

## 8.2 Planning Proposal Lot 39 DP 756870, 686 Queens Pinch Road, Mullamuddy

REPORT BY THE MANAGER, STRATEGIC PLANNING  
TO 19 MAY 2021 ORDINARY MEETING  
GOV400088, LAN900123

### RECOMMENDATION

#### That Council:

1. **receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 39 DP 756870, 686 Queens Pinch Road, Mullamuddy; and**
2. **not support the Planning Proposal for a dwelling entitlement as Council has a sufficient supply of land currently zoned and further land identified in the short and medium opportunity areas.**

### Executive summary

Council has received a Planning Proposal to provide the lot with a dwelling entitlement.

The subject site, Lot 39 DP756870 located at 686 Queens Pinch Road, Mullamuddy measures 16.19 hectares and is currently zoned RU1 Primary Production. The lot does not currently have a dwelling entitlement.

The Planning Proposal provided as Attachment 1 has been prepared generally in accordance with the structure outlined in the NSW Department of Planning Industry and Environment (DPIE) Guide to Preparing Planning Proposals. The report outlines the context, intended outcomes, explanation of provisions, and a justification for the dwelling entitlement.

The Planning Proposal has been considered in accordance with Council's Comprehensive Land Use Strategy (CLUS). The CLUS details Principles to assist in identifying development opportunities; proximity to town is one. Opportunities within the 5km offset of Mudgee are still available, this site is located within the 10km offset. In addition the CLUS identifies short, medium and long term rural lifestyle opportunities, the subject site is located within a long term opportunity, and a land supply is still available in the short and medium term opportunities.

Approving a dwelling entitlement on this site will create a potential precedent for approving dwelling entitlement across all short, medium and long term opportunity areas. This approach would result in a proliferation of unplanned dwellings. If these areas are strategically released it would be more likely the built outcome would be orderly, subject of considered subdivision achieving a greater lot yield and result in a better utilisation and connection to Council's road infrastructure.

The Planning Proposal is inconsistent with the Principles and the short and medium term opportunities have not yet been exhausted, accordingly, the Planning Proposal is not recommended to proceed.

### Disclosure of Interest

Nil.

## Detailed report

### **Planning Proposals**

Planning Proposal is a term used to describe the 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. DPIE has issued A Guide to Preparing Planning Proposals, to provide guidance and information on the process for preparing planning proposals.

### **The Gateway Process**

DPIE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPIE's A Guide to Preparing Local Environmental Plans.

### **Gateway Timeline**

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan and the progress of the current Planning Proposal through the various stages. The below table demonstrates the Planning Proposal is within the initial stage of the process.

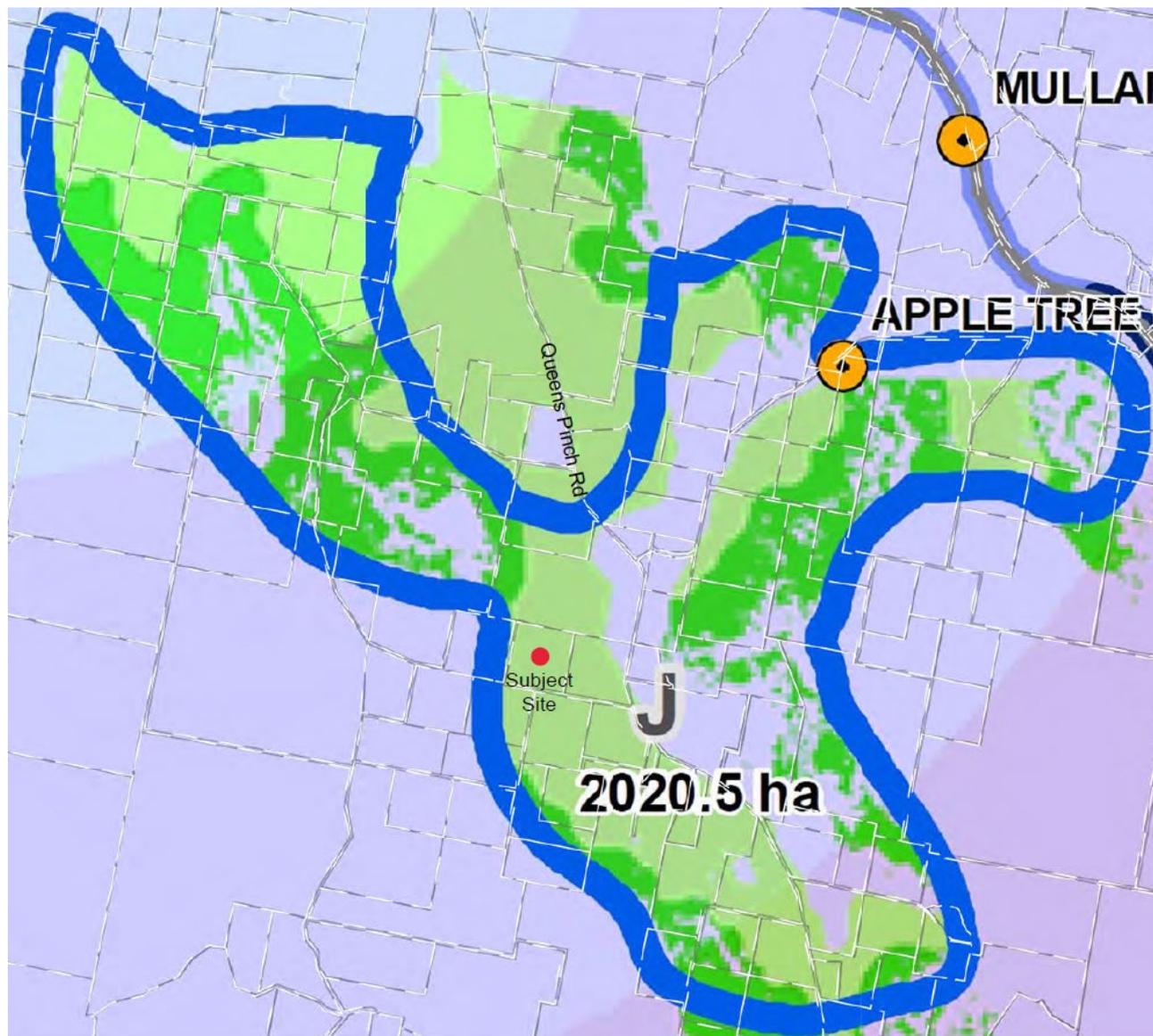
| Stage  | Completed | Comment   |
|--|-----------|---|
| <b>Preparation of a Planning Proposal</b>    |           |   |
| Planning Proposal lodged with Council        | ✓         | February 2021.  |
| Staff Undertake Initial Assessment           | ✓         | February – April 2021.  |
| Council Decision to Support Proposal         | ✓         | The Planning Proposal is being reported to 19 May 2021 meeting. |
| <b>Issue of Gateway Determination</b>        |           |   |
| Council Requests Gateway Determination       |           |   |
| DP&E 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                  |           |   |

## PROPOSED

The subject site is located to the south east of Mudgee and has frontage to an unmaintained Council road, which extends and connects to Queens Pinch Road. The site measures 16.19 hectares and is currently zoned RU1 Primary Production. The lot does not currently have a dwelling entitlement. The Planning Proposal is seeking a dwelling entitlement. The current minimum lot size is 100 hectares, the site is well below the minimum for the erection of a dwelling.

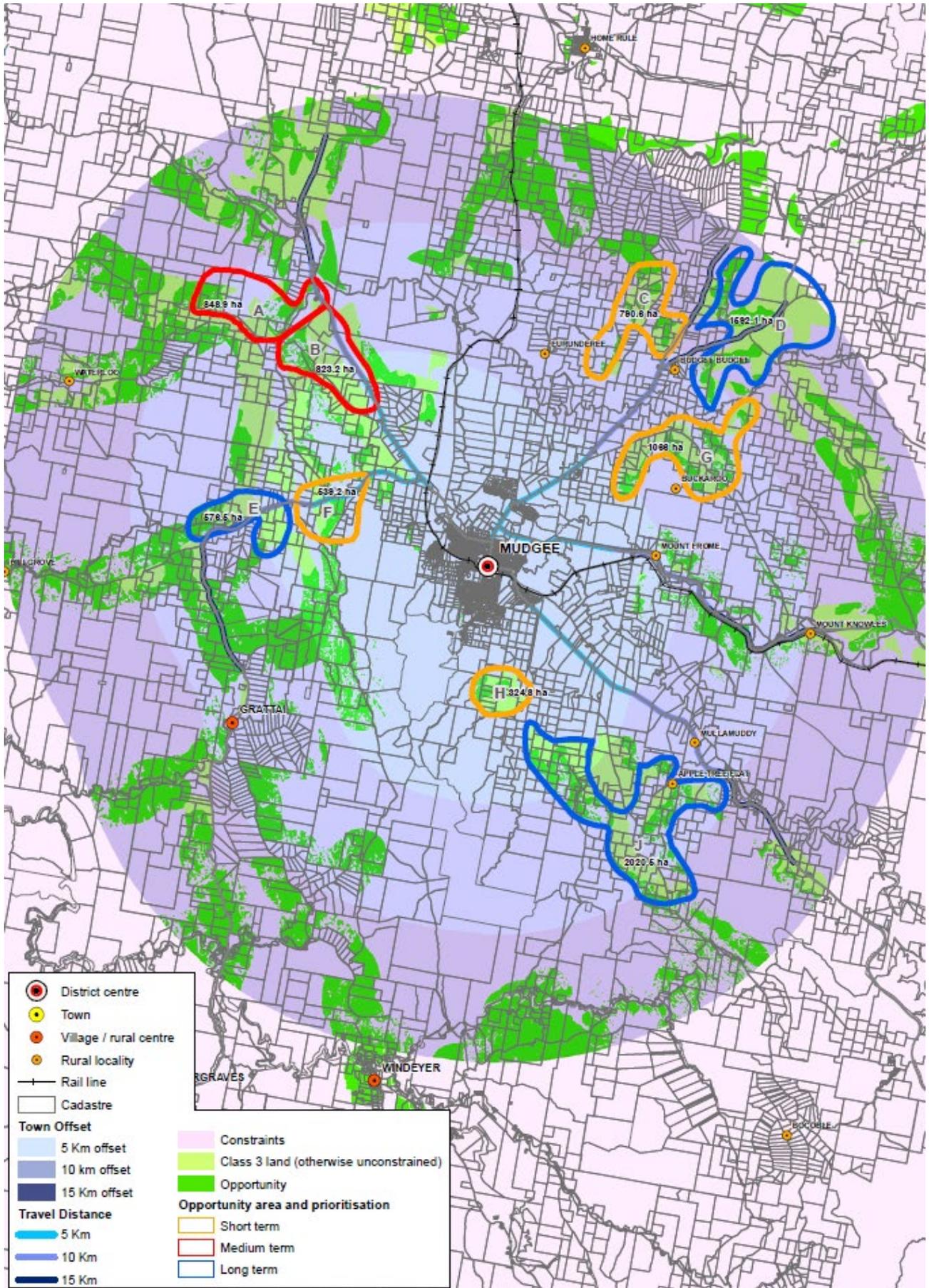
The proponent has stated the surrounding land has already been developed with dwellings. This is the case for the site immediately adjoining to the east. However, for the other adjoining land, lots have been consolidated to achieve the minimum lot size for the erection of a dwelling 100 hectares.

The submitted Planning Proposal incorrectly identifies the subject site on Figure 4-3 Rural lifestyle opportunities (Mudgee). The below figure correctly locates the subject site within the long term opportunity area.



*Subject site identified on CLUS Figure 4-3 Rural lifestyle opportunities – 15km offset area surrounding Mudgee*

The above long term opportunity area is just one of nine identified opportunity areas. The below figure identifies the nine opportunity areas with the 5, 10 and 15km offsets of Mudgee.



CLUS Figure 4-3 Rural lifestyle opportunities – 15km offset area surrounding Mudgee

## INTENDED OUTCOMES

The Planning Proposal seeks to amend the LEP to facilitate the future development of a dwelling on Lot 39 DP 756870.

## EXPLANATION OF PROVISIONS

The Planning Proposal outlines a proposed amendment Schedule 1 Additional Permitted Uses to provide an additional permitted use for a dwelling house subject to development consent on Lot 39 DP 756870. An alternative is also provided to rezone and amend the lot size map.

The proponent has stated the rezoning and change to the minimum lot size may be the best option if Council intends to proceed with the implementation of the CLUS. The short and medium opportunities have not been taken up, so Council will not be proceeding with the implementation of the CLUS in this long term opportunity area.

## JUSTIFICATION

The DPIE guide to preparing Planning Proposals outlines eleven questions to be addressed in the Planning Proposal, the proponent has addressed the eleven questions. The questions most applicable in the consideration of this Planning Proposal are discussed below.

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

#### ***Mid-Western Regional Comprehensive Land Use Strategy 2010***

The CLUS has three volumes of particular relevance in the consideration of this Planning Proposal is Part B – Constraints and Opportunities and Part C – Strategy. The relevant sections of Parts B & C have been considered below:

#### *Part B, Section 2.2.3 Land Suitability Factors (for development opportunities)*

Section 2.2.3 stipulates two principles to assist in the identification of development opportunities. Of particular relevance is Principle 1: *Develop close to existing towns, villages and rural centres*. The subject site is located within the 10km offset from Mudgee. There is an adequate supply of development opportunities, both zoned and identified within the 5km offset from Mudgee. Accordingly, in order to promote orderly development, Council would support development opportunities within the 5km offset from Mudgee in the first instance.

#### *Part B Section 3.1.2 Analysis of 'opportunity' areas*

Section 3.1.2 states that mapping opportunity areas may be taken as the most suitable locations for future development. However, the CLUS then states that not all 'opportunity areas' should be developed. Travel distance is a factor influencing what opportunity area should be prioritised. The CLUS identifies short, medium and long term opportunity areas within 5, 10 and 15km offsets from Mudgee. The subject site is located within the 10km offset. The opportunity areas within the 5km offset of Mudgee should be developed first instance.

#### *Part C Section 4.8.3 Release and Staging of opportunity areas*

This section highlights increasing rural population densities should occur in a measured and staged manner. Accordingly, supporting an additional dwelling within the long term opportunity area, before the supply within the 5km offset is exhausted, is inconsistent with this position.

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

There is a sufficient land supply within the short and medium term opportunity areas to deliver the desired outcome of an additional rural lifestyle lot.

**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).**

No, the Planning Proposal will not give effect to *Direction 28 Manage Rural Residential Development, specifically, Action 28.2 Enable new rural residential development only where it has been identified in a local housing strategy prepared by Council and approved by DPIE*. The site has been identified as a long term opportunity under the CLUS (a strategy approved by DPIE), however, the opportunities within the 5km offset have not been taken up and should be prior to the opportunities located beyond the 5km offset.

**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.

## 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**

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

JULIE ROBERTSON  
DIRECTOR DEVELOPMENT

28 April 2021

*Attachments:* 1. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM  
GENERAL MANAGER