



IRF25/272

Gateway determination report – PP-2024-1410

Rezoning of land, MLS reduction, and introduction of height of buildings limit at 34 Bruce Road, Spring Flat

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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
Appendix PP- Planning Proposal
Appendix CAR – Council Report 11 December 2024
Appendix CR – Council Resolution 11 December 2024
Mid-Western Regional Comprehensive Land Use Strategy (updated 2017)
Mudgee and Gulgong Urban Release Strategy (2023 update)
Draft Mid-Western Region Housing Strategy, February 2025
Mudgee Flood Study (February 2021)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Mid-Western Regional Council
PPA	Mid-Western Regional Council
NAME	Rezoning of land, MLS reduction, and introduction of height of buildings limit at 34 Bruce Road, Spring Flat (approx. 146 residential lots)
NUMBER	PP-2024-1410
LEP TO BE AMENDED	Mid-Western Regional LEP 2012
ADDRESS	34 Bruce Road, Spring Flat
DESCRIPTION	Lot 42 DP756894 and Lot 49 DP756894
RECEIVED	6/02/2025
FILE NO.	IRF25/272
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Provide additional residential land to support the growth of Mudgee and the LGA.

The objectives of this planning proposal are clear and adequate and do not require update prior to public exhibition.

1.3 Explanation of provisions

The planning proposal seeks to amend the Mid-Western Regional LEP 2012 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU4 Primary Production Small Lots	Part R1 General Residential Part R2 Low Density
Maximum height of the building	0m	8.5m
Minimum lot size	20 hectares.	Part 600m ² (proposed R1 area) Part 2000m ² (proposed R2 area)
Number of dwellings	1	Approx. 146 residential lots
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved with respect to rezoning and minimum lot size reduction. Council's report and resolution endorses the implementation of a Height of Buildings limit as part of this amendment; however, this is not reflected in the submitted proposal. The introduction of an 8.5m height limit is considered an appropriate planning outcome and is consistent with height of building controls implemented in surrounding R1 and R2 zoned land. As such, the explanation of provisions within the Planning Proposal will require amendment prior to exhibition to reflect the introduction of the proposed height of buildings limit.

1.4 Site description and surrounding area

The site is two lots (Lot 42 DP756894 and Lot 49 DP756894) identified as 34 Bruce Road, Spring Flat. The site:

- Has a combined area of approximately 24 hectares and is located approximately 3km south-east of Mudgee.
- Has historically been used for grazing and cropping purposes and is heavily disturbed. The site contains a single dwelling, approximately 3 farm dams and numerous sheds.
- Is largely clear of biodiversity and vegetation is minimal, consisting of planted trees along fence lines, isolated trees in paddocks, and trees planted around the dwelling.
- Adjoins two approved manufactured home estates (under construction) to the north, Spring Flat Road to the east, Bruce Road to the south, and a secondary school campus to the west.
- Is located to the south-east of "Sawpit Gully" and south of the Currajong River and is a mapped as flood planning area under the Mudgee Flood Study (February 2021) and Groundwater Vulnerable (entire site) under the Mid-Western Regional LEP 2012 (MWRLEP).
- Is generally flat, is not mapped as bushfire prone, is not known to be contaminated, and is not known to contain Aboriginal or non-Aboriginal cultural heritage significance, or biodiversity significance (flora or fauna).
- Is in proximity to reticulated water and sewer, telecommunications and power infrastructure.



Figure 1 Subject site – site indicated by red outline (source: Google Maps, 2025)

