planning for Bushfire Protection
- Direction 5.10 Regional Plans

No further work is required in the terms of these Directions.

The proposal is inconsistent with the following Section 9.1 Ministerial Directions:

- Direction 1.2 Rural Zones and 1.5 Rural Lands are relevant to this proposal as the subject land is to be rezoned from a rural zone. The inconsistency with these Directions is justified as the subject land is considered for large lot living under the Department endorsed MWCLUS. In addition, under the MWRLEP 2012 intensive plant agricultural uses remain permissible in zone R5 and the

land can be used for some agriculture even though the land will be used predominantly for large lot residential purposes.

- Direction 2.6 Remediation of Contaminated Land is relevant to the planning proposal. To satisfy this Direction Council is to obtain and have regard to a report detailing the findings of a preliminary contamination investigation of the land that is carried out in accordance with the contaminated land planning guidelines. This work is required to be undertaken prior to community consultation to demonstrate that the proposed rezoning can proceed. The inconsistency with this Direction has not been satisfied at this time.

#### **4.5 State environmental planning policies (SEPPs)**

The planning proposal has provided an assessment of the proposal against the State Environmental Planning Policies in a Table on page 10 of the planning proposal. Consideration to the following SEPPs are provided regarding the proposed amendment:

SEPP (Koala Habitat Protection) 2020 and 2021: In accordance to the MWRLEP 2012 sensitive biodiversity mapping and biodiversity comments that accompanied the planning proposal, all potential koala habitats are not impacted by this proposal. Consultation with DPIE – Biodiversity, Conservation and Science (BCS) about any impact on Koalas will be required.

SEPP No. 55 Remediation of Land- the contamination comments do not thoroughly address this consideration. The Gateway determination will require Council to address this matter prior to community consultation. Council is to be satisfied that the subject land reacting to potential contamination is fit for the proposed large lot residential purpose.

State Environmental Planning Policy (Infrastructure) 2007 – The land has frontage to Castlereagh Highway. No new accesses are proposed onto the Highway for the future housing opportunities. Consultation with Transport for NSW will be required.

#### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The planning proposal amends the zoning of the land from RU1 Primary Production to R5 Large Lot Residential and will become urban land. Any future development and associated tree removal may require consideration under the Vegetation SEPP at Development Application stage.

The concept plan that has been prepared for the site demonstrates that existing lot boundaries are primarily able to be utilised. Further subdivision and development on the site can be undertaken with limited vegetation clearing and no clearing of the mapped Biodiversity Sensitive area would be required. It is not likely to trigger any further consideration at subdivision stage under the SEPP or the Biodiversity Conservation Act 2016. While it appears that no, or limited impact is expected on the existing vegetation, the Gateway determination has been condition to require consultation with BCS.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social and economic**

Additional residential development near the Gulgong will assist in meeting local and regional dwelling demand while providing a variety of housing options. The planning



proposal will also provide residential uses near strategic centres where residents can easily access community service and facilities. The proposal will have a positive social and economic impact.

## **5.2 Environmental**

Council advise that much of the site has been historically cleared with only a scattering of individual trees present across the site. It is expected that these trees can generally remain on site without being impacted by future lot boundaries and dwelling sites.

A small area is mapped as high biodiversity on the western portion of the site. The concept plan demonstrates that existing lot boundaries are primarily able to be utilised. Future consolidation / subdivision and development on the site can be undertaken with limited vegetation clearing having regard to the mapped Biodiversity Sensitive area. While it appears that no, or limited impact is expected on the existing vegetation consultation with BCS will be required.

## **5.3 Infrastructure**

The proposal is located within proximity to existing urban infrastructure servicing catchments including connections to existing public road, electricity, water and telecommunications. It is proposed that the 12ha lots will not be connected to a reticulated water or sewer supply. The planning proposal indicates that the proposed 12ha will be self-sufficient with water through onsite collection and ground water sources consistent with the MWCLUS.

# **6. CONSULTATION**

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## **6.1 Community**

The planning proposal does not propose a consultation period. In accordance with *A guide to Preparing Planning Proposals* this proposal is considered to be 'low impact' proposal because it consistent with surrounding zones, strategy and does not have servicing impediments. A 14 day exhibition period is deemed to be adequate for this planning proposal.

## **6.2 Agencies**

Consultation is required with the following agencies during public exhibition:

- Department of Planning, Industry and Environment – Biodiversity, Conservation and Science Directorate; and
- Transport for NSW.

# **7. TIME FRAME**

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The planning proposal does not provide a timeframe to complete the planning proposal. The Department however supports a nine (9) month timeframe as it is line with the commitment to reduce processing times. It is recommended that if the Gateway determination is supported that a condition requiring Council to exhibit the proposal within four (4) months will be required.

## 8. LOCAL PLAN-MAKING AUTHORITY

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Council has not specifically requested to be the local plan-making authority. However, Council should be authorised to be the local plan-making authority as the proposal is consistent with a Department endorsed strategy (MWCLUS).

## 9. CONCLUSION

The planning proposal is recommended to proceed with conditions as it:

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- Is consistent with relevant region plans, local plans and strategies.
- It will provide for additional housing within close proximity of Gulgong.
- Potential contamination and biodiversity impacts can be investigated.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary agree that:

- Inconsistencies with section 9.1 Directions 1.2 Rural Zones and Direction 1.5 Rural Lands are justified and are of minor significance as the proposal is justified by an endorsed land use strategy and no further work is required.
- Inconsistencies with section 9.1 Direction 2.6 Remediation of Contaminated Land will be addressed through further investigation by Council prior to public exhibition.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation a revised planning proposal is to be resubmitted that addresses the following:
  - a. Potential contamination - a preliminary contamination investigation to demonstrate to Council that the subject land is suitable or can be made suitable for the proposed large lot residential use;

Council is to seek approval from the Department of Planning, Industry and Environment – Western Region prior to undertaking community consultation.

2. The planning proposal is to be publicly exhibited within **four (4) months** from the date of the Gateway determination. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **14 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act:

- Department of Planning, Industry and Environment – Biodiversity, Conservation and Science Directorate; and
- Transport for NSW.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
7. The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.



14/5/21

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18.5.21

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