



IRF25/109

Gateway determination report – PP-2024-2158

Rezone land at Canadian Lead Rd and Henry Lawson Drive, Gulgong to permit large lot residential development

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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
Attachment A – Planning proposal (de Witt Consulting, September 2024)
Attachment A1 – Ordinary Meeting of the Mid-Western Regional Council (11 December 2024) Agenda and Minutes

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Mid-Western
PPA	Mid-Western Regional Council
NAME	Rezone land at Canadian Lead Rd and Henry Lawson Drive, Gulgong to permit large lot residential development
NUMBER	PP-2024-2158
LEP TO BE AMENDED	Mid-Western Regional Local Environmental Plan 2012
ADDRESS	2794 Henry Lawson Drive Gulgong NSW 2852 (northern site) 2787 Henry Lawson Drive Gulgong NSW 2852 (central site) 94 Canadian Lead Road Gulgong NSW 2852 (southern site)
DESCRIPTION	Lot 415 DP755433, Lot 56 DP755433 and Lot 129 DP755433
RECEIVED	16/12/2024
FILE NO.	IRF25/109
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 (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are stated as:

- Deliver large lot residential development adjoining the town of Gulgong
- Encourage economic investment, employment opportunities and enhance community infrastructure.
- Improve land use compatibility by ensuring consistent planning controls and minimising potential land use conflicts.
- Balance development with the preservation of environmental assets.

The objectives of this planning proposal are clear and adequate.

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	RU1 Primary Production	R5 Large Lot Residential
Minimum lot size	100ha	12ha
Number of dwellings	3	5

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 land is approximately 70ha in size and currently zoned RU1 Primary Production (see Figure 1). The lots are currently utilised for residential and agricultural purposes, containing crops, livestock grazing and dwellings. Aerial imagery and historical data indicate these uses have been consistent since the 1960s. These uses are similar to those of the adjoining sites.



Figure 1 Subject site (Source: Planning proposal)

The subject site is located 2km east of the Gulgong town centre and the Wallerawang-Gwabegar Railway runs through the site (Figure 2). The subject site is generally flat with some small areas of elevation in the northern and central lots and is predominantly cleared land with scattered remnant vegetation. The site is identified as containing 'high biodiversity' on Council's Sensitivity Biodiversity Map (see Figure 3).



Figure 2 - Site context (Source: Planning proposal)



Figure 3 - Sensitivity Biodiversity Map (Source: NSW Planning Portal)

1.5 Mapping

The planning proposal includes incorrect mapping showing the proposed changes to the Land Use Zone and Lot Size maps, which are not suitable for community consultation. The maps include Lot 264 DP755433. Council's resolution removed this site from the planning proposal. It is recommended a Gateway determination condition be applied to update the planning proposal to accurately depict the Council-supported proposed amendments.

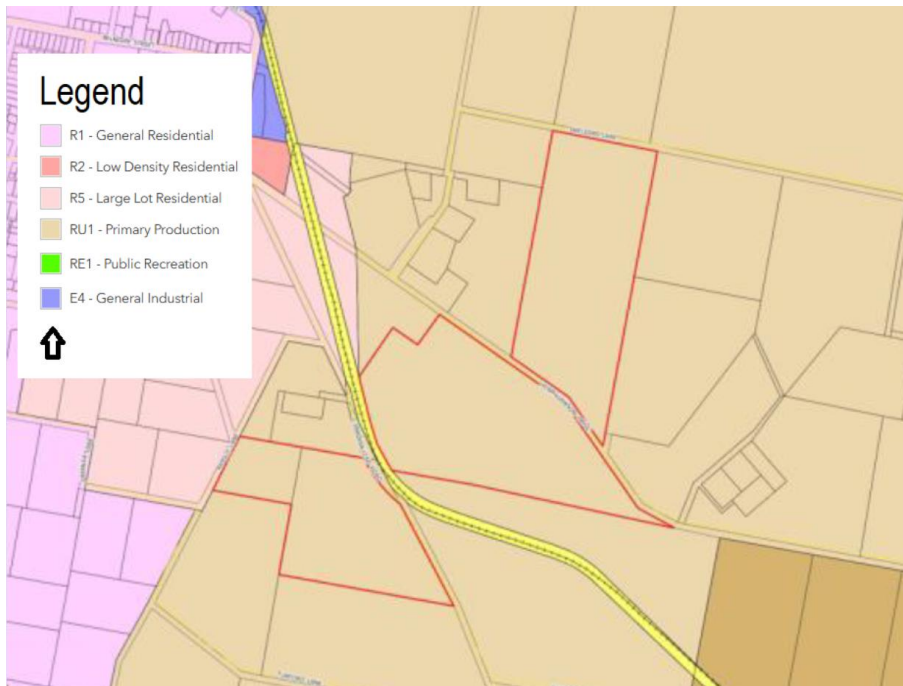


Figure 4 Current zoning map (Source: Planning proposal, September 2024)



Figure 5 Incorrect proposed zoning map (Source: Planning proposal, September 2024)

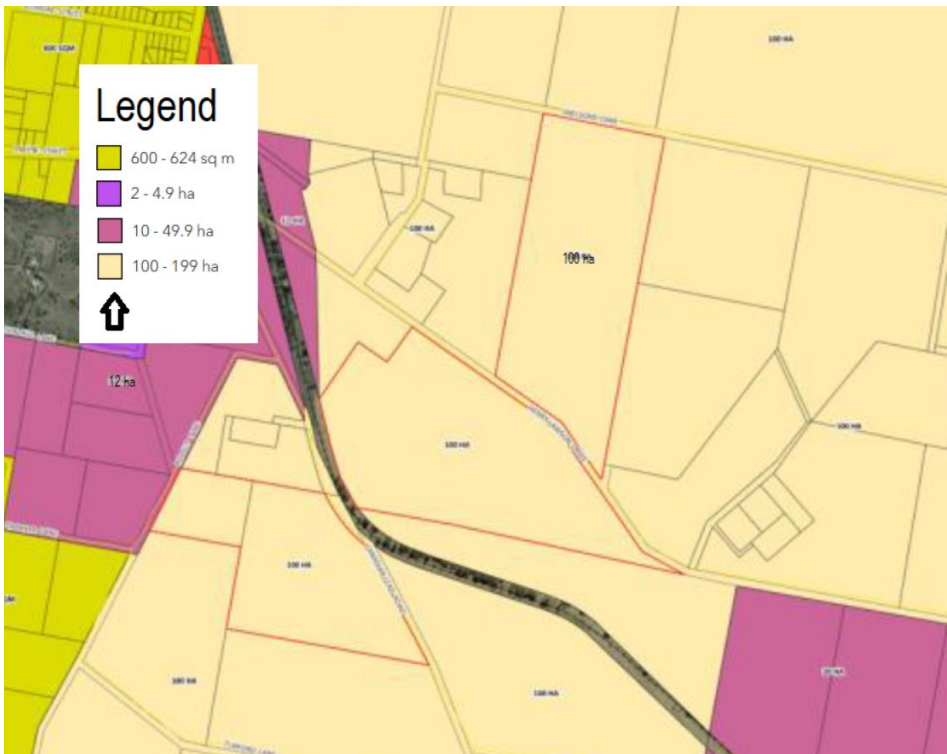


Figure 6 Existing lot size map (Source: Planning proposal, September 2024)

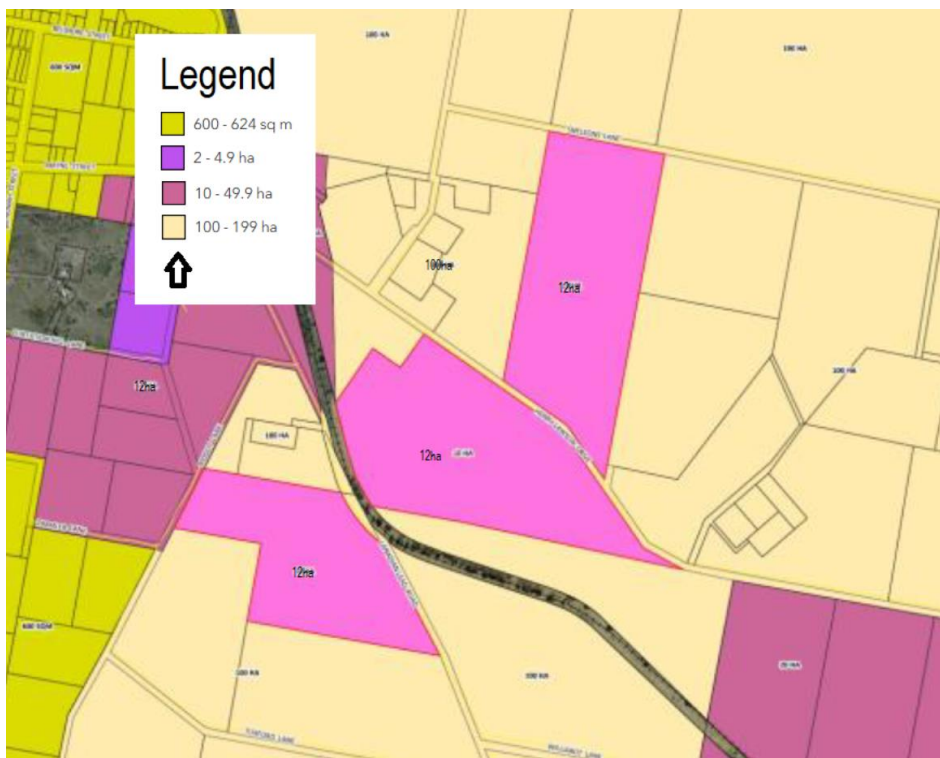


Figure 7 Incorrect proposed lot size map (Source: Planning proposal, September 2024)

2 Need for the planning proposal

The planning proposal was endorsed by Mid-Western Regional Council at its meeting on 11 December 2024 (**Attachment A1**). Council's resolution included further amendments to the planning proposal to amend the proposed lot size from 10ha to 12ha and remove Lot 264 DP755433. The Council's assessment was that a 12ha lot size more effectively aligns with the objectives of the R5 Large Lot Residential Zone and the consistency of applying that across other parts of the LGA. It also determined to remove Lot 264 from the proposal as it is outside the opportunity area 'F' identified in the Comprehensive Land Use Strategy.

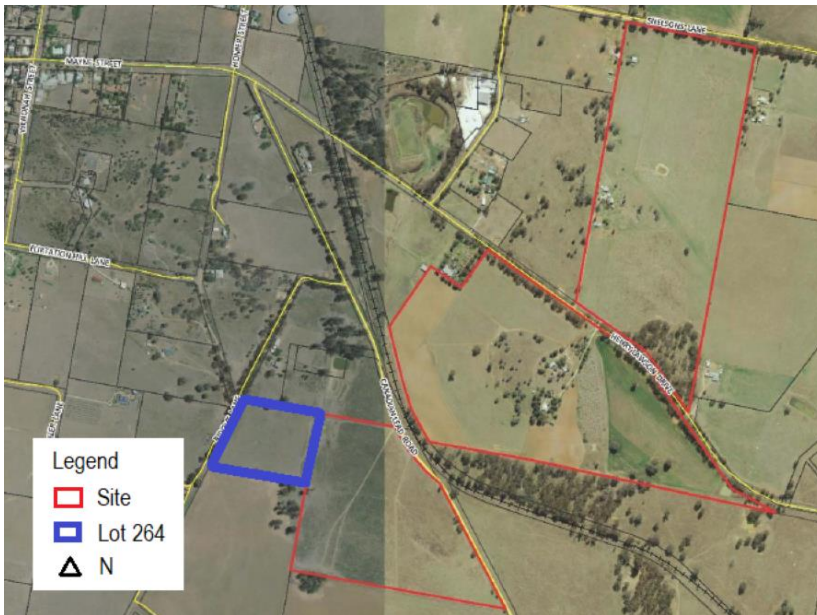


Figure 8 Location of Lot 264 (Source: Planning proposal edited by DPHI, September 2024)

The planning proposal has undertaken the following assessment of alternative approaches to achieve the objectives of the planning proposal:

- Varying Development Standards – Clause 4.6 of the LEP could be applied to vary the minimum lot size control. The planning proposal states it is unlikely that such a significant reduction across multiple sites would be supported. The existing zone permits low density residential uses. The planning proposal states this approach would result in uncertainty and be lengthy.
- Council led planning proposal – in 2023 Council released the Mudgee and Gulgong Urban Release Strategy, it is assumed this will inform a council led planning proposal. This approach would result in uncertainty and be lengthy.

The planning proposal considers a site specific proposal to be the most effective course of action as the proposal allows a strategic assessment and alignment with the Central West and Orana Regional Plan 2041 and the Mid-Western Regional LSPS 2040. This process provides a clear pathway for assessment and a focused consultation process, with an efficient timeframe.

Further strategic justification is provided in the assessments undertaken in Section 3 of this report.

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

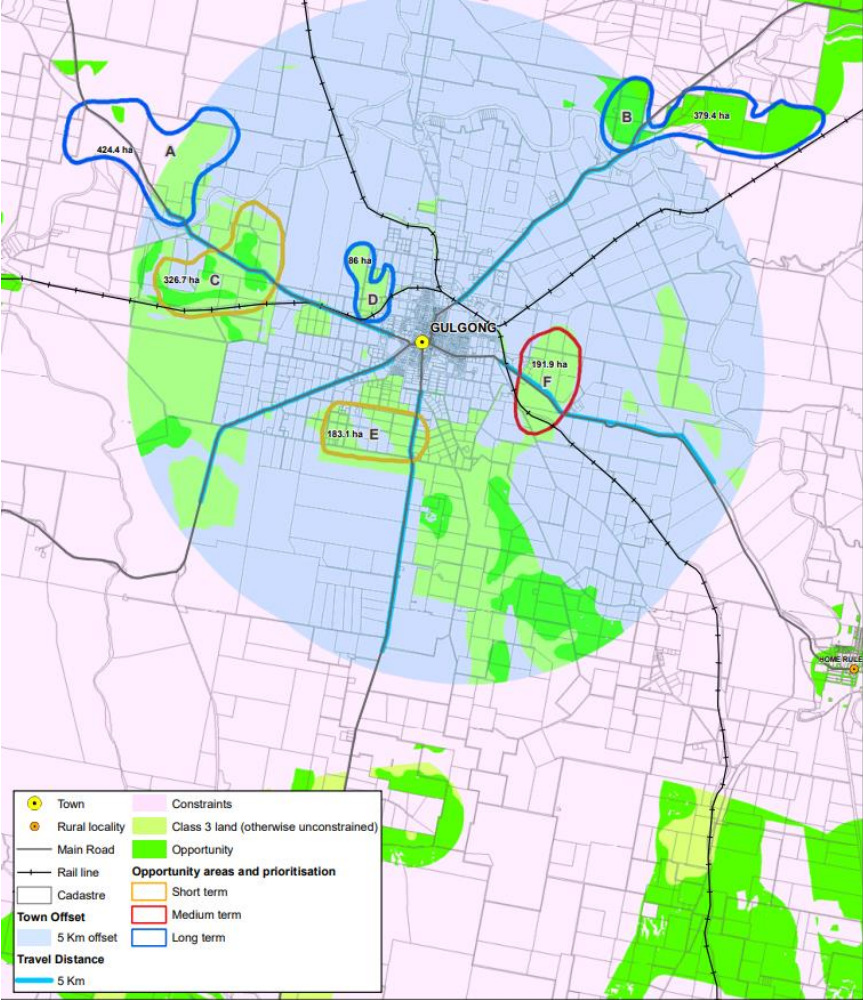
Regional Plan Objectives	Justification
Objective 5: Identify, protect, and connect important environmental assets.	Inconsistent with Strategy 5.2 as the proposal does not adequately assess the biodiversity values on the site. The site is identified on Council's Sensitivity Biodiversity Map. While the proposal will result in lots of 12ha, which should allow the siting of development to avoid biodiversity, the proposal is not able to adequately address the requirements of Strategy 5.2 of the Regional Plan. See Section 3.3 of this report for more information.
Objective 13: Provide well-located housing options to meet demand.	<p>Consistent with Strategy 13.1 as the proposal will contribute to housing supply in a strategically identified location.</p> <p>The planning proposal states the Mid-Western region is experiencing a wave of investment in energy production and storage, resulting in an increased dwelling demand.</p> <p>The site is located on the fringe (within 2km) of the Gulgong town centre which contains a railway station. The proposal has the capacity to contribute an additional two large lots.</p>
Objective 15: Manage rural residential development.	<p>Consistent with Strategy 15.1 and Strategy 15.2.</p> <p>The site has been strategically identified for rural residential development in the Comprehensive Land Use Strategy 2011. This is discussed in more detail in Section 3.2 of this report.</p>

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 2040	<ul style="list-style-type: none"> Priority 2 Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning. The site is identified as agricultural land in the LSPS. The LSPS states that identifying suitable sites for future large lot residential opportunities will ensure that a 20 year supply is available should there be high levels of demand. Planning Priority 5: Enhancement and protection of biodiversity and natural heritage. The site is identified as containing 'high biodiversity' on Council's Sensitivity Biodiversity Map. The planning proposal states that the site is mostly cleared and any biodiversity forms a small portion of the site which could be avoided in the siting of building footprints. The planning proposal has not provided evidence of the likely impacts on biodiversity as a result of the planning proposal, this will be further discussed in a separate section.

Local Strategies	Justification
<p>Comprehensive Land Use Strategy (CLUS) 2011</p>	<p>The CLUS identifies demand for rural lifestyle lots in Gulgong to be estimated at 5 lots per annum. The proposal could result in 5 rural residential lots.</p> <p>The site falls in the Gulgong 'Investigation Precinct F' that identifies land for rural lifestyle development, subject to detailed land capability investigations. It identifies the site as being in a strategic location.</p>  <p>Figure 9 Gulgong 'Investigation' Precincts (Source: CLUS, 2011)</p> <p>The planning proposal is consistent with the CLUS.</p>
<p>Mudgee and Gulgong Urban Release Strategy (URS) 2023</p>	<p>The URS released in 2023 updates the information provided in the CLUS 2011 and focuses on the Mudgee and Gulgong urban housing markets.</p> <p>The subject site is outside of the areas assessed in the URS.</p> <p>The URS states that in Gulgong's urban release areas (not formally identified in the LEP) there is more supply than demand for large lot residential developments based on projections to 2041. Large lots in the urban area are identified as approximately 2ha whereas the site is identified as rural lifestyle in the CLUS which are 12ha sized lot. The URS recommends monitoring of supply and demand of large lot residential to address uncertainties in demand for these lot typologies although it is unclear if this includes those larger rural lifestyle lots.</p>

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
1.1 Implementation of Regional Plans	Inconsistency justified	The planning proposal is inconsistent with Strategy 5.2 of the Central West and Orana Regional Plan, as discussed in Section 3.1 of this report, however, the extent of inconsistency is considered of minor significance, and the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.
3.1 Conservation Zones	Further justification required	<p>The site is identified as containing 'high biodiversity' on Council's Sensitivity Biodiversity Map. Council has recommended that a biodiversity assessment be undertaken on the subject land to confirm the biodiversity values on the site and the appropriate planning response.</p> <p>The proposal does not seek to amend the existing provision that protects the environmentally sensitive area located on the site, although the presence of threatened grassland or other biodiversity values has not been investigated. While the proposal is not inconsistent with the Direction, it is recommended the Gateway determination includes a requirement a biodiversity assessment be undertaken and for consultation with the Department of Climate Change, Energy, the Environment and Water.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>A Preliminary Contamination Investigation forms part of the planning proposal at Attachment A1. The investigation includes a review of past land uses and storage of potentially hazardous materials and a site walkover.</p> <p>The investigation found that the site poses minimal risk of contamination with no immediate need for remediation. Ongoing monitoring and management of agricultural chemicals are recommended, which can be assessed at the development application stage.</p> <p>The planning proposal is consistent with this Direction.</p>
5.1 Integrating Land Use and Transport	Consistent	<p>This Direction applies as it is proposed to rezone the site from a rural zone to a residential zone.</p> <p>The proposal is in keeping with the guideline, 'Improving Transport Choice – Guidelines for planning and development' (DUAP 2001). The proposal seeks to apply an R5 Large Lot Residential zone and 12ha minimum lot size to a site on the fringes of the Gulgong town centre.</p> <p>The planning proposal is consistent with this Direction.</p>

Directions	Consistent	Reasons
6.1 Residential Zones	Inconsistency justified	<p>This Direction applies as it is proposed to rezone the site from a rural zone to a residential zone.</p> <p>The planning proposal is inconsistent with this Direction as it seeks to rezone land on the urban fringe but this is justified by a strategy.</p>
9.1 Rural Zones	Inconsistency justified	<p>This Direction is applicable as a rural zone currently applies to the site. The proposal is inconsistent with this Direction as it is proposed to rezone the site from a rural zone to a residential zone.</p> <p>The proposal is able to justify the inconsistency as the CLUS identifies the subject land as suitable for future rural residential purposes.</p>
9.2 Rural Lands	Inconsistency justified	<p>The proposal is inconsistent with this Direction as it is proposed to rezone the site from a rural zone to a residential zone.</p> <p>However, given the CLUS identifies the site for rural residential purposes, the proposed amendments are consistent with the strategic framework and therefore the inconsistency with this Direction is justified.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is not strictly consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Assessment
SEPP (Biodiversity and Conservation) 2021	<p>Chapter 3 applies to land zoned RU1 Primary Production in designated local government areas. Under Chapter 4 the site falls under the Northwest Slopes Koala Management Area.</p> <p>As a result of this planning proposal, Chapter 3 of the SEPP will no longer be applicable. As a condition of Gateway a biodiversity report will be required to determine the potential impacts of the proposal, this will include impacts on koalas and their habitats.</p>

4 Site-specific assessment

4.1 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Environmental, social and economic impact assessment

Social and Economic Impact	Assessment
Services	<p>The planning proposal is accompanied by a Services Plan and an ‘assessment of potential for basic landholder rights bores’. The planning proposal states:</p> <ul style="list-style-type: none"> • The northern lot is currently connected to a reticulated water system. The remaining lots will utilise boreholes and rainwater harvesting systems. • With a minimum lot size of 12ha, the lots are large enough to accommodate onsite sewage management systems. • The existing infrastructure is capable of supplying the proposed development.
Traffic and transport	<p>The planning proposal is not informed by a traffic report. Given the proposal is likely to result in an additional two lots, in this circumstance the assessment provided within the planning proposal is considered adequate.</p> <p>The following streets provide direct access to the site:</p> <ul style="list-style-type: none"> • 2794 and 2787 Henry Lawson Drive have direct access to the Henry Lawson Drive which is a sealed road. • 94 Canadian Lead Road is accessed via Canadian Lead Road. • Snelsons Lane and Ridout Lane also connect to the site and are unsealed. <p>The subdivision plan indicates there will be an increase of two lots. It is assumed the existing road network has capacity to connect the traffic volume to the Gulgong town centre.</p> <p>There are no concerns raised regarding road access and traffic.</p>
Heritage	<p>The planning proposal includes an AHIMS search which confirms there are no Aboriginal sites or places recorded within 1km of the site.</p> <p>The following local heritage items are in close proximity to the site:</p> <ul style="list-style-type: none"> • 2794 Henry Lawson Drive, Gulgong 350m from the site • 94 Canadian Lead Road, Gulgong 485m from the site <p>The proposed rezoning is unlikely to impact the nearby local heritage items, this matter will be considered as part of any future development application.</p>

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 days.

The exhibition period proposed is considered appropriate, an exhibition period of 20 working days will apply and forms a condition of the Gateway determination.

5.2 Agencies

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

It is recommended the Department of Climate Change, Energy, the Environment and Water be consulted on the planning proposal and given 30 working days to comment.

6 Timeframe

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

The Department recommends an LEP completion date of 20 November 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 addresses matters of local significance and Council supports the progression of the planning proposal, 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 the inconsistency with Section 9.1 Directions 1.1 Implementation of Regional Plans, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands are justified.
- Note that the inconsistency with Section 9.1 Direction 3.1 Conservation Zones remains unresolved until further justification has been provided.

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 and agency consultation, the planning proposal is to be updated to:
 - remove references to Lot 264 DP755433
 - amend the proposed lot size for the subject land to 12ha
 - include the findings of a biodiversity assessment report.
2. Consultation is required with the following public authorities:
 - 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.

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 20 November 2025 be included on the Gateway.

The timeframe for the LEP to be completed is on or before 20 November 2025



12 February 2025

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