

## 8.3 Planning Proposal Lot 1 DP702951 (36-42 Short Street, Mudgee) increase building height from 8.5 to 10.5 metres

REPORT BY THE MANAGER STRATEGIC PLANNING  
TO 17 JULY 2024 ORDINARY MEETING  
GOV400105, LAN900154

### RECOMMENDATION

#### That Council:

1. **receive the report by the Manager Strategic Planning on the Planning Proposal Lot 1 DP702951 (36-42 Short Street, Mudgee) increase building height from 8.5 to 10.5 metres; and**
2. **not support the Planning Proposal as the increase to building height to accommodate additional residential units is not justified.**

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### Executive summary

Council has received a Planning Proposal to increase the building height from 8.5 metres to 10.5 metres for Lot 1 DP702951 (36-42 Short Street, Mudgee) as detailed on the Planning Proposal submission form. In addition to Lot 1 DP702951 (36-42 Short Street, Mudgee), the proponent has included Lot 21 DP 816236 (42A Short Street, Mudgee) and Lot 22 DP 816236 (44 Short Street, Mudgee) in the planning proposal documentation and technical reports. The proponent advised Council that it is 'sensible and strategic to include these sites'. Accordingly, the planning proposal itself and all supporting technical documentation refers to all three lots.

The subject site is currently zoned R1 General Residential, residential flat buildings are permissible with the consent of Council. A two-storey residential flat building could currently be achieved on the subject site. Accordingly, this planning proposal is not considering the permissibility of a residential flat building, but strategic merit for increasing the building height to accommodate a third storey of units, roof top open space, bathrooms and a lift tower.

Lot 1 DP702951 (36-42 Short Street, Mudgee) and Lot 21 DP 816236 (42A Short Street, Mudgee) front Short Street and Lot 22 DP816236 (44 Short Street, Mudgee) fronts Court and Short Streets. Walkers oval adjoins the site to the north.

Concept plans have been provided for Lot 1 DP702951 (36-42 Short Street, Mudgee). The increased building height is to facilitate the development of a third storey, rooftop alfresco area, bathrooms and a lift tower of a residential flat building. Specifically, the third storey will accommodate an additional 8, 2-bedroom units. The concept plans detail a variation to the proposed 10.5 metre height, the Planning Proposal states this will be accommodated with a Clause 4.6 of the *Mid-Western Regional Local Environmental Plan 2012*.

The Planning Proposal documentation states, Lot 22 DP 816236 (44 Short Street, Mudgee) *'is in different ownership. However, it is also included in the Planning Proposal as it could ultimately form another significant development site if consolidated with Lot 21 DP 816236; at a timing that suited both landowners'*.

As referenced above, Lot 22 DP 816236 (44 Short Street, Mudgee) is in separate ownership. In accordance with the Department of Planning Housing and Infrastructure, *Local Environmental Plan Making Guideline*, Council is not required to notify neighbours (and in this case, the landowner) at Stage 2 in the planning proposal process. In the event the Planning Proposal were to progress to Stage 5 – Public Exhibition and assessment, the landowner would be engaged.

The Planning Proposal is accompanied by various technical reports including a Housing Supply and Demand Analysis (HSDA) prepared by Ethos Urban, the report has been prepared to demonstrate a demand for the proposed. The HSDA demonstrates housing demand, but nothing greater than that of Council's Mudgee and Gulgong Urban Release Strategy 2023 Update (URS). Council's URS details how current supply can respond to demand to 2041. Further, the Planning Proposal states '*the Planning Proposal (height increase to accommodate 8 additional two-bedroom units) will make feasible a development...*'. This economic justification does not provide strategic merit for the proposed height increase.

The HSDA includes a review of the development pipeline, sourced from the Cordell Connect database. This database draws on live data, however, can't capture planning proposal data at scoping proposal stage. Planning proposals at scoping proposal stage are not visible on the Planning Portal.

Further, the HSDA does not specify what land has been included in the pipeline. Council appropriately considers land strategically identified for the future residential supply (not yet zoned), zoned land (not yet subdivided) and zoned land (development application approved for subdivision). Council's update to the Mudgee and Gulgong Urban Release Strategy (URS) in 2023 provided clarity of land within the pipeline. The URS considered land strategically identified for future residential supply. Council is currently considering scoping proposals for these sites.

Council undertook its initial assessment of the Planning Proposal and provided comment to the proponent, specifically about the suitability of the justification provided. The proponent requested the Planning Proposal be reported to Council for consideration, with no further justification provided.

The Planning Proposal and technical reports have been attached, the Planning Proposal has been prepared generally in accordance with the structure outlined in the NSW Department of Planning, Housing and Infrastructure, *Local Environmental Plan Making Guideline*.

As noted above, a residential flat building is permissible to a height of 8.5 metres on the subject site. However, there is insufficient justification to support the increased mapped building height from 8.5 to 10.5 metres to facilitate the additional storey of apartments, rooftop open space, bathrooms and lift tower. Further, the appropriateness of higher density located on the urban edge is not fully explored and justified. Accordingly, the staff recommendation is not to proceed with the Planning Proposal.

## Disclosure of Interest

Nil.

## Detailed report

### Planning Proposals

Planning Proposal is a term used to describe the application and process of rezoning or making an amendment to a Local Environmental Plan (LEP). A Planning Proposal application is a document that explains the intended effect of the LEP amendment and provides a strategic justification for doing so. The Department of Planning, Housing and Infrastructure (DPHI) has issued *Local*

*Environmental Plan Making Guideline*, to provide guidance and information on the process for preparing planning proposals.

### The Gateway Process

DPHI is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPHI's *Local Environmental Plan Making Guideline*.

### Gateway Timeline

The following table summarises the key components of making an amendment to the *Mid-Western Regional Local Environmental Plan 2012* and the progress of the current Planning Proposal through the various stages.

Stage	Completed	Comment
<b>Preparation of a Planning Proposal</b>		
Staff prepared the Planning Proposal	✓	14 December 2023
Council consideration of the Planning Proposal	✓	17 July 2024
<b>Issue of Gateway Determination</b>		
Council Requests Gateway Determination		
DPE Issues Gateway Determination		
Gateway Conditions Satisfied		
<b>Consultation</b>		
Consultation with Relevant Agencies		
Public Exhibition		
Post-Exhibition Report to Council		
<b>Finalisation of the Planning Proposal</b>		
Council Exercises Delegation to Prepare LEP		
Draft LEP by Parliamentary Council		
Opinion Issued and LEP Made		

## PROPOSAL

The Planning Proposal seeks to increase the building height from 8.5 metres to 10.5 metres to facilitate a third storey for a proposed residential flat building. The Planning Proposal seeks the increase in building height for the following three lots:

Lot 1 DP702951 – 36 to 42 Short Street, Mudgee, measures 2635 m<sup>2</sup>

Lot 21 DP 816236 – 42A Short Street, Mudgee, measures 1373m<sup>2</sup>

Lot 22 DP 816236 – 44 Short Street, Mudgee, measures 1028m<sup>2</sup>.

Concept plans of the residential flat building proposed have been provided for Lot 1 DP 702951 (36-42 Short Street). The plans detail 28 units; consisting of 4 townhouses on the northern boundary of the site and 24 two-bedroom units. Basement parking of 36 spaces, including 6 visitor and 3 accessible parking spaces are proposed. In addition, rooftop alfresco area, bathrooms and lift tower is proposed.

The below documentation has been submitted to Council and are attached to this report –

