



IRF23/2851

Gateway determination report – PP-2023-235

148 Wyoming Road Stubbo – Large Lot Residential

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
A – Council Meeting Report – Mid-Western Regional Council – 16 August 2023
B – Council Meeting Minutes – Mid-Western Regional Council – 16 August 2023
C – Planning Proposal PP-2023-235 – Barnson – 7 June 2023

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Mid-Western Regional
PPA	Mid-Western Regional Council
NAME	148 Wyoming Road – Large Lot Residential
NUMBER	PP-2022-235
LEP TO BE AMENDED	Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)
ADDRESS	148 Wyoming Road, Stubbo
DESCRIPTION	Lot 101 DP 1221461
RECEIVED	26/10/2023
FILE NO.	IRF23/2851
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal
DWELLING/JOBS	8 dwellings/0 jobs

1.2 Objectives of planning proposal

The objective of the planning proposal is to provide opportunities for rural residential development for the subject site approx. 7km from the town of Gulgong.

The objective of this planning proposal is clear and adequately explains the intent of the proposal.

1.3 Explanation of provisions

The planning proposal seeks to amend the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP) per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU1 Primary Production	R5 Large Lot Residential
Minimum lot size (MLS)	100ha	12ha
Number of dwellings	1	8 (approx.)

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject site is Lot 101 DP 1221461 and is known as 148 Wyoming Road, Stubbo. The subject site is approximately 100ha of vacant rural land zoned RU1 Primary Production with a lot size of 100ha. The subject site adjoins a large existing rural residential development area to the north west that primarily provides for 12ha rural living lots (see Figure 1).

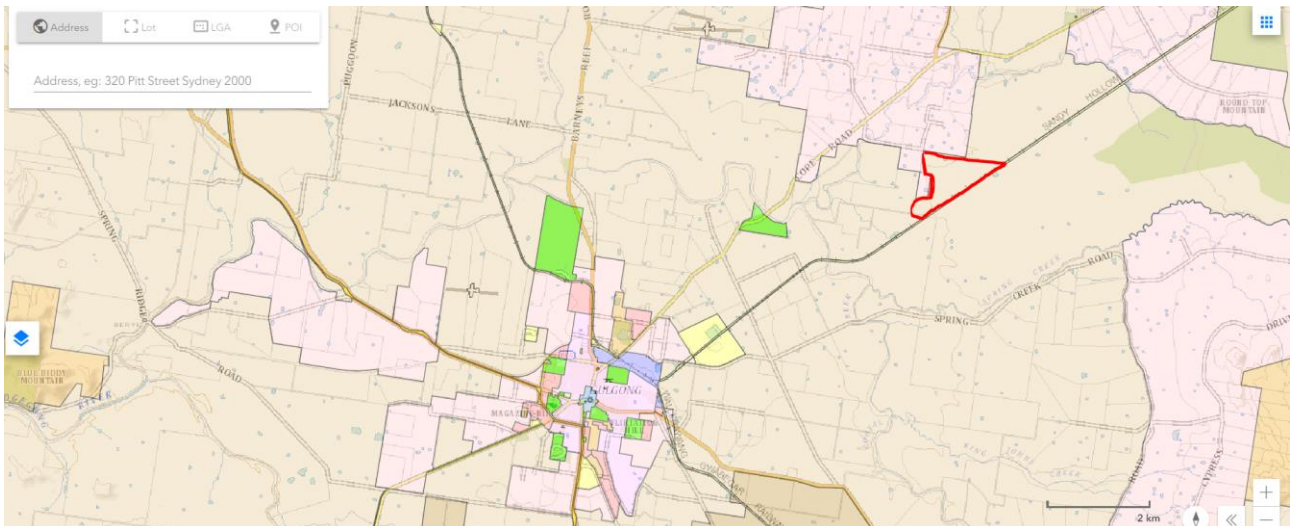


Figure 1 Locality map - subject land north east of Gulgong (Source: NSW Planning Portal Spatial Viewer)

The subject site is located approximately 7.5km north-east from the town of Gulgong. Its south eastern border is the Sandy Hollow Gulgong Railway corridor which is actively used to freight coal. Neighbouring properties are zoned as R5 Large Lot Residential to the north and west, and elsewhere RU1 Primary Production (see Figure 2).

