

Mid Western LEP 2012- Various Amendments October 2013

Proposal Title : **Mid Western LEP 2012- Various Amendments October 2013**

Proposal Summary : **Mid-Western Regional Council lodged a Planning Proposal which proposes various amendments to the Mid-Western Regional LEP 2012 as follows:**

- (a) Clarify subdivision and dwelling provisions on land in the former Rylstone local government area that has two lot sizes.
- (b) Clarification of Clause 4.2A as it relates to provisions for dwellings on rural land
- (c) Insert a new clause to facilitate farm adjustments
- (d) Insert a new clause to allow subdivision of rural land below minimum lot size for permissible purposes (other than agriculture, intensive plant agriculture, aquaculture or dwellings)
- (e) Clarification of land use on part of Lot 1 DP1166658 adjoining the Mudgee Airport to permit freehold hangar and associated dwellings.
- (f) Reclassify identified drainage reserves and surplus land from Community to Operational land
- (g) Rezoning land from zone R3 Medium Density Residential to zone B4 Mixed Use in Inglis St, Mudgee
- (h) Rezoning land from zone IN2 Light Industrial to zone B4 Mixed Use on Lots 1 & 2 Section 49 DP758721 Inglis Mudgee

PP Number : **PP_2013_MIDWR_006_00** Dop File No : **13/16407**

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions :

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Additional Information : **The intent of the Planning Proposal is generally supported however there are some items that require further information and justification prior to exhibition or with the S59 submission as identified below:**

Item (a) Clarify subdivision and dwelling provisions on land in the former Rylstone local government area that have two lot sizes.

Prior to exhibition Council is to provide additional information to the Regional Office in relation to the potential impact and fragmentation of rural land as a result of the changes proposed. Council is to identify and locate the the land affected, assess the potential additional dwellings and possible impact on surrounding land and justify why the 50% threshold for AB3 lot size has been chosen - or justify another percentage.

(b) Clarification of Clause 4.2A as it relates to provisions for dwellings on rural land

The intent, and not the draft clause, of the proposed changes to Clause 4.2A is to be

clearly provided to the public during community consultation

(c) Insert a new clause to facilitate farm adjustments

The intent, and not the draft clause, of the proposal is to be clearly provided to the public during community consultation

(d) Insert a new clause to allow subdivision of rural land below minimum lot size for permissible purposes (other than agriculture, intensive plant agriculture, aquaculture or dwellings)

The intent, and not the draft clause, of the proposal is to be clearly provided to the public during community consultation

(e) Clarification of land use on part of Lot 1 DP1166658 adjoining the Mudjee Airport to permit freehold hangar and associated dwelling.

Prior to exhibition Council is to provide to the Regional office justification to demonstrate the proposed land use change.

The use of Schedule 1 Additional permitted use - is not supported and the Planning Proposal is to be amended to reflect a suitable zone to achieve the intent of the proposed land use change

(f) Reclassify identified drainage reserves and surplus land from Community to Operational land

Prior to exhibition Council is to provide to the Regional Office the appropriate level of information as required in Attachment 1 of PN09-003 - Classification and reclassification of public land through a local environmental plan.

(g) Rezoning land from zone R3 Medium Density Residential to zone B4 Mixed use in Inglis St, Mudjee

At S59 submission Council is to provide maps of the proposed land use change to comply with the Department's Standard Instrument Standard technical requirements for maps.

(h) Rezoning land from zone IN2 Light Industrial to zone B4 Mixed Use on Lots 1 & 2 Section 49 DP758721 Inglis Mudjee

At S59 submission Council is to provide maps of the proposed land use change to comply with the Departments Standard Instrument Standard technical requirements for maps.

General Conditions

. Council be authorised to use delegation to finalise the Planning Proposal

. The Planning Proposal to be completed in 12 months

. The Planning Proposal be placed on community consultation for a minimum of 28 days

. The intent of the proposed items of this amendment be placed on exhibition and not the specific subclause/and or clause as drafted by Council.

. A public hearing be undertaken in respect to the proposed Council owned land reclassification in accordance with PN09-003 - Classification and reclassification of public

land through a local environmental plan

. Consultation be undertaken with the following agencies:

- Department of Primary Industries - Agriculture
- Civil Aviation Safety Authority in respect to Item (e)
- NSW Rural Fire Service

Supporting Reasons : To justify land use change and comply with the Standard Instrument and policy

Panel Recommendation

Recommendation Date : 10-Oct-2013

Gateway Recommendation : Passed with Conditions

Panel

The planning proposal should proceed subject to the following conditions:

Recommendation :

1. Council's proposed provision to include private aircraft hangers, associated dwellings and permit subdivision for purposes other than intensive agriculture as additional permitted uses on land adjoining the Mudgee Airport is not supported and should be removed from the planning proposal. Council is to consider zoning the subject land appropriately to reflect the intended land uses. Council is to amend the planning proposal to reflect the above approach and to provide further clarification and justification regarding land uses proposed on the subject land. This is to be done prior to undertaking public exhibition.
2. Prior to undertaking public exhibition, Council is to update the planning proposal to:
 - a) include additional information regarding the potential impact and fragmentation of rural land as a result of item (a). Council is to identify the affected land, assess the impacts of the potential additional dwellings and potential impacts of the proposal on surrounding land and justify why a 50% threshold has been chosen for land with a minimum lot size of 40ha, or justify another percentage;
 - b) remove the draft clauses for items (a), (b), (c) and (d) from the 'explanation of provisions' within the planning proposal and instead provide a plain English explanation of the intention of the proposed provisions;
 - c) include a project timeline, consistent with Section 2.6 Part 6 of the A Guide to Preparing Planning Proposals.
 - d) address the Director-General's requirements relating to the reclassification of public land consistent with section 5.5.4 of A Guide to Preparing LEPs, which includes advising whether the planning proposal extinguishes any interests.
 - e) include existing and proposed land zoning and other applicable maps, which are at an appropriate scale and clearly identify the subject lands. Council is to prepare mapping consistent with the Standard technical requirements for LEP maps when it makes a request for the department to finalise the LEP.
3. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions:
 - 1.5 Rural Lands (item (a))
 - 3.5 Development Near Licensed Aerodromes (item (e))
 - 4.4 Planning for Bushfire Protection
 - 6.2 Reserving Land for Public Purposes (item (f))
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Essential Energy
- Department of Primary Industries – Agriculture
- Office of Environment and Heritage
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- Civil Aviation Safety Authority (S117 Direction 3.5 Development Near Licensed Aerodromes)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. A public hearing is not required to be held into the matter under section 56(2)(e) of the EP&A Act. However, a public hearing is required to be held into the matter in accordance with the department's practice note PN09-003, as the planning proposal involves a reclassification of land from community to operational.

7. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Plan making delegation:

The Minister delegated his plan making powers to councils in October 2012. Council has now accepted this delegation. Council should not be issued with plan making delegation in this instance because Council has not confirmed that the Governor's approval is not required for the reclassification of land. Reclassification proposals where the Governor's approval is required cannot be delegated back to councils.

Signature:



Printed Name:

NEIL JELMAN

Date:

22/10/2013