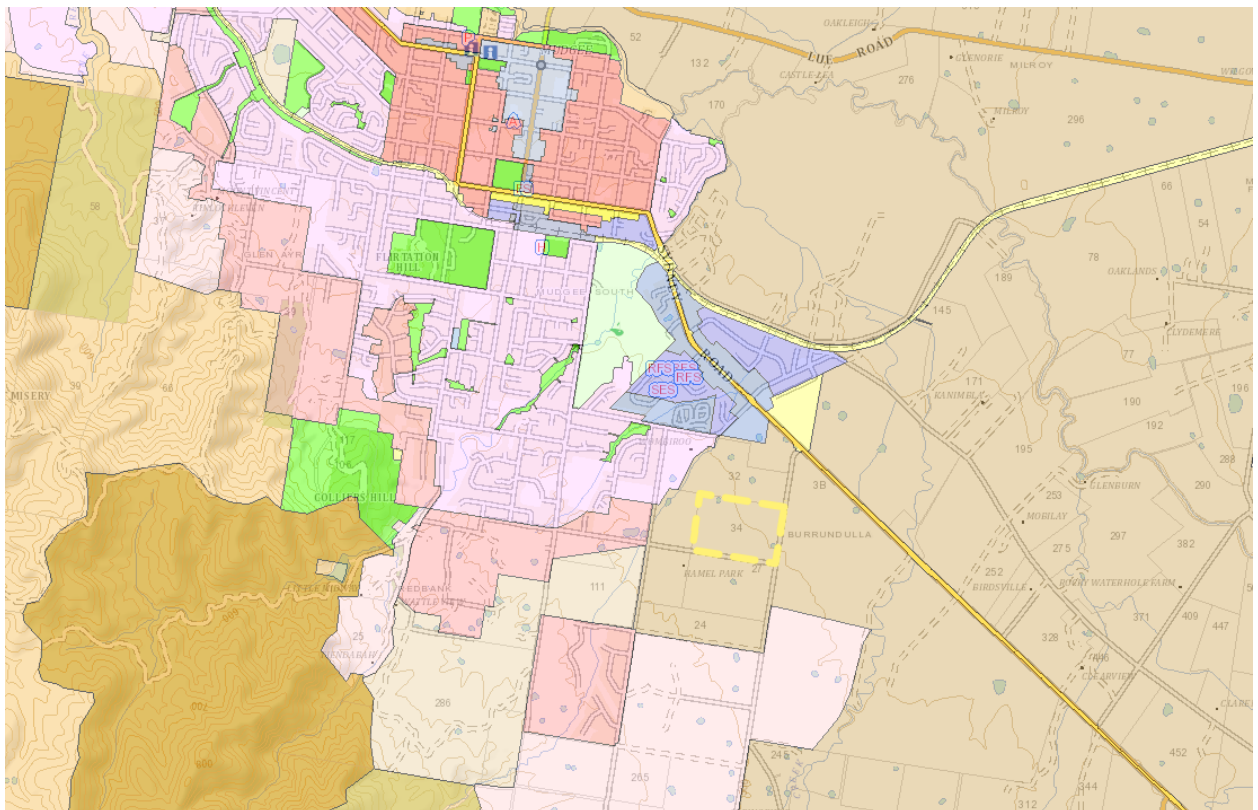


Figure 2 Site context – Site indicated by yellow broken outline (source: NSW Spatial Viewer, 2025)