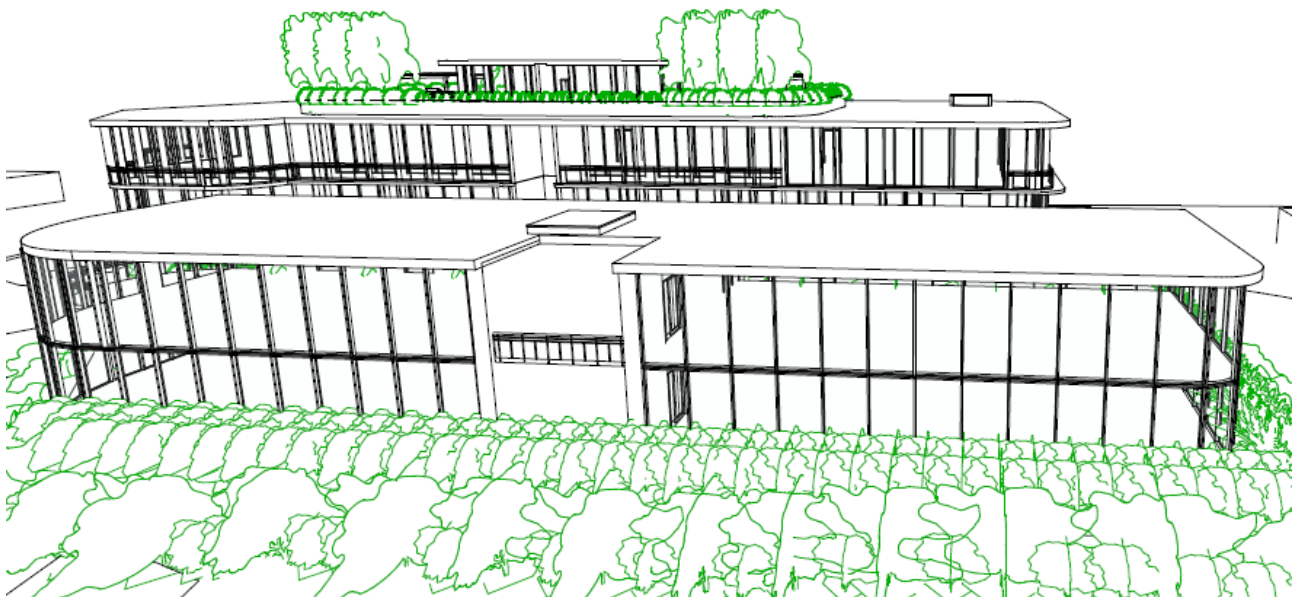
- Planning Proposal Submission Form
- AHIMS Search

- Architectural drawings
- Flood Impact Statement (Amended)
- Geotechnical Report
- Housing Supply and Demand Analysis
- Infrastructure Report
- Planning Proposal
- Preliminary Site Investigation
- Statement of Heritage Impact (Amended)
- Traffic Management Plan

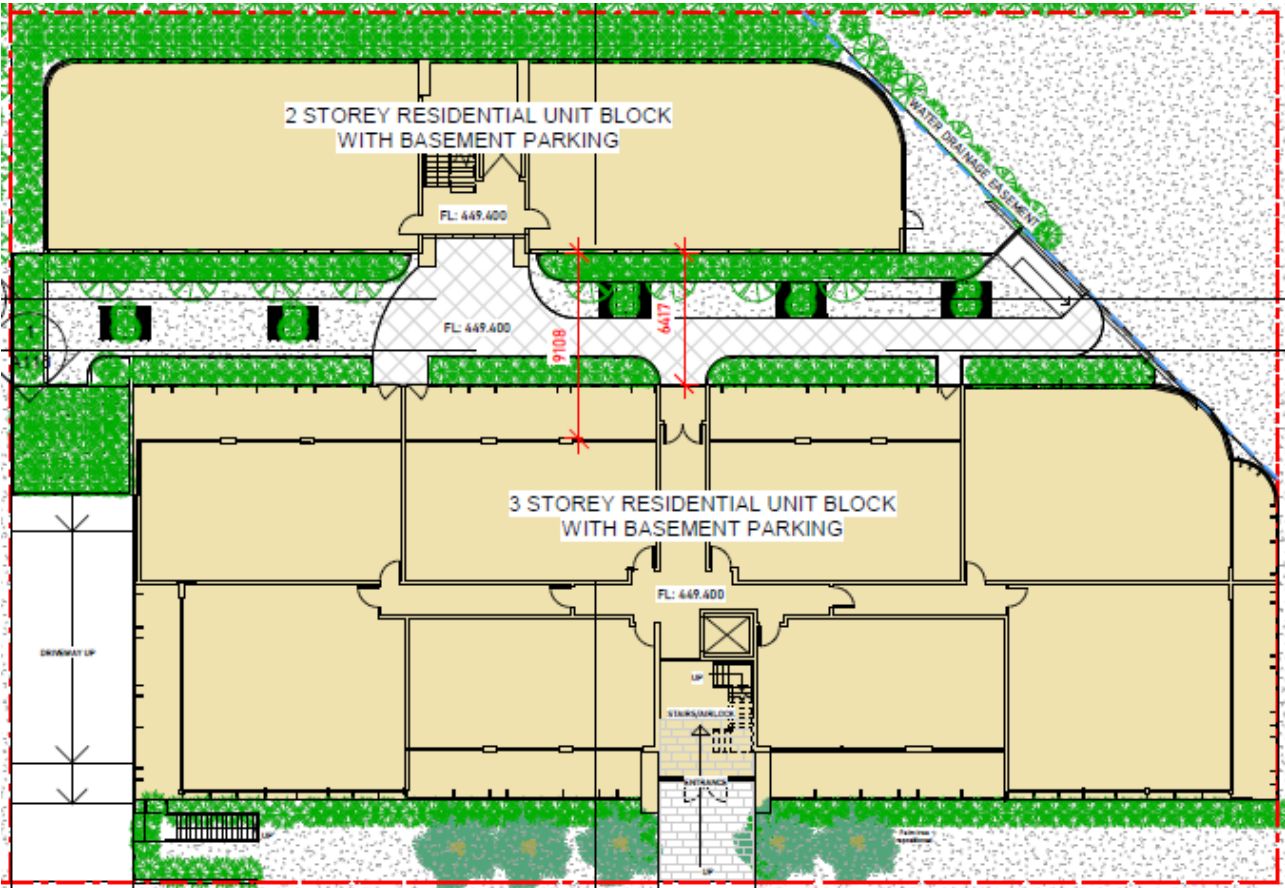
The below are from the provided architectural drawings.



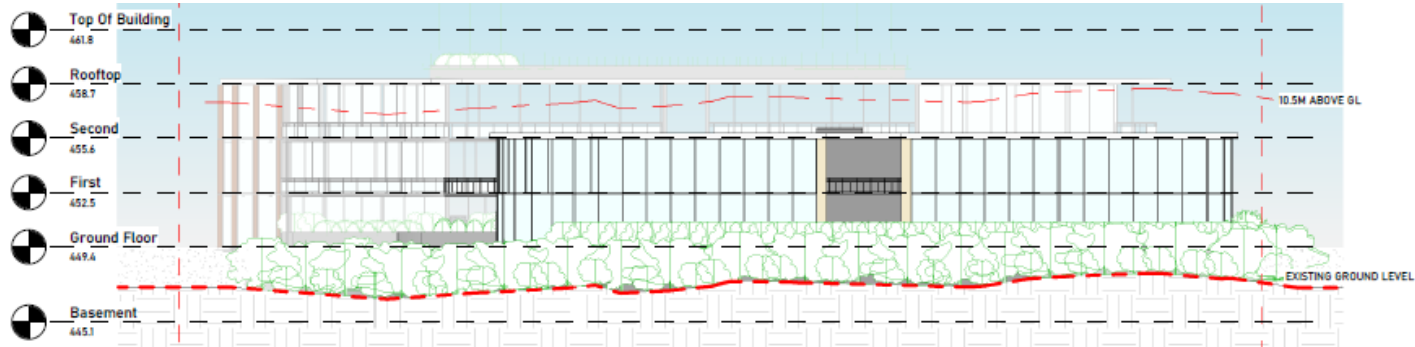
*Southern elevation/view from Short Street.*