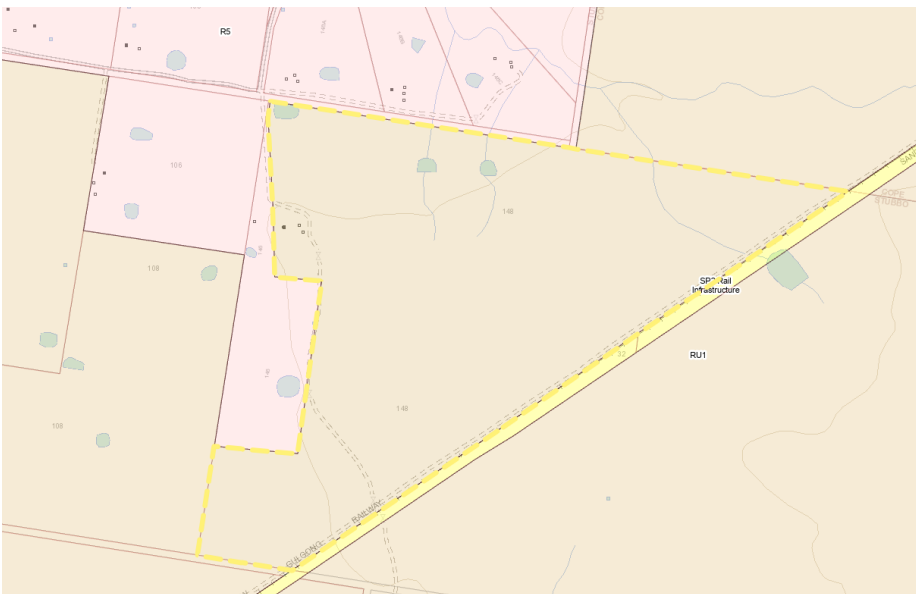


Figure 2 Existing Zoning of subject site (Source: ePlanning Spatial Viewer)

The subject site has been used for agricultural pastoral purposes and consists of a detached dual occupancy development (2 dwelling houses) with ancillary structures, groundwater bore and multiple dams. Existing vegetation with biodiversity values is located along the north-eastern and southern aspect of the subject site (see Figure 3). The subject site is not constrained by bushfire or flooding.



Figure 3 Subject site highlighted in blue (Source: Nearmap, 14 May 2015 – annotated by the Department)

1.5 Mapping

As a result of the proposed amendments detailed in section 1.3 above, the planning proposal will require amendments to the following maps of MWRLEP 2012:

a) Land Zoning Map – Digital Map EZR MOA MWT

Rezone the subject site from RU1 Primary Production Zone to R5 Large Lot Residential Zone (See Figure 4).

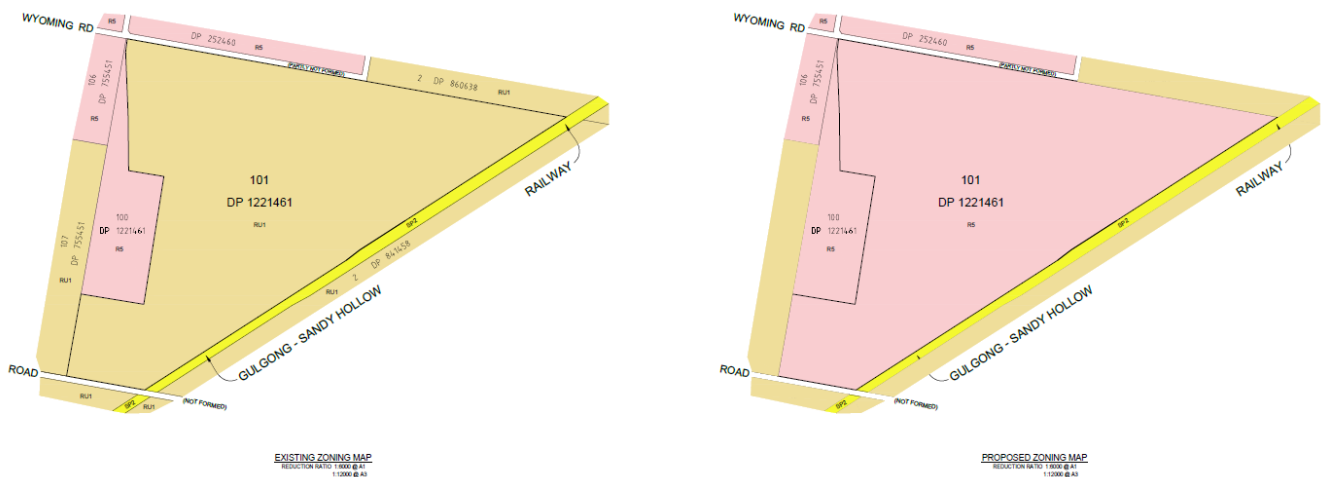


Figure 4 Current (left) and proposed (right) land zoning map (Source: Planning Proposal)

b) Lot Size Map – Sheet LSZ 005

Amend the subject site's lot size from 100ha (AD) to 12ha (AB2) (see Figure 5).

