

8.3 Planning Proposal Lot 101 DP 1221461 - 148 Wyoming Road, Stubbo

REPORT BY THE MANAGER STRATEGIC PLANNING
TO 16 AUGUST 2023 ORDINARY MEETING
GOV400098, LAN900153

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 101 DP 1221461, 148 Wyoming Road, Stubbo;**
2. **provide initial support for the rezoning from RU1 Primary Production to R5 Large Lot Residential and change to minimum lot size from 100ha to 12ha of Lot 101 DP 1221461, 148 Wyoming Road, Stubbo;**
3. **forward the Planning Proposal to amend the *Mid-Western Regional Local Environmental Plan 2012* to the NSW Department of Planning and Environment seeking a Gateway Determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*;**
4. **suggest as a condition of Gateway Determination, that a Biodiversity Assessment report be required; and**
5. **undertake community consultation as outlined within any approved Gateway Determination.**

Executive summary

Council has received a Planning Proposal seeking an amendment to the *Mid-Western Regional Local Environmental Plan 2012* (LEP) to rezone the subject site from RU1 Primary Production with a current minimum lot size of 100 hectares to R5 Large Lot Residential with a minimum lot size of 12ha.

The subject site is approximately 100 hectares in total. The subject site is located off Wyoming Road approximately 9.5 kilometres north-east of Gulgong. The Sandy Hollow Gulgong Railway runs along the south-eastern boundary of the site.

The Planning Proposal has been considered in accordance with Council's Comprehensive Land Use Strategy (CLUS), specifically, Part C. Part C outlines the future large lot residential land supply opportunities around Gulgong and beyond. The proposed rezoning and change to the minimum lot size is considered consistent with Part C of the CLUS.

The Planning Proposal provided as Attachment 1 has been prepared generally in accordance with the structure outlined in the NSW Department Planning and Environment (DPE) *Local Environmental Plan Making Guideline*. The report outlines the context, intended outcomes, explanation of provisions and justification for the Planning Proposal.

The staff recommendation is to provide initial support for the Planning Proposal and to send to DPE for a Gateway Determination with a request that a Biodiversity Assessment be report be

provided prior to community consultation. If the staff recommendation is supported, the Planning Proposal along with the Council resolution will be forwarded to DPE for Gateway Determination.

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. DPE has issued the *Local Environmental Plan Making Guideline*, to provide guidance and information on the process for preparing planning proposals and making the amendment to the LEP.

The Gateway Process

DPE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in the *Local Environmental Plan Making Guideline* (September 2022).

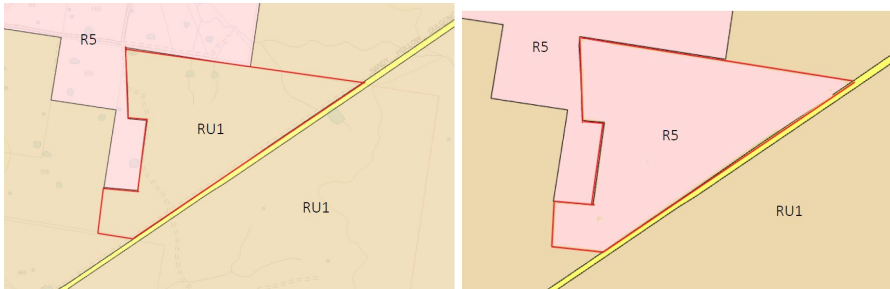
Gateway Timeline

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan (LEP) 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 |
|--|-----------|---|
| Preparation of a Planning Proposal | | |
| Planning Proposal lodged with Council | ✓ | June 2023 |
| Staff undertake assessment | ✓ | June/July 2023 |
| Council Decision to Support Proposal | ✓ | The Planning Proposal is being reported to 16 August 2023 meeting |
| Issue of Gateway Determination | | |
| Council Requests Gateway Determination | | |
| DP&E Issues Gateway Determination | | |
| Gateway Conditions Satisfied | | |
| Consultation | | |
| Consultation with Relevant Agencies | | |
| Public Exhibition | | |
| Post-Exhibition Report to Council | | |
| Finalisation of the Planning Proposal | | |
| Council Exercises Delegation to Prepare LEP | | |
| Draft LEP by Parliamentary Council | | |
| Opinion Issued and LEP Made | | |