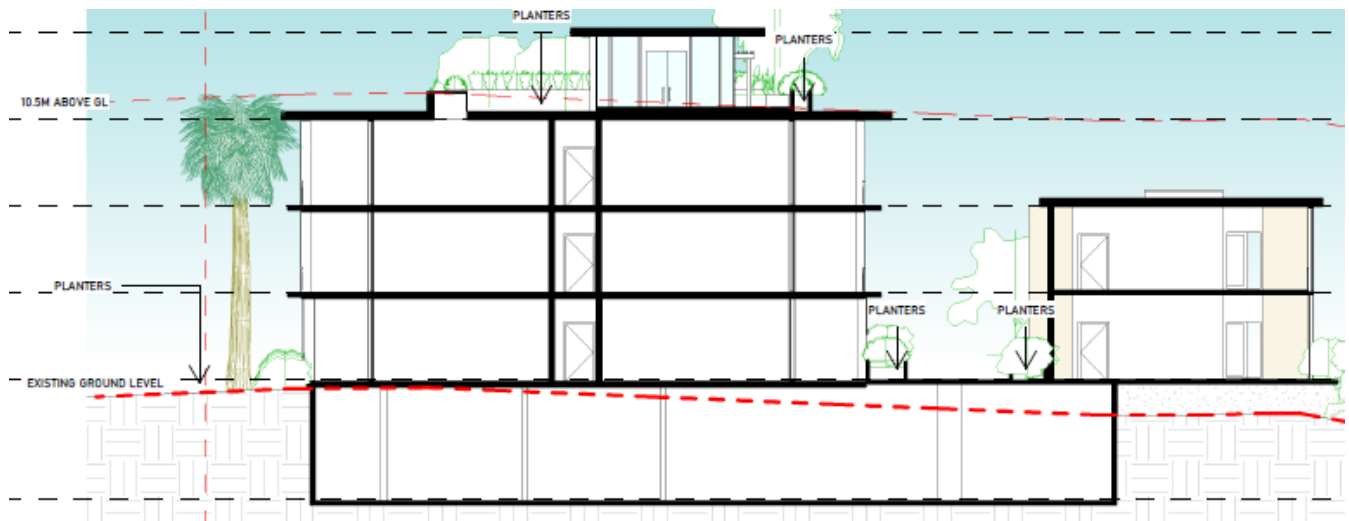
*Northern elevation/view from Walkers Oval.*



Site Plan



Northern elevation



Section

## INTENDED OUTCOMES

The Planning Proposal seeks to increase the building height from 8.5 to 10.5 metres and specifically in relation to Lot 1 DP702951 (36 to 42 Short Street) the height increase is to facilitate the development of a three-storey residential flat building with a rooftop a roof top alfresco area including bathrooms and lift tower.

## EXPLANATION OF PROVISIONS

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

- Amending Heights of Buildings Map – Sheet HOB\_006G from 8.5 to 10.5 metres.

## JUSTIFICATION

The DPHI *Local Environmental Plan Making Guideline* (August 2023) outlines questions to consider when demonstrating the justification. The questions most pertinent in consideration of this Planning Proposal are discussed below.

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

*Mudgee and Gulgong Urban Release Strategy 2023 Update*

Council's update to the Mudgee and Gulgong Urban Release Strategy (URS) in 2023 provides certainty of residential land supply and demand to 2041. The URS considered land strategically identified for future residential supply. Council is currently considering scoping proposals for these sites to ensure land will continue to move through the pipeline. Council has sufficient supply of residential land to meet the planning horizon.

*Housing Supply and Demand Analysis (prepared by Ethos Urban)*

The Housing Supply and Demand Analysis (HSDA), prepared by Ethos Urban is one of the technical reports provided in support of the Planning Proposal. The HSDA provides an independent housing supply and demand analysis.

The HSDA incorrectly references, within the executive summary, ‘*development in Mudgee’s medium density zones*’. The subject site is not zoned R3 Medium Density, but rather R1 General Residential.

The HSDA fails to discuss the dwelling typology demand, the report broadly discusses multi-dwelling housing, within the Region, the built outcome of multi-dwelling housing is predominantly single storey, three to four dwellings.

It is stated the Region is to benefit from the Parkes Special Activation Precinct, Inland Rail, Great Western Highway Upgrade and the Fast Rail’, however fails to validate how.