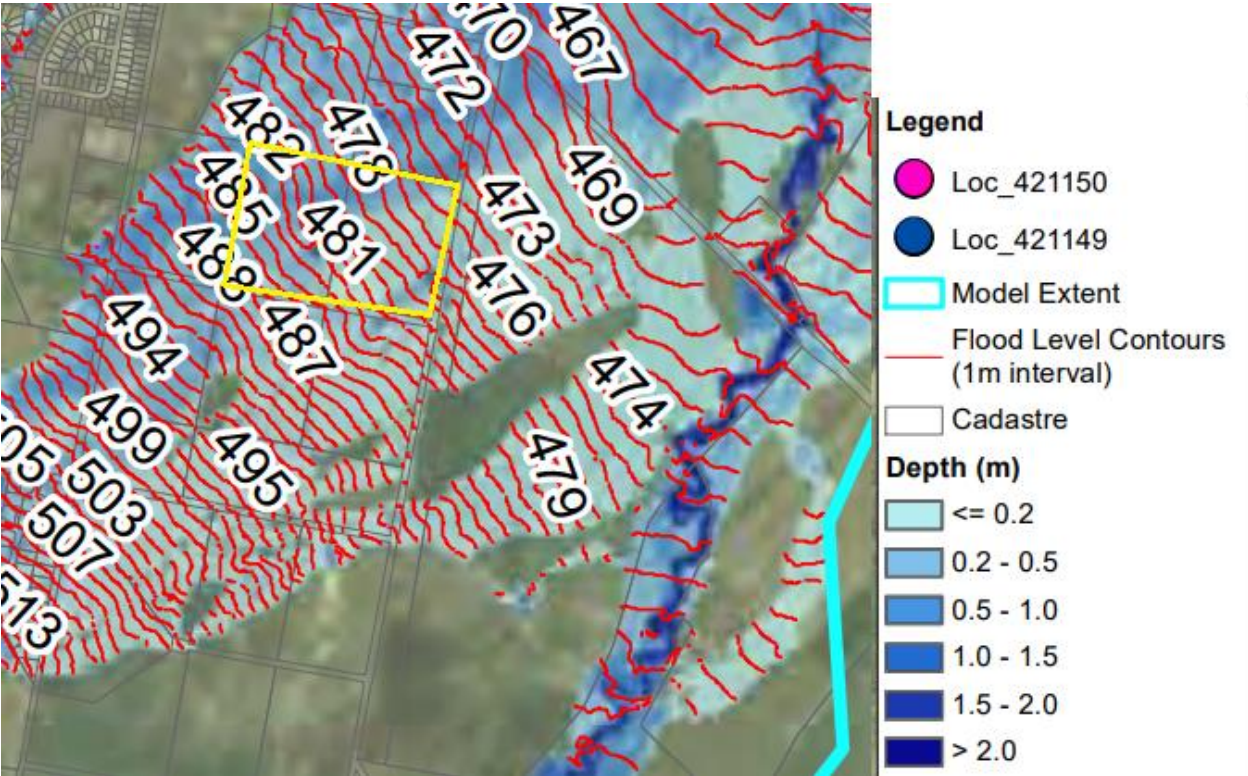


Figure 3 Flood mapping coverage – PMF flood depths – Site indicated by yellow outline (source: Edited excerpt from Mudgee Flood Study, February 2021, p.131)



Figure 4 Site context – Surrounding development (source: Planning Proposal, p.32)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the zoning and minimum lot size which are suitable for community consultation. Mapping showing proposed changes to the height of buildings limits will be required as part of an amended Planning Proposal to be produced prior to public consultation.



Figure 5 Existing and proposed zoning

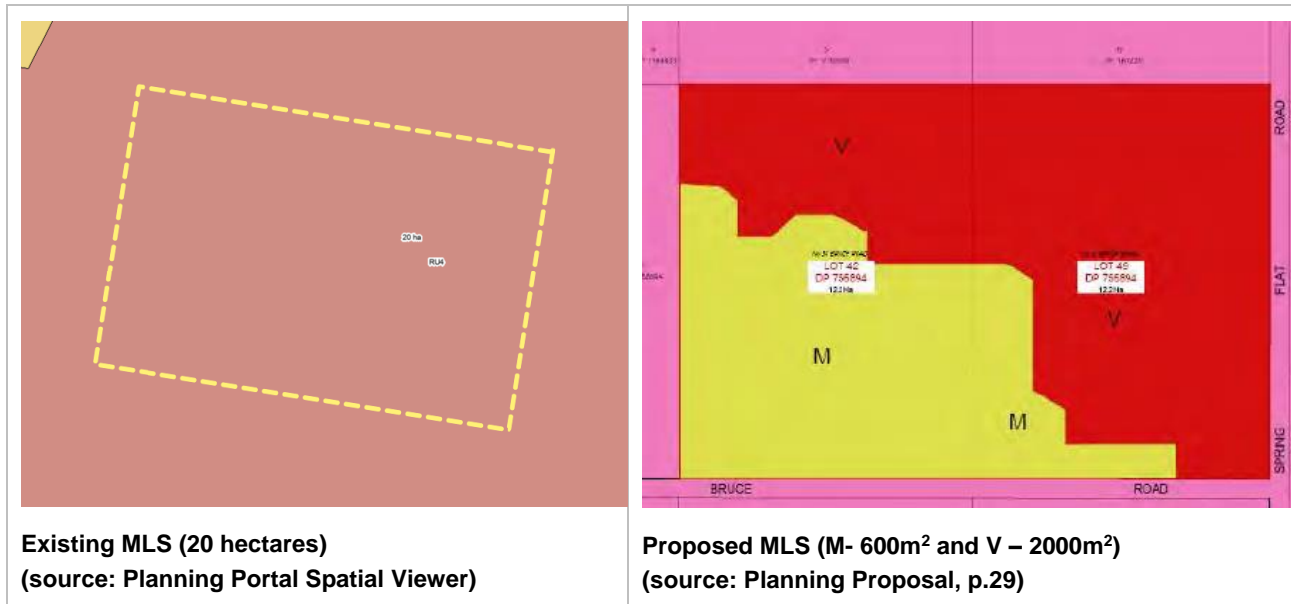


Figure 6 Existing and proposed minimum lot size

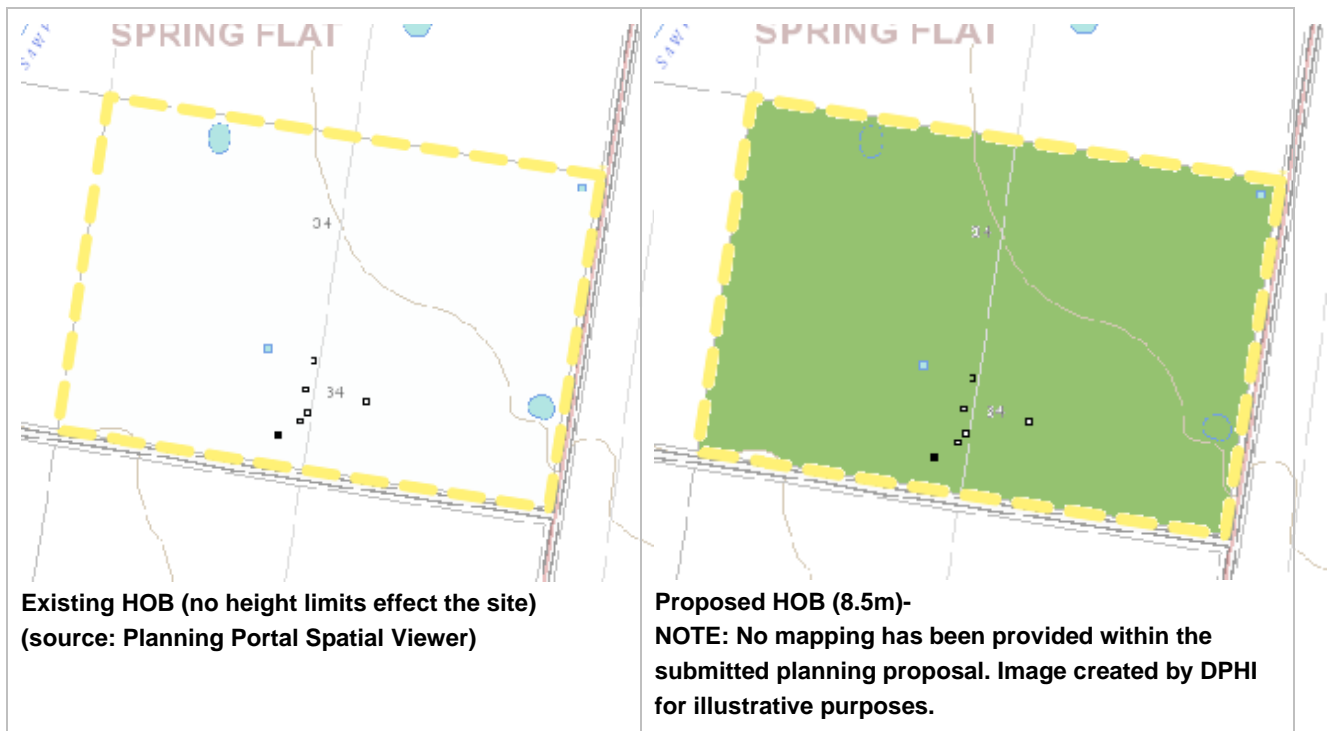


Figure 7 Existing and proposed height of building map

2 Need for the planning proposal

As identified by the planning proposal, the subject amendment has been submitted to address short term demand for residential lots in Mudgee. While it is agreed the proposal has broad consistency with the Mid-Western Local Strategic Planning Statement and Council's Draft Housing Strategy (exhibited late February 2025), the proposal is largely inconsistent with the timing, density and plan of action identified for this site respectively in the *Mid-Western Comprehensive Land Use Strategy* (2017) and the *Mudgee and Gulgong Urban Release Strategy* (updated 2023). See detailed comments in section 3.2, below. However, as Mid-Western Regional Council is predicted to experience imminent short-term housing pressure as a result of concurrent and consecutive State significant major project delivery, the proposal is considered a strategically viable option to assist in providing short term supply of zoned and serviced land in Mudgee.

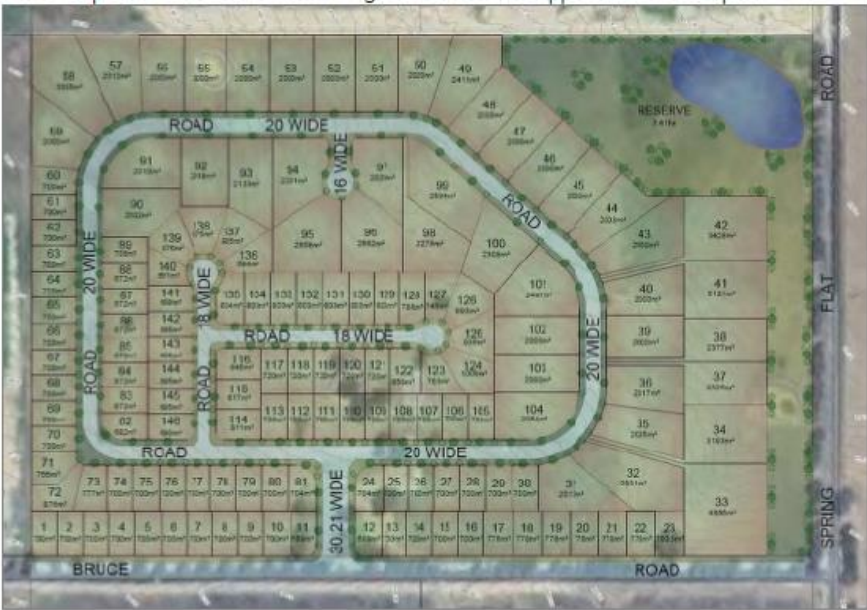
The proposed rezoning, minimum lots size reduction and implementation of height limits is considered the most appropriate pathway to achieve the objectives of the proposal.

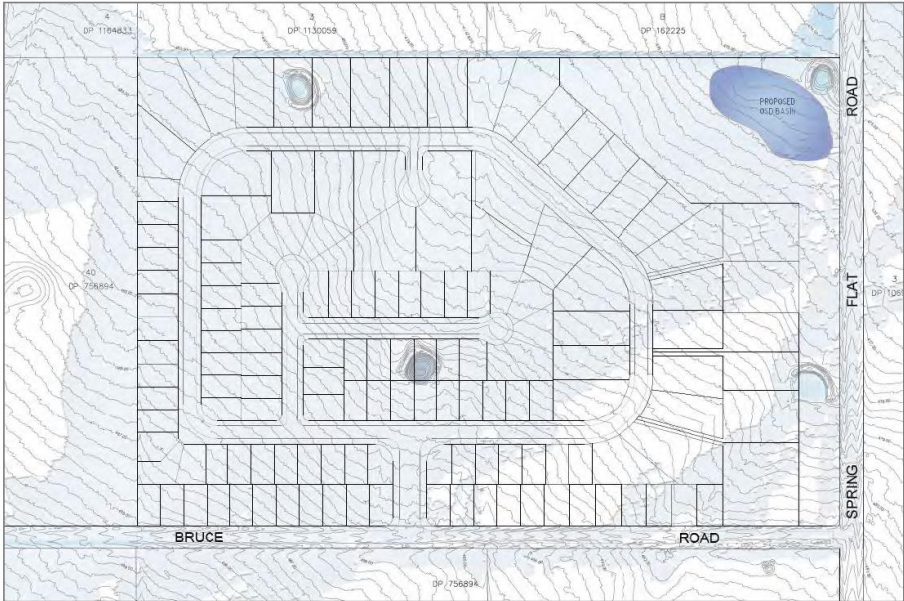
3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 6: Support connected and healthy communities	<p>Consistent. While the proposal does not include any dedicated public recreation zoned land, Council’s Development Control Plan encourages the provision of connected walking and cycle facilities within new subdivisions and a requirement that lots within new subdivisions over 20 lots be located within 400m of a local park, playground or passive open space. Additionally, while not relied on for the purposes of this assessment, the concept plan supplied in support of the proposal indicates a design intention to provide open space facilities in the north-east corner.</p> 
Objective 7: Plan for resilient places and communities.	<p>The site is mapped as Flood Planning Area in accordance with the Mudgee Flood Study (2021) and may be subject to estimated flood heights up to 1m in a PMF event. The site appears to be Hydraulic Hazard classification H1.</p> <p>As the Mudgee Flood Study does not cover this site with adequate detail, and risk is difficult to gauge from the imagery within the Study, the supply of a Flood Impact Risk Assessment is recommended.</p> <p>The below figure shows the extent of 1% Annual Exceedance Probability mapped flood land across the site in the context of the proposed subdivision plan. The concept plan also identifies a proposed basin to mitigate flooding impacts along with the flood diversion channel to ensure that overland flows are diverted around the site so the future lots are not burdened by 1% AEP flood events.</p> <p>However, no pre and post development scenarios are provided to ensure that these measures are sufficient to address flooding. A Flood Impact Risk Assessment would address this.</p>

Regional Plan Objectives	Justification
	 <p>Figure 9 Mudgee Flood Study Mapping (source: Planning Proposal p.15)</p>
Objective 13: Provide well located housing options to meet demand	Consistent. The proposal will implement various principles of Mid-Western Regional Council strategies seeking to respond to population dynamics, community needs, and infrastructure capacity.
Objective 14: Plan for diverse, affordable, resilient and inclusive housing	Consistent. Objective 14 seeks to deliver a diversity of housing, including affordable housing, student housing, shop top housing, more dense housing types and housing choices for seniors close to existing services. The R2 Low Density Residential zone in the Mid-Western Regional LEP 2012 permits dwelling houses and residential accommodation (group term), and the R1 General Residential zone permits 'residential accommodation' without limitation. As such, the amendment could support a variety of housing types in the future.
Objective 17: Coordinate smart and resilient utility infrastructure	Consistent. The information provided with the proposal supports the efficient delivery of infrastructure in line with Council's strategies for service delivery and operational investment. An updated traffic impact will be required to ensure traffic impact has been considered in accordance with up to date guidance from Transport for NSW (see section 4.3 of this report for further information).
Objective 19: Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities	Consistent. While this land is mapped as RU4 Primary Production Small Lots and identified as Class 3 (high capability) agricultural land, the land is identified in Council's strategies for future urban development. The site is adjoining urban development on the north and west boundaries and is not identified NSW Government Strategic Regional Land Use Policy maps.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is the Department's assessment that while the proposal is inconsistent with aspects of Council's local strategy (as identified in Table 5), overarching strategic merit is evident when considering the pressures for short term residential demand, advantageous site location amongst emerging urban development and capacity to service the site with the necessary utilities in the short term.

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The proposal is broadly aligned with the Mid-Western Regional Local Strategic Planning Statement 2020 to deliver housing in response to anticipated growth, particularly the rationale cited in <i>Planning Priority 2 - Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning</i> .
Mid-Western Regional Comprehensive Land Use Strategy (updated 2017)	Consistent and inconsistent. The site is identified for 'urban purposes' for 'future low density lots. The strategy (p.39) notes that standard residential development would be inappropriate on this land, citing concerns related to urban sprawl, need to protect agricultural land, and the visual significance of the site as an access corridor to Mudgee. This site is identified (p.38) for medium term delivery. The planning proposal has suitably addressed this inconsistency. The 2010 version of the Mid-Western CLUS was endorsed by the Department (August 2011).
Mudgee and Gulgong Urban Release Strategy (2023 update)	Consistent and inconsistent. The site is identified in the strategy as part of the M19 Urban Release Area which includes a "medium term" recommendation to "Consider undertaking master planning works for M19 to maximise the potential yield and ensure integration with the recent developments adjacent to the remaining land. As appropriate (pending outcome of master planning works), rezone M19 to R2 Low Density Residential with a 2,000 square metre minimum lot size" (p.140).

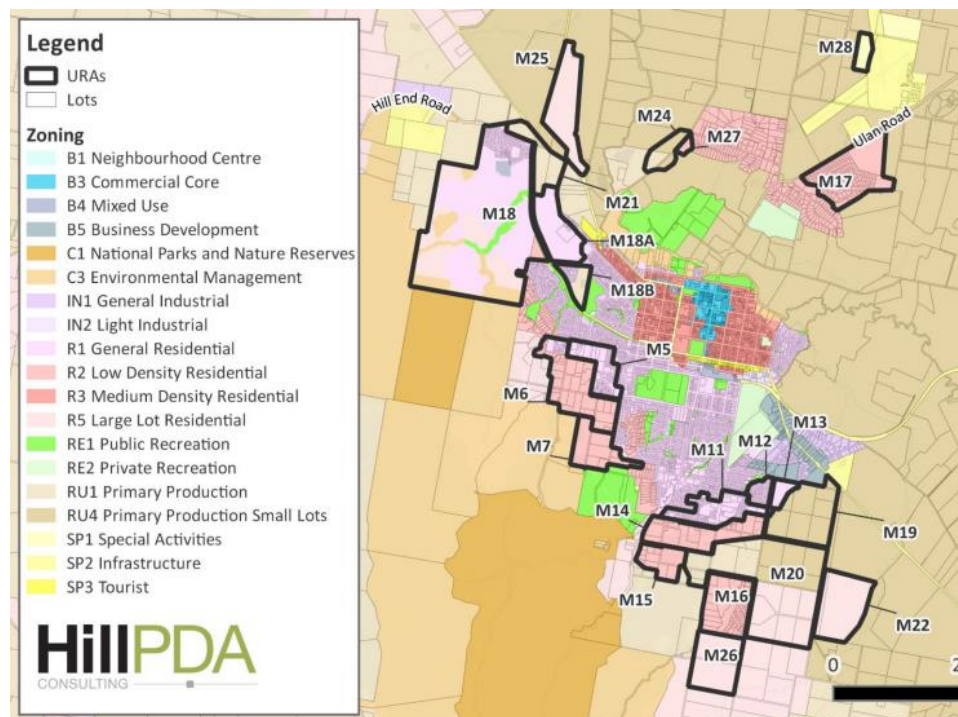


Figure 10 Mudgee & Gulgong Urban Release Strategy URAs (2023 update, p.64)

The site does not feature in the recommendations for future general residential supply. The strategy does recommend Council consider rezoning and master planning other (e.g. M21 URA in Carleon) to general residential in the “mid-late 2020s”. As the M21 URA does not appear to be the subject of a planning proposal for rezoning, and master planning of M19 has not been undertaken by Council, this proposal seeks to leap-frog the sequence and actions identified in the URS for general residential development and release low density land ahead of the proposed timing in the strategy. The planning proposal has suitably addressed this inconsistency.

The strategy (via principle 6) seeks to maintain a supply buffer of 5 years for each category of zoned land, and notes that Mudgee does not have an adequate supply of land to maintain that buffer (as at 2023). Additional supply of zoned and serviced general residential land is required by 2029 and additional zoned and serviced low density land required by 2023 (p138-141). The bulk of the land within M19 has already been approved for development and as such, the short-term rezoning of M19 would be a logical outcome from a master planning and service delivery perspective.

Draft Mid-Western Region Housing Strategy, 2025 (on public exhibition at the time of writing)

Consistent. The proposal is aligned with the broad principles of the Draft Mid-Western Regional Housing Strategy which seeks to deliver housing to meet growing demand. The proposal generally responds to the objectives of the strategy and the land is identified in the strategy as a residential growth area for Mudgee. There is no definitive timeline within the strategy related to the prioritisation or release of identified growth areas.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	As discussed in Table 4, the proposal largely aligns with the objectives and strategies of the CW&O RP 2041.
4.1 Flooding	Further justification required	The Planning Proposal is inconsistent with Direction 4.1(2) and (3)(d), (e), (f). To establish consistency with Direction 4.1 it is recommended that the planning proposal is supported by a Flood Impact and Risk Assessment (FIRA).

Directions	Consistent	Reasons for Consistency or Inconsistency
4.4 Remediation of Contaminated Land	Yes	This direction applies as the planning proposal effects land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or has been, carried out. A preliminary investigation of the land concluded the site is unlikely to be contaminated and considered suitable for the intended future use. The preliminary site investigation recommends that a Construction Environmental Management Plan be prepared prior to construction commencing.
5.1 Integrating Land Use and Transport	Yes	The proposal identifies that suitable access to walking, cycling and public transport modes will be available to this proposed housing area.
6.1 Residential Zones	Inconsistency justified	The planning proposal is inconsistent with this Direction as it seeks to rezone land on the urban fringe. However, the proposed changes to zoning and minimum lot size will provide opportunity to increase housing density in this area. The inconsistency with this Direction is justified in general by a local strategy approved by the Department.
9.1 Rural Zones	Inconsistency justified	The proposal seeks to rezone an area of RU4 Primary Production Small Lots to residential zones (R1 and R2) and as such is technically inconsistent with Direction 9.1(1)(a). The land is identified in the Mid-Western Comprehensive Land Use Strategy (2010) which received conditional endorsement from the Department in August 2011. While the Ministerial directions and the Comprehensive Land Use Strategy have been updated since 2011, the proposal is considered justifiably inconsistent by the approved strategy.
9.2 Rural Lands	Inconsistency justified	The planning proposal is inconsistent with Direction 9.2(1). As noted in earlier sections of this report, the proposal seeks to implement locally endorsed strategic outcomes. The proposal addresses the matters identified in Direction 9.2(1) and demonstrates the proposal is justifiably inconsistent as a matter of minor significance.

While the following listed directions apply to all planning proposals, the proposal does not seek to alter Council's LEP in a manner inconsistent with the objectives and requirements of the directions. Additional discussion in Table 6 is not required:

- 1.3 Approval and Referral Requirements
- 1.4 Site specific provisions
- 3.1 Conservation Zones
- 3.2 Heritage Conservation
- 3.5 Recreation Vehicle Areas
- 5.2 Reserving Land for Public Purposes
- 6.2 Caravan Parks and Manufactured Home Estates.

Directions not listed in Table 6 or in the preceding dot-points are not applicable to the subject proposal.

3.4 State environmental planning policies (SEPPs)

The proposal is consistent with the aims of SEPP (Resilience and Hazards) 2021- Chapter 4 Remediation of land. Council is satisfied the land will be suitable for the proposal.

The remaining SEPPs in force are either not triggered for application at planning proposal stage, relate to development assessment stage, or relate to specific application areas outside of the subject land.

4 Site-specific assessment

4.1 Environmental

As discussed throughout this report, the land is not known to be affected by bushfire hazard, biodiversity or heritage significance. The site is identified as Flood Planning Area however the impact of the proposal is currently unknown. Impacts relating to flooding, and groundwater vulnerability are discussed in Table 7, below. Future planning to realise the intent of the proposal will be subject to further assessment and responses to avoid, mitigate and minimise environmental impact.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Flooding	It is recommended a Flood Impact Risk Assessment be prepared to support the proposal prior to public exhibition. The site is identified in the Mudgee Flood Study and may be subject to inundation depths of up to 1m via overland flow.
Groundwater vulnerability	The proposal identifies nil detrimental impacts on groundwater as a result of the rezoning or future subdivision. Council's Mudgee and Gulgong URS (2023) identifies groundwater vulnerability as a "negligible constraint" (p.109). Future development applications will be required to address water cycle management to the satisfaction of Council and address Section 6.4 of the Mid-Western LEP 2012.

4.2 Social and economic

The proposal is anticipated to produce a positive impact by expanding available housing in Mudgee. Positive flow on impacts to the local economy (increased local spend and construction jobs) are also anticipated.

4.3 Infrastructure

The planning proposal identifies that adequate road, water, sewer, power, and telecommunication infrastructure is available or can be extended (at cost) to service the proposal. Council is supportive of the proposal, however requested updated information in respect to traffic impact (see Table 8). The concept plan provided in the proposal has not been considered as part of this assessment.

Table 8 Infrastructure assessment

Infrastructure	Assessment
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Stormwater	As the site is subject to flooding, the Flood Impact Risk Assessment should include assessment of the proposed impact of stormwater. Council has identified that any future development application for the site will require design to a 1 in 20-year ARI.
Traffic	A Traffic Impact Assessment has been provided as part of the proposal. In the Officer's report seeking endorsement for the proposal Council identified that the traffic assessment has been prepared in accordance 2002 Traffic Generating Developments (now superseded) and requests that a new Traffic Impact Assessment is prepared to address current guidance material (Guide to Traffic Impact Assessment, 2024).DPHI agrees with Council and a condition to this effect will be included in any Gateway determination issues in respect of this proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days or the period specified by the Gateway determination.

The planning proposal is categorised as standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended to form a condition of the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- DCCEEW (to comment on the flood prone nature of the site and the required Flood Impact Risk Assessment)
- Transport for NSW (to comment on the updated Traffic Impact Assessment and any associated impact to Castlereagh Highway)

6 Timeframe

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

The Department recommends an LEP completion date of 19 December 2025 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 relates to privately owned land with no Council interests and seeks to deliver locally adopted strategy outcomes the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal seeks to implement Council's adopted strategy
- The site can be suitably serviced with infrastructure

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Reflect the proposed height limit introduction (including mapping)
- Include the results and recommendations of a Flood Impact Risk Assessment (to be prepared)
- Include the results and recommendations of an updated Transport Impact Assessment (to be prepared).

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands are justified.
- Note that the consistency with section 9.1 Direction 4.1 Flooding is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, the planning proposal is to be updated to:
 - Include the proposed introduction of an 8.5m Height of Buildings Limit (including mapping)
 - Include and reflect the findings of a Flood Impact Risk Assessment
 - Include and reflect the findings of a Traffic Impact Assessment completed in accordance with current guidance material released by Transport for NSW - Guide to Traffic Impact Assessment, 2024
2. Prior to community consultation, consultation is required with the following public authorities:
 - NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) (regarding flooding, Flood Impact Risk Assessment, and resolution of inconsistency with Direction 4.1)
 - Transport for NSW (regarding traffic implications and the findings of the updated Traffic Impact Assessment)
3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2 and forwarded to the Department for review and approval.
4. The planning proposal should be made available for community consultation for a minimum of 20 working days

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 19 December 2025 be included on the Gateway.

The timeframe for the LEP to be completed is on or before 19 December 2025



11/03/2025

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