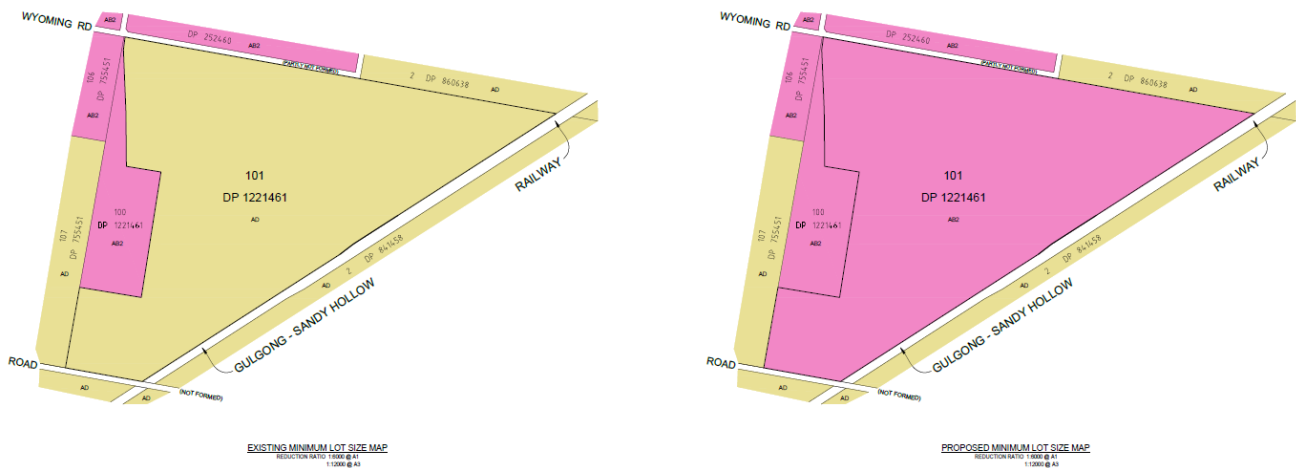


Figure 5 Current (left) and proposed (right) lot size map (Source: Planning Proposal)

The indicative mapping (Figure 4 & 5) provided in the planning proposal is suitable for community consultation.

On 26 April 2023, the land zoning maps of the MWRLEP 2012 were transitioned from PDF to digital mapping as part of the Department's Employment Zones Reform program. In this instance, both the digital land zoning map and a PDF lot size map will be required to be prepared prior to making the LEP.

1.6 Background

The Mid-Western Regional Comprehensive Land Use Strategy (CLUS) (prepared in 2010 and revised in 2017) identified opportunity areas for rural lifestyle uses near Gulgong. It identified a demand of 55-80 lots per annum across the local government area. Around Gulgong, it was anticipated that approximately 5-10 lots per annum would be required for rural living.

The CLUS also identified that a 12ha lot size would be suitable to achieve a sustainable use of local groundwater and surface water resources where reticulated water and sewer is not available.

In the CLUS, Council also committed to preparing a Rural Land Release Strategy to manage timing and staging for rural lifestyle opportunities as well as protecting the LGA's settlement hierarchy and the financial sustainability of infrastructure provision. However this Strategy has not been prepared.

An extract of the CLUS is provided in Figure 6 and states that Sector B, located north-east of Gulgong, was identified to have potential long-term supply (20+ years) of 12ha rural lifestyle lots without significant land constraints.

Gulgong catchment area

The proposed rural lifestyle development surrounding Gulgong will be located within a 5 kilometre offset area of the town. The constraints and opportunity mapping identified areas within the offset that have the potential to be used for rural lifestyle development as shown in Figure 4-4. An analysis of the potential lot yield from each area and the recommended prioritisation is summarised in Table 4-6 below.