The URS details two population projection scenarios (NSW DPHI Population Projections and Observed growth ABS Census). The resulting is a projection population between 15,123 – 15,424 for Mudgee by 2041. This projection is greater than that detailed in the HSDA. The URS demonstrates how the existing lot supply capacity and projected future demand to 2041 will be accommodated. In addition to the demand and supply analysis included in the URS, it must be noted that dual occupancy, multi-dwelling housing and residential flat buildings are all permissible in the R1 General Residential, not limited to the R3 Medium Density zoning, unlike other local government areas.

The HSDA discusses ‘housing suitability’ and states

*‘a review of housing suitability indicates that there is currently a misalignment between typical household sizes and dwelling sizes within MWRC, which is leading to overcrowding within dwellings for certain segments of the community, and underutilised houses with spare bedrooms for other segments of the community’.*

Whilst Council supports the development of varied dwelling typologies and density, this is being achieved currently by providing ample opportunities in land use permissibility. Council raises concern regarding, who gets to choose how many spare rooms a landowner should have? A landowner may be choosing to maintain bedroom availability for family and friend visitors or for short-term visitor accommodation income and it might not be in fact due to lack of availability? Such a consideration should be the subject of targeted stakeholder engagement and could be part of a region wide response, not just site-specific reactionary response.

The HSDA states there is anticipated to be implied demand for an additional 2,130 dwellings within MWRC to 2041. Council’s URS states there is an estimated future demand for 2,987 dwellings in Mudgee alone. The lot capacity within land currently zoned and identified is detailed in the URS and demonstrates there is an 18-year supply remaining.

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

The Planning Proposal is the only means to accommodating the proposed increased height.

**Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions) and SEPPs?**

The Planning Proposal has provided in Appendix 2 consistency with State Environmental Planning Policies and in Appendix 3, consistency with section 9.1 Ministerial Directions.

**Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected because of the proposal?**

The subject site is predominantly cleared of vegetation. The existing palms trees are detailed on the concept plans indicating that will be retained as part of any future development application for the site. Site specific constraints will be considered during the assessment of any future development application.

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

The site can under current permissibility support the development of a residential flat building, providing additional housing for the Region. However, the Planning Proposal does not adequately justify why the additional storey is required. The Planning Proposal does state *'the Planning Proposal will make feasible a development that will improve stock and provide much needed diversity to the Mudgee housing market'*.

**What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

If the Planning Proposal were to gain support, the views of authorities and government agencies will be sought post Gateway. The Gateway determination will stipulate which authorities or government agencies are required to consult with.

**NEXT STEP**

If Council supports the recommendation not to support the proposed rezoning, the next step would involve notifying the applicant of the decision not to proceed with the Planning Proposal.

If Council wishes to support the increase to the building height for the subject site, Council will need to resolve provide initial support for the Planning Proposal and submit to the DPHI via the Planning Portal seeking a Gateway Determination, in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

**Community Plan implications**

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

**Strategic implications**

**Council Strategies**

Mudgee and Gulgong Urban Release Strategy, 2023 Update.  
Mid-Western Regional Local Strategic Planning Statement, Our Place 2040.  
Mid-Western Regional Comprehensive Land Use Strategy, August 2010.

**Council Policies**

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

**Legislation**

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

## Financial implications

Nil.

## Associated Risks

Nil.

SARAH ARMSTRONG  
MANAGER STRATEGIC PLANNING

ALINA AZAR  
DIRECTOR DEVELOPMENT

12 June 2024

*Attachments:*

1. Planning proposal submission form. (separately attached)
2. Planning Proposal. (separately attached)
3. AHIMS search. (separately attached)
4. Architectural Drawings. (separately attached)
5. Flood Impact Assessment (Amended). (separately attached)
6. Geotechnical Report. (separately attached)
7. Housing Supply and Demand Analysis. (separately attached)
8. Infrastructure Report. (separately attached)
9. Preliminary Site Investigation. (separately attached)
10. Statement of Heritage Impact (Amended). (separately attached)
11. Traffic Management Plan. (separately attached)

### APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER