

Planning Proposal

Amendment to Mid-Western Regional LEP 2012

General Amendments A (Minor)

To facilitate a number of minor amendments to Mid-Western Regional Local Environmental Plan 2012

Mid-Western Regional Council



July 2013

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Overview

This planning proposal has been prepared by Mid-Western Regional Council in accordance with section 55 of the Environmental Planning and Assessment Act and the relevant Department of Planning and Infrastructure Guidelines.

The planning proposal relates to an amendment to the Mid-Western Regional Local Environmental Plan 2012 for the following:

- (a) Amendment to the R5 zone at Grattai – Lot 153 and 162 DP 756880,
- (b) Extension of the B3 Commercial Core zone over Lot 100 DP 1080880 (Mitre-10),
- (c) Amend anomalies in the heritage schedule, ✓
- (d) Permissibility of camping in RE1 Public Recreation zone, ✓
- (e) Amend an omission to the Lot Size Map – Lot 300 DP 1092535
- (f) Reinstatement of Minimum Lot Size as per s73A Amendment No. 2 ✓

Mid-Western Regional LEP 2012 was published in August 2012. There were a number of matters that were raised during the course of the public exhibition which were considered outside the delegation of Council to amend without the need for additional consultation and re-exhibition. Further, there are matters that have arisen since that are considered minor and have been including in this general amendment. This Planning Proposal deals with minor amendments. A second Planning Proposal is being prepared that addresses a range of amendments including changes to local provisions.

Part 1 Objectives or Intended Outcomes

As there are a number of matters to be addressed and a range of issues within items, each item has been explored individually for the purpose of the planning proposal.

The following table provides an outline of the objectives for each of the individual amendments.

Amendment	Objective/Outcome
(a) Amendment to the R5 zone at Grattai – Lot 153 and 162 DP 756880,	Enable a dwelling to be erected on the lot
(b) Extension of the B3 Commercial Core zone over Lot 100 DP 1080880 (Mitre-10),	Consistent zone across the entire site

Part 2 Explanation of Provisions

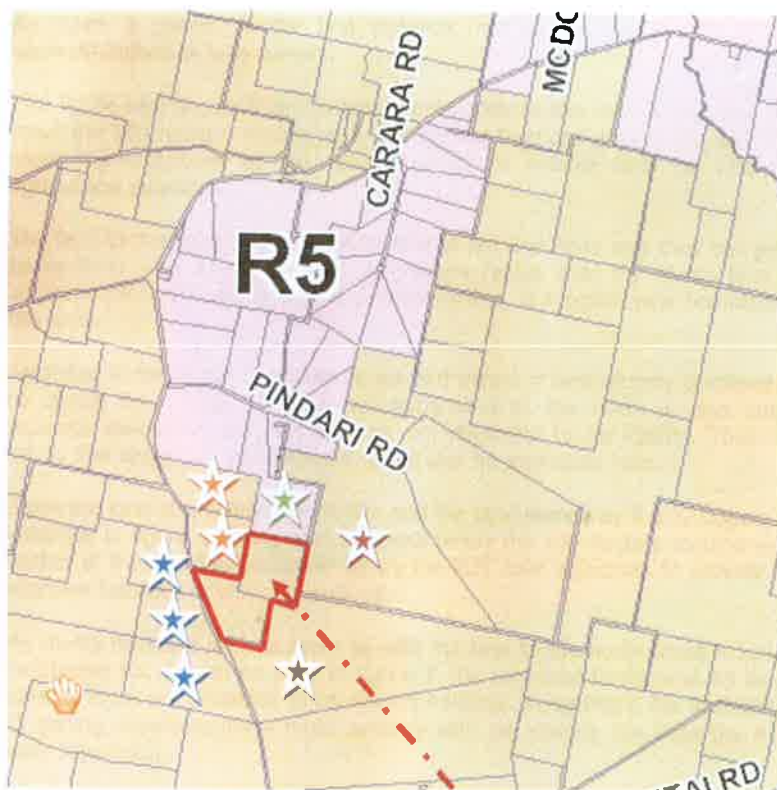
It is intended that the objectives and intended outcomes described in Part 1 will be achieved in the form of minor amendments to LEP 2012. The individual provisions or mechanism for achieving the objective outcomes are explained as follows:

Amendment to the R5 zone at Grattai – Lot 153 and 162 DP 756880

The proposal, prepared by GAT & Associates on behalf of the land owner, involves the rezoning of the subject land from RU1 General Rural to R5 Large Lot Residential consistent with surrounding development. The land owner made representations during the public exhibition of the Draft LEP, however, Council did not receive the electronically lodged submission and the matter was not considered in the post exhibition report. However, given the manner in which Council dealt with the matter in Black Springs Road, which is an identical scenario, it is likely that the recommendation would have been a suggestion that the proponent lodge a Planning Proposal. In the case of Black Springs Road, Council supported the planning proposal, as did the Department of Planning and the amendment has been published. In this instance, the proponent was advised that they could either lodge a planning proposal or wait and have the matter included in the general amendment which is what they have now done.

The land is located adjoining the R5 Large Lot Residential Zone on Hill End Road. The land is within the area identified as unconstrained for the purposes of lifestyle or small holding development in the Comprehensive Land Use Strategy. The map extract below shows the location of existing dwellings on neighbouring properties.

In the case of Black Springs Road, Council, on advice from the Department of Planning, amended the Lot Size Map. As this is a similar circumstance, it is recommended that the zone remain RU1 General Rural and the Lot Size Map be amended to 12ha consistent with the adjoining land.



Note: Stars indicate existing dwellings

Extension of the B3 Commercial Core zone over the brick yard at Mitre 10

The Mitre 10 tenure is split zoned part B3 Commercial Core and part R3 Medium Density Residential. The amendment proposed to extend the commercial zoning to include all of Lot 100 DP 1080880 as shown in the figure below. The change to the zone will also lead to an amendment to the Lot Size Map from "M" to un-coloured.



Extract Land Zoning Map LEP 2012

Anomalies in the Heritage Schedule

The Heritage Schedule includes items which have incorrect property data as follows:

Item	Description in LEP	Correction proposed
Guntawang Homestead Item I390	Lot 2 DP 534376	Lot 3 DP 718231
House Bowman St Gulgong Item I213	5 Bowman St	9 Bowman St
House 35 Medley St Gulgong Item I315	35 Medley St Lot 4 Section 15	39 Medley St Lot 4 Section D DP33960
House 37 Medley St Gulgong Item I316	37 Medley St Lot 5 Section 15	41 Medley St Lot 1 DP 101068
House 39 Medley St Gulgong Item I317	39 Medley St Lot 5 Section 15	43 Medley St Lot 2 DP 101068
Gulgong Hospital	Portion 196	Lots 195 & 196 DP 755434

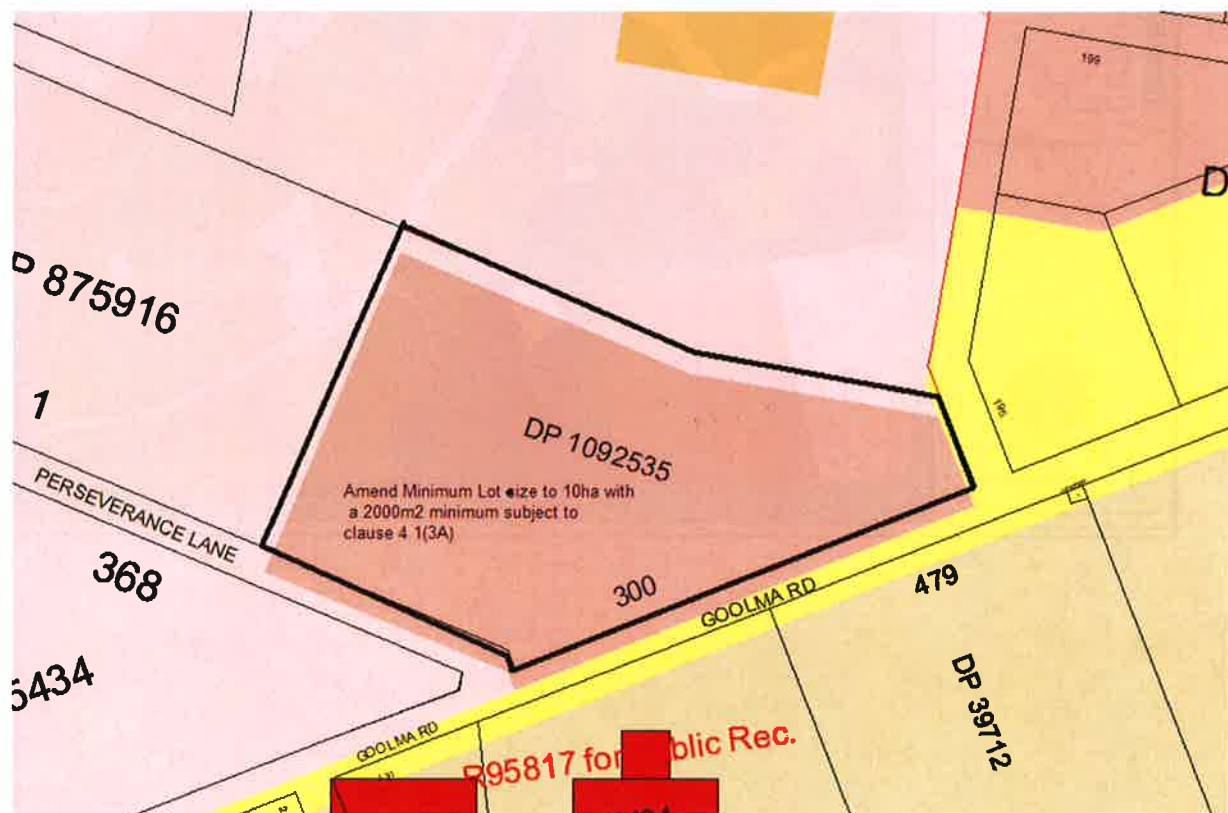
Permissibility of camping in RE1

In the process of preparation of a Development Application for the Mudgee Showground, it was noted that camping grounds and caravan parks were not permitted with consent in Item 3 in the RE1 Public Recreation zone. An amendment to the land use table is required to insert the uses as permissible with consent.

Amendment to the Lot Size Map – Lot 300 DP 1092535 12 Perseverance Lane Gulgong

In the preparation of the LEP 2012, Council resolved to amend the zone and minimum lot size for the above property. The zone was amended to R2 Large Lot Residential, however, in error the corresponding change was not made on the Lot Size Map.

The Lot size map is proposed to be amended to reflect the original intention of Council in LEP 2012 to AB1 (10ha) with an Area A in accordance with clause 4.1(3A)(a) 2000m2.



Extract from Land Zoning Map LEP 2012

Reinstatement of Minimum Lot Size as per s73A Amendment No. 2

In the process of preparing the LEP 2012 an error was made in the preparation of the maps and subsequently fixed using the provisions of section 73A of the Act. This became amendment no 2 to the LEP 2012. In preparing the mapping for Amendment no. 3, the Department of Planning inadvertently reverted to an old version of the base data and effectively undid amendment no.2 as it applied to Sheet



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Section A – Need for the planning proposal.

Q1 Is the planning proposal the result of any strategic study or report?

The planning proposal is strongly aligned with Council's strategic priorities in the form of the Comprehensive Land Use Strategy and resolutions of Council specific to each site involved.

Mid-Western Regional Draft Comprehensive Land Use Strategy

The Mid-Western Regional Council has prepared the *Mid-Western Regional Comprehensive Land Use Strategy*. The Strategy provides clear direction for future growth and land-use change in the area for the next 15 to 20 years.

The Strategy provides a context for future landuse and has informed the new comprehensive LEP for Mid-Western Regional Council that will consolidate the existing statutory planning framework and provide direction for targeted growth in specific areas.

None of the amendments as outlined above are inconsistent with the Comprehensive Land Use Strategy.

State and Regional Policies

There is no specific State or Regional Environmental Plan that addresses future development in Mudgee or that has relevance to the LGA.

Q2 Is the planning proposal the best means of achieving the objectives or outcomes or is there a better way?

The Planning Proposal is the best means of achieving the objectives for these sites.

DoP&I Circular No PS06/005 "*Local Environmental Plan Review Panel*" (6 February 2006) sets out a pro-forma evaluation criteria sheet to be used to determine whether to commence a rezoning process. Table 6 addresses the evaluation criteria.

DoP&I Criteria	Response
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?	Yes The Planning Proposal is consistent with the local strategic policy direction.
Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	Yes Refer to Table below.
Is the LEP located in a	No

global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?

Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?

N/A

Will the LEP be compatible/complementary with surrounding land uses?

Yes

Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?

No

Will the LEP deal with a deferred matter in an existing LEP?

No

Have the cumulative effects of other spot rezoning proposals in the locality been considered?
What was the outcome of these considerations?

Yes

There are no other spot rezonings of relevance to these proposals

Section B – Relationship to strategic planning framework

Q3: Is the planning proposal consistent with the application regional or sub-regional strategy?

There are no regional strategies in place.

Q4: Is the proposal consistent with Council's Community Strategic Plan or other local strategic plan?

Yes. Refer to Part 3.

Q5: Is the planning proposal consistent with applicable state environmental planning policies?

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table. The proposal is either consistent with or not offensive to any applicable SEPP's.

SEPP	Consistency / Response
1 – DEVELOPMENT STANDARDS	Not relevant
4 – DEVELOPMENT WITHOUT CONSENT	Not relevant
6 – NUMBER OF STOREYS	Not relevant
10 – RETENTION OF LOW COST RENTAL ACCOMMODATION	Not relevant
14 – COASTAL WETLANDS	Not relevant
19 – BUSHLAND IN URBAN AREAS	Not relevant
21 – CARAVAN PARKS	Not relevant
22 – SHOPS AND COMMERCIAL PURPOSES	Not relevant
26 – LITTORAL RAINFORESTS	Not relevant
29 – WESTERN SYDNEY RECREATION AREA	Not relevant
30 – INTENSIVE AGRICULTURE	Not relevant
32 – URBAN CONSOLIDATION (Redevelopment of Urban Land)	Not relevant
33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT	Not relevant
36 – MANUFACTURED HOME ESTATES	Not relevant
39 – SPIT ISLAND BIRD HABITAT	Not relevant
41 – CASINO ENTERTAINMENT COMPLEX	Not relevant
44 – KOALA HABITAT PROTECTION	Not relevant
47 – MOORE PARK SHOWGROUND	Not relevant
50 – CANAL ESTATE DEVELOPMENT	Not relevant
52 – FARM DAMS AND OTHER WORKS IN LAND AND WATER MANAGEMENT PLAN AREAS	Not relevant
53 – METROPOLITAN RESIDENTIAL DEVELOPMENT	Not relevant
55 – REMEDIATION OF LAND	Not relevant
59 – CENTRAL WESTERN SYDNEY ECONOMIC AND EMPLOYMENT AREA	Not relevant
60 – EXEMPT AND COMPLYING DEVELOPMENT	Not relevant
62 – SUSTAINABLE AQUACULTURE	Not relevant
64 – ADVERTISING AND SIGNAGE	Not relevant
65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT	Not relevant

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70 – AFFORDABLE HOUSING	Not relevant
71 - COASTAL PROTECTION	Not relevant
BASIX 2004	Not relevant
EXEMPT AND COMPLYING DEVELOPMENT CODES 2008	Not relevant
HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2009	Not relevant
INFRASTRUCTURE 2007	Not relevant
KOSCIUSZKO NATIONAL PARK - ALPINE RESORTS 2007	Not relevant
MAJOR DEVELOPMENT 2005	Not relevant
SYDNEY REGION GROWTH CENTRES 2006	Not relevant
MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES 2007	Not relevant
TEMPORARY STRUCTURES AND PLACES OF PUBLIC ENTERTAINMENT 2007	Not relevant
RURAL LANDS 2008	The aim of this SEPP is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The subject land is earmarked by Council for lifestyle opportunity area (in the case of the Gratti proposal)
EXEMPT AND COMPLYING DEVELOPMENT CODES 2008	Not relevant
WESTERN SYDNEY EMPLOYMENT AREA 2009	Not relevant
WESTERN SYDNEY PARKLANDS 2009	Not relevant
AFFORDABLE RENTAL HOUSING	Not relevant

There are no relevant Deemed SEPPs.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant section 117 Directions are addressed in Appendix 2. The proposal is consistent with those 117 Directions that are relevant to the site.

Section C – Environmental, social and economic impact

Q7: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No, not applicable.

Q8: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No, not applicable.

Q9: How has the planning proposal adequately addressed any social and economic effects?

Yes, not applicable.

Section D – State and Commonwealth interests

Q10: Is there adequate public infrastructure for the planning proposal?

Not Applicable

Q12: What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Not applicable

Part 4 – Mapping

Council does not have the capability to undertake SI Compatible mapping and will be relying on assistance from the DOPI for this aspect of the LEP. However, reference is made to the explanation of provisions and it should be noted that the amendment intends to amend the following map sheets.

Map Sheet Reference	Proposed changes	Comment
5270_COM_LSZ_006_160_20130320	Lots 153 & 162 DP756880 – change lot size to 12ha	Grattai
5270_COM_LZN_006G_010_20120619	Lot 100 DP1080880 – amend zone to reflect B3 Commercial Core	Mitre-10 Site
5270_COM_LSZ_006G_010_20120619	Lot 100 DP1080880 – amend corresponding Lot size, show uncoloured	Mitre-10 Site
5270_COM_LSZ_005C_010_20120619	Lot 300 DP 1092535 – reinstate minimum lot size 10ha and 2000m2 inadvertently omitted from the LEP 2012 map sheet	Gulgong
5270_COM_LSZ_006C_010_20130422	Contract “blue” line to exclude land shown as “M” as per amendment no.2	Mapping error already fixed once by DOPI and subsequently undone

The above map sheets have been marked up to indicate propose changes and are attached in Appendix 2.

Part 5 – Community Consultation

The issues that are subject of the Planning Proposal are considered to be of a minor nature, administrative or already matters that have been considered previously. Therefore it is proposed to

undertake community consultation regime limited two 14 days exhibition, notification in a local newspaper and on Council's web site for the duration.

Consultation with Government Authorities is not considered necessary in this instance. It is worth pointing out, however, that a previous planning proposal similar to that Lots 153 and 162 DP 756880 at Grattai in this proposal, have required consultation with RFS. Our experience has been that the RFS are concerned with the built product ie the proposal once it reaches DA stage and in the confusion associated with the process have attempted to apply conditions of approval to a planning proposal.

Part 6 Project timeline

Action	Timeframe
Gateway Determination	Mid August 2013
Additional Technical Information	Nil
Agency Consultation	DOPI for Mapping
Public Exhibition	14 days 26 August – 6 September
Consideration of Submissions	9 September
Report to Council RPA make plan	18 September
RPA submission to department for notification	23 September

Note: Mapping will need to be undertaken by DOPI. An alternate format will be prepared for exhibition.

Appendix 1

S117 Ministerial Directions Analysis

Planning Proposal – General Amendments A (minor)

Section 117 Direction		Applicable (PP)	Consistent	Remarks
1 Employment and Resources				
1.1	Business and Industrial Zones	Yes	N/A	The planning proposal proposes to increase the B3 Commercial Core zone of the entire Lot 100 DP1080880 which is currently split zoned part R1 and Part B3
1.2	Rural Zones	Yes	N/A	
1.3	Mining, Petroleum Production and Extractive Industries	Yes		
1.4	Oyster Aquaculture	No	N/A	
1.5	Rural Lands	Yes	Yes	The proposal includes land that is zoned rural under the LEP (Lots 153 & 162 DP 756880). However, the site adjacent to the R5 Large Lot Residential Zone. The Planning Proposal will not impact on the continued agricultural use of the land but rather facilitate the erection of a dwelling consistent with surrounding lots.
2 Environment and Heritage				
2.1	Environment Protection Zones	Yes	N/A	
2.2	Coastal Protection	No	N/A	
2.3	Heritage Conservation	Yes	N/A	There are no known Aboriginal items at the site identified within any planning instruments. However, an Aboriginal Heritage can be undertaken post-gateway as required to determine that there is no potential impact on items of

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				heritage significance.
2.4	Recreation Vehicle Areas	Yes	N/A	
3 Housing, Infrastructure and Urban Development				
3.1	Residential Zones	Yes	N/A	
3.2	Caravan Parks and Manufactured Home Estates	No	N/A	
3.3	Home Occupations	Yes	N/A	
3.4	Integrating Land Use and Transport	Yes	N/A	
3.5	Development Near Licensed Aerodromes	No	N/A	
4 Hazard and Risk				
4.1	Acid Sulfate Soils	No	N/A	
4.2	Mine Subsidence and Unstable Land	No	N/A	
4.3	Flood Prone Land	No	N/A	
4.4	Planning for Bushfire Protection	Yes	TBA	Refer to RFS will be required if Council receive a DA for a dwelling on lot 153 or 162 DP 756880
5 Regional Planning				
5.1	Implementation of Regional Strategies	No	N/A	
5.2	Sydney Drinking Water Catchments	No	N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A	
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A	
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	revoked		

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5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)			
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)			
5.8	Second Sydney Airport: Badgerys Creek	No	N/A	
6 Local Plan Making				
6.1	Approval and Referral Requirements	Yes	Yes	Will be consistent with Ministerial Direction
6.2	Reserving Land for Public Purposes	No	N/A	
6.3	Site Specific Provisions	Yes	No	
7 Metropolitan Planning				
7.1	Implementation of the Metropolitan Strategy	No	N/A	

Appendix 2 – Maps