Table 4-6 Potential future supply and staging of rural lifestyle opportunity areas surrounding Gulgong

Identified opportunity area	Mapped area (ha)	Developable area (assumed 70%) (ha)	Lot yield (@12 ha/lot)	Estimated annual lot demand	Future supply (years)	Priority (S, M, L)
A North-west of Gulgong	424	297	25	5	4.9	L
B North-east of Gulgong	379	265	22	5	4.4	L
C West of Gulgong	327	229	19	5	3.8	S
D Immediately north-west of Gulgong	86	60	5	5	1.0	L
E South of Gulgong	183	128	11	5	2.1	S
F East of Gulgong (Henry Lawson Drive)	192	134	11	5	2.2	M
Summary	1591	1114	93	-	18.6	-

Figure 6 Extract of Mid-Western Regional Comprehensive Land Use Strategy (Source: CLUS Section 4.8.3 of)

The subject site is located in Sector B of the CLUS and the planning proposal seeks to realise the opportunities of this area (see Figure 7). The subject site is approximately 26.5% of the mapped area of Sector B. Note.

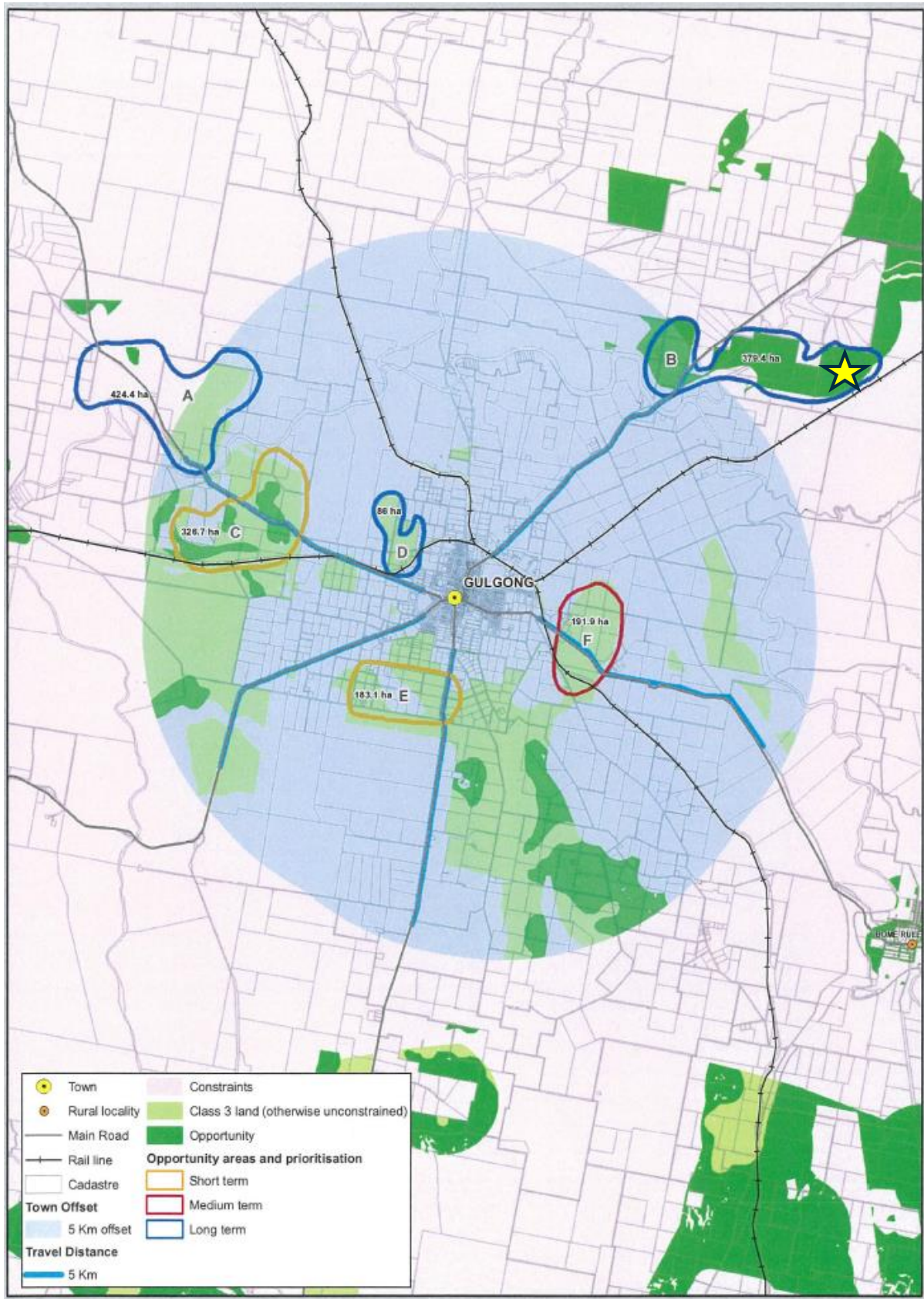


Figure 7 Map of CLUS rural lifestyle opportunity areas (yellow star indicates subject site's location)
(Source: Figure 4-4 of CLUS)

2 Need for the planning proposal

As discussed in Section 1.6 above, the planning proposal is a result of Council's land use strategy (the CLUS) for the area and reflects the orderly rollout of strategically identified rural living opportunities. The CLUS was endorsed by the department on 01/08/2011.

Section 3.2 of this report outlines how the planning proposal is broadly consistent with the Mid-Western Regional Local Strategic Planning Statement 2020 (LSPS). Planning Priority 2 of the LSPS is to 'make available diverse, sustainable, adaptable and affordable housing options through effective land use planning'.

While the planning proposal does not provide a current analysis of the demand for 12ha lots in the Gulgong vicinity, it relies heavily on the analysis undertaken for the CLUS in 2010 (which may or may not have been updated in 2017). The planning proposal considers the lack of take up of the CLUS 'medium term' Area F around Gulgong and found it has not been rezoned and there is limited opportunity for 12ha lots given the existing dwellings in the area. As such, Council is supporting the rollout of the 'long term' areas identified in the CLUS as being appropriate to meet demand for rural living near Gulgong, noting the 'long term' was 15-25 years (which would be 2025-2035). Therefore, the development of this area is considered strategic and aligns with the CLUS and is not out of sync with the original proposed staging of land release.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against the relevant aspects of the *Central West and Orana Regional Plan 2041* and the Department is satisfied the proposed amendment is generally consistent with the Regional Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 5: Identify, protect and connect important environmental assets	<p>The north-eastern and southern aspects of the subject site have biodiversity significance under the <i>Biodiversity Conservation Act 2016</i> (BC Act) Biodiversity Values Map (see Figure 8). These aspects are also mapped as 'High Biodiversity' under the MWRLEP 2012 Terrestrial Biodiversity Map. The planning proposal identified 'PCT 277 – Blakeley's Red Gum' vegetation is located on the site.</p> <p>With consideration of the potential yield of 8 lots with average lot sizes of 12ha, it is feasible any future development of dwelling houses and associated structures could appropriately be located away from vegetation with biodiversity significance. However, Council has resolved to request that a condition of the Gateway be to require a Biodiversity Assessment Report to be undertaken and consultation with the (future) Department of Climate Change, Energy, the Environment and Water prior to community consultation. This request is acceptable, and a condition is recommended for the Gateway determination.</p>

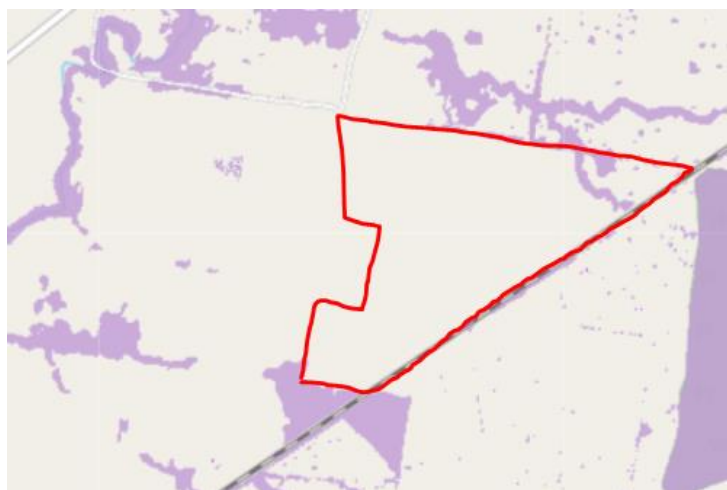


Figure 8 Extract NSW Government Biodiversity Values Map (Source: www.seed.nsw.gov.au)

Objective 8: Secure resilient regional water resources	<p>An existing groundwater bore is located near the centre of the subject site. As on-site sewage management is proposed for future dwelling houses, there is potential for groundwater to be impacted. The site is mapped as Groundwater Vulnerable, which relates to the approval of future development applications.</p> <p>The accompanying Preliminary Site Investigation report (Appendix B of Planning Proposal) states that future development will unlikely contaminate water resources through infiltration. Water supply for the proposal is from onsite rainwater tanks, however groundwater bores may be established in the future for non-potable water supply.</p>
Objective 10: Protect Australia's first Dark Sky Park	<p>The subject site is within a 200km radius of Siding Spring Observatory, however minimal light pollution is anticipated to be generated from future rural lifestyle developments.</p>
Objective 13: Provide well located housing options to meet demand	<p>Council has considered the supply of rural residential lots in the Gulgong area and concluded the planning proposal is appropriate to realise opportunity area Sector B of the Mid-Western Regional CLUS.</p>
Objective 15: Manage rural residential development	<p>The Mid-Western Regional CLUS identified the subject site to be suitable for rural residential development and the planning proposal has justified that short term opportunity areas in Gulgong have been taken up. Medium term opportunity area Sector F East of Gulgong (Henry Lawson Drive) could provide potential lot yield of 11 x 12ha lots however Council notes there are multiple constraints to developing this area under present conditions. Therefore, the subject site in CLUS Sector B is considered appropriate to provide supply in this instance.</p> <p>New rural residential developments will not be incompatible with the locality's land use pattern and will be within proximity to the town of Gulgong. Water supply will be provided by rainwater tank and groundwater bore (if suitable) and on-site sewer management is proposed for all lots with minimal impacts to the groundwater system expected.</p>

Objective 19: Protect agricultural production values and promote agriculture innovation, sustainability and value-add opportunities	The subject site is mapped as Class 5 Severe limitations in the SEED Land and Soil Capability Mapping and is not mapped under DPI Agriculture's Draft State Significant Agricultural Land Map.
Objective 20: Protect and leverage the existing and future road, rail and air transport networks and infrastructure	The Sandy Hollow Gulgong railway corridor along the south-eastern boundary of the subject site will not be directly impacted by the proposed rezoning, however it would be appropriate for a Gateway determination condition to require consultation with Australian Rail Track Corporation (ARTC) to provide opportunity to comment on any potential issues or land use conflict.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Mid-Western Regional Local Strategic Planning Statement 2020	<p>The proposal gives effect to Council's LSPS as follows:</p> <p>a) <u>Planning Priority 2 Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning.</u></p> <p>The planning proposal is generally consistent with the matters in Council's CLUS relating to large lot residential opportunities in the Gulgong catchment.</p> <p>b) <u>Planning Priority 5 Ensure land use planning and management enhances and protects biodiversity and natural heritage.</u></p> <p>The development of the subject site is considered feasible to minimise impacts on areas of biodiversity significance.</p>
Mid-Western Regional Comprehensive Land Use Strategy	<p>The planning proposal is generally consistent with the CLUS. As discussed in Section 1.6 above, the proposal will enable the delivery of rural lifestyle land that is within the strategy's opportunity area Sector B.</p> <p>The CLUS focuses on providing rural lifestyle land within close proximity to Gulgong with minimum lot size of 12ha.</p>
Mudgee and Gulgong Urban Release Strategy 2023	<p>The strategy stated that despite Gulgong having supply of general, low density and large lot residential land to beyond 2041, most of its supply is not available in the short term as zoning and servicing works are required to be delivered. The planning proposal will enable supply of large lot residential land in the Gulgong catchment by rezoning the subject site. It is noted that the Strategy does not extend its consideration to the rural lifestyle areas beyond a few kilometres from Gulgong and therefore does not make specific recommendations about the rural lifestyle area that is the subject of this planning proposal or many of the areas identified in the CLUS.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions (as from 10 November 2023) are discussed in the table below:

Table 6 Section 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of regional Plans	Consistent	The planning proposal is generally consistent with the <i>Central West and Orana Regional Plan 2041</i> . Refer to Section 3.1 above.
4.4 Remediation of Contaminated Land	Consistent	<p>The submitted Preliminary Site Investigation (PSI) confirms agricultural activities were previously conducted at the subject site. Soil samples were undertaken throughout the site and have identified a disturbed area (Area C in PSI report) at the south-eastern aspect adjacent to the rail corridor to have an elevated concentration of arsenic, exceeding health and ecological screening criteria. The PSI report recommends the proposed rezoning of the subject site is generally suitable subject to further investigations at the disturbed area with high levels of arsenic concentration.</p> <p>The PSI also identified metals and hydrocarbons throughout the subject site however these were identified to be low levels of concentrations.</p>
5.1 Integrating Land use and Transport	Consistent	While the proposal technically is creating a residential zone, the subsequent land use is (very) large lot residential in nature and will not be inconsistent with the requirements of this direction.
6.1 Residential Zones	Consistent	The planning proposal is consistent with this direction as it provides housing choice, does not require additional infrastructure, and extends an existing rural lifestyle area. The land will be adequately serviced on-site.
9.1 Rural Zones	Inconsistent but justified.	Sections 1.6, 2, and 3.1 of this report provide detailed explanation of the strategic justification for rezoning the subject land from rural to residential. The inconsistency is therefore justified by the department-endorsed CLUS.
9.2 Rural Lands	Inconsistent but justified.	Sections 1.6, 2, and 3.1 of this report provide detailed explanation of the strategic justification for rezoning the subject land from rural to residential. The inconsistency is therefore justified by the department-endorsed CLUS.

3.4 State environmental planning policies (SEPPs)

The proposed rezoning is generally consistent with the following relevant SEPPs:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

The planning proposal does not propose provisions that may contradict with the provisions of these SEPPs. It is noted that Council will be required to consider the abovementioned SEPPs when assessing any development applications for future subdivision and dwelling houses.

4 Site-specific assessment

4.1 Environmental

The subject site has some constraints relating to biodiversity, contamination and groundwater vulnerability. Consideration of these environmental constraints are discussed in sections 3.1 and 3.3 above. The constraints for all three issues are minor and any impacts can be adequately addressed at the development stage.

The planning proposal has also identified acoustic impacts as matter for consideration due to the Sandy Hollow Gulgong rail corridor. Due to the nature and scale of the proposal, noise and vibration impacts can be considered during the development application stages as required under SEPP (Transport and Infrastructure) 2021.

4.2 Social and economic

The planning proposal is anticipated to generate minimal social and economic impacts to the subject site and locality.

The CLUS has considered the subject site's locality to be suitable for rural lifestyle development and the planning proposal has considered land use conflict with neighbouring rural zoned properties.

The subject site does not have any aspects of heritage significance. An AHIMS database search was undertaken as well as consultation with the Mudgee Local Aboriginal Land Council (LALC) who provided advice that no Aboriginal Cultural Heritage materials were identified as being potentially impacted by the proposed development.

4.3 Infrastructure

The planning proposal has considered potential traffic generation against Council's DCP and RTA Guidelines to Traffic Generating Developments 2002. The subject site has access to public roads that are capable of accommodating traffic generated by eight lots. The subject site fronts Wyoming Road.

With consideration of the Mid-Western Regional CLUS, reticulated water and sewer for residential development is not required for the planning proposal as the MLS proposed is 12ha and the subject site is located further than 2km from Gulgong. The planning proposal indicated future lots will likely have on-site sewer management systems and water supply will be provided by on-site rainwater tanks with potential consideration of groundwater bores subject to further investigations.

The subject site has access to existing electricity and telecommunications infrastructure.

5 Consultation

5.1 Community

The planning proposal is categorised as standard under the LEP Making Guideline (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The Department recommends the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Australian Rail Track Corporation (ARTC)
- (Future) Department of Climate Change, Energy, the Environment and Water

6 Timeframe

The maximum benchmark timeframe is proposed to complete the LEP.

Council proposes a 9 month timeframe to complete the LEP.

The LEP Making Guideline (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 2 December 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal consists of standard LEP amendments, the Department recommends that Council be authorised to be the local-plan making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with Section 9.1 Local Planning Directions 9.1 Rural Zones and 9.2 Rural Lands are justified and no further work is required.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions recommended to be included in the Gateway determination:

1. A biodiversity assessment report is to be undertaken prior to community consultation.
2. Consultation is required with the following public authorities:
 - a) Australian Rail Track Corporation (ARTC)
 - b) (Future) Department of Climate Change, Energy, the Environment and Water

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 2 December 2024 be included on the Gateway.



 (Signature)

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05/12/2023

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