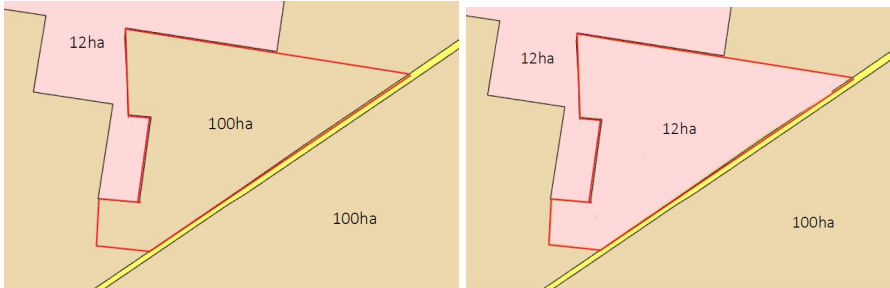
PROPOSAL CONTEXT

The Planning Proposal seeks to rezone Lot 101 DP 1221461 (subject site) from RU1 Primary Production with a current minimum subdivision lot size of 100 hectares to R5 Large Lot Residential with a minimum lot size of 12 ha. The maps below highlights the current and proposed zoning and current and proposed minimum lot size.



Current Zoning

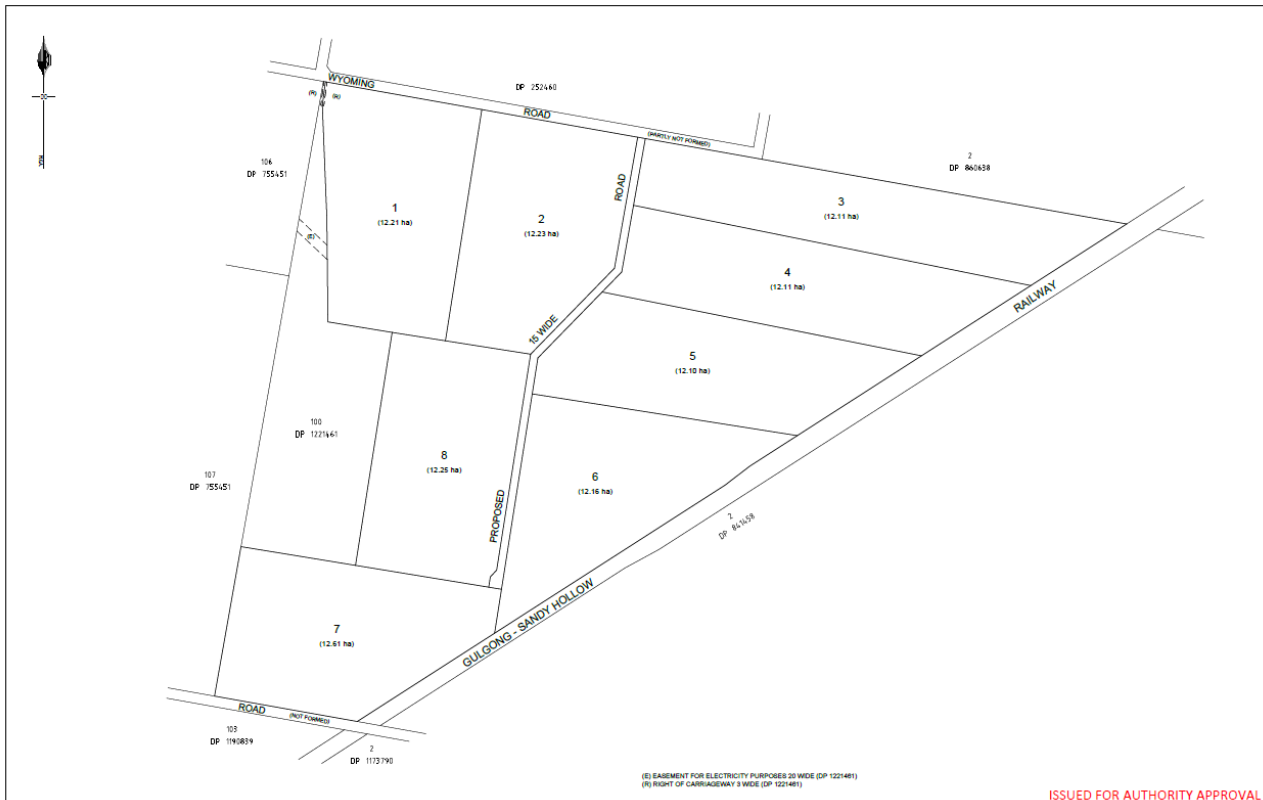
Proposed Zoning



Current Minimum Lot Size

Proposed Minimum Lot Size

The proponent has provided a concept subdivision plan for the 12 ha lots, provided below. It is worth noting that the 8 lots are a maximum yield and the ultimate yield will be dependent on detailed design at the Development Application stage.



ISSUED FOR AUTHORITY APPROVAL



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Client: CLIENT
 Project: ZONING APPLICATION
 LOT 103 DP 1221481
 Drawing Title: SUBDIVISION CONCEPT PLAN

| Rev | Date | Amendment |
|-----|----------|-------------------------------|
| A | 20/08/23 | ISSUED FOR AUTHORITY APPROVAL |

| Design | RB | Certification |
|---------------------|----|----------------|
| Drawn | MR | |
| Check | RB | Drawing Number |
| Original Sheet Size | A1 | 38948-P04 |
| Revision | | A |

INTENDED OUTCOMES

The intended outcome is that the subject site has the opportunity to be subdivided to create lots meeting the mapped minimum lot size subject to consideration through the development application process.

The proponent has outlined that the future sources of water will be onsite rainwater tanks and if feasible and allowable a bore may be established for non-potable water for each lot. On-site effluent management for each lot is proposed.

EXPLANATION OF PROVISIONS

The Planning Proposal details how the objectives and intended outcomes will be achieved by:

- Amending part of the zone indicated on Land Zoning Map - Sheet LZN_005 from RU1 Primary Production to R5 Large Lot Residential.
- Amending part of the minimum lot size indicated on the Lot Size Map – Sheet LSZ_005 from (AD) 100 hectares to (AB2) 12 hectares.

JUSTIFICATION

The DPE *Local Environmental Plan Making Guideline* September 2022 outlines questions to consider when demonstrating the justification. The questions most pertinent in consideration of this Planning Proposal are discussed below.

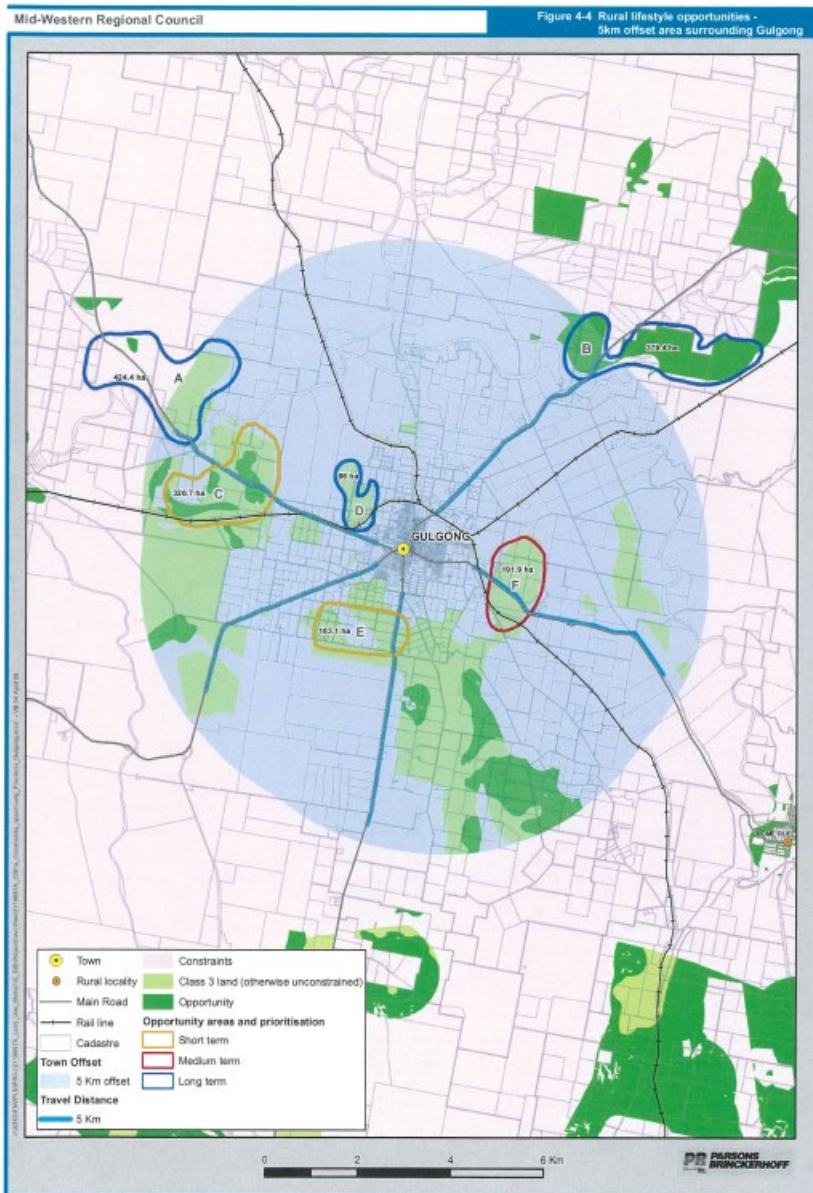
Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal is generally consistent with the Local Strategic Planning Statement (LSPS) in particular, Planning Priority 2 '*make available diverse, sustainable, adaptable and affordable housing options through effective land use planning*'.

The Planning Proposal has been assessed in accordance with Council's Comprehensive Land Use Strategy (CLUS), specifically Part C. Part C Figure 4.4 *Regional Lifestyle opportunities 5km offset area surrounding Gulgong* outlines visually the large lot opportunities. Figure 4.4 is provided below.

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

The rezoning of the subject site is the only means of achieving the objectives and intended outcomes of the Planning Proposal.



The subject site is located in Area B which is a long term opportunity area. The Planning Proposal states that the short term opportunities have been taken up (Area C and E) and there has been zero take up in medium term area (Area F). Area F has not been rezoned and could provide a potential lot yield of 11, 12ha lots. However, there are multiple constraints to realising this lot yield including established dwelling patterns and lot sizes and has not be the subject of any rezoning application. It is unlikely that Area F will develop under present conditions. This allows Council to consider Area B and specifically the subject site that could yield up to 8 lots.

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

The Planning Proposal is generally consistent with the Ministerial Directions. The two Directions that are inconsistent – 9.1 Rural zones and 9.2 Rural lands – are justified by an endorsed strategy being the CLUS that identifies the subject site as a long term opportunity.

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? Part of the subject site is identified as High Biodiversity Sensitivity on Council’s Sensitivity Biodiversity Map. Further a known Plant Community Type (PCT 277 – Blakely’s Red Gum – Yellow Box grassy

tall woodland of the NSW South Western Slopes Bioregion) is located on part of the site. The proponent recommends siting future dwellings and outbuildings away from the vegetation which is reasonable given the minimum subdivision size of 12ha. It is recommended as a condition of Gateway Determination a Biodiversity Assessment report be required as well as consultation be undertaken with the Biodiversity, Conservation and Science Directorate within the NSW Environment and Heritage.

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

An AHIMs report has been submitted and demonstrates that there are no Aboriginal sites recorded in or near the location and no Aboriginal places have been declared in or near the above location.

The subject site does not contain any Heritage items nor does it fall within a Conservation Area – General. The subject site is also not in close proximity to any heritage items.

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

It is proposed that the following authorities and government agencies will be consulted as part of any exhibition port Gateway:

- NSW Environment and Heritage - Biodiversity, Conservation and Science Directorate
- Office of Water
- Australian Rail Track Corporation

LOCAL PLAN MAKING AUTHORITY

In accordance with the LEP Making Guideline, Council is to nominate the LPMA or person who will be carrying out the work to amend the LEP. For basic LEP amendments, the Council usually nominates itself as the LPMA. In this instance as the LEP amendment is of a routine type, it is recommended that the General Manager be delegated to carry out the LEP making function on behalf of Council.

NEXT STEP

If Council supports the recommendation, the next step would involve forwarding the Planning Proposal and a Council resolution of initial support to the DPE seeking a Gateway Determination.

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

If Council does not wish to provide initial support for the Planning Proposal, Council may resolve not to proceed with the Planning Proposal.

SARAH ARMSTRONG
MANAGER STRATEGIC PLANNING

ALINA AZAR
DIRECTOR DEVELOPMENT

1 August 2023

Attachments: 1. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER