

1.1.1 Planning Proposal General Amendments – Consideration of Submissions and Public Hearing

REPORT BY THE MANAGER STRATEGIC PLANNING TO 23 JULY 2014 COUNCIL MEETING
Planning Proposal General Amendments
GOV400038, A0420254

RECOMMENDATION

That:

- 1. the report by the Manager Strategic Planning on the Planning Proposal General Amendments – Consideration of Submissions and Public Hearing be received;**
- 2. the proposed rezoning of land in Inglis Street to B4 Mixed Use be omitted and that the R3 General Residential zone be retained;**
- 3. Lot 47 DP 862452 Public Reserve 18A Macquarie Drive also known as Charmicheal Park be retained as community land; and**
- 4. the planning proposal and associated documentation be forwarded to the Department of Planning and Environment with a request that the amendments to the Local Environmental Plan 2012 be made.**

Executive summary

Council has prepared a Planning Proposal facilitate a number of amendments to the Mid-Western Regional Local Environmental Plan 2012 including the reclassification of public land from community to operational.

The Planning Proposal (attachment 1) was placed on public exhibition for 28 days from 9 March 2014 until 4 April 2014. During this period only one submission was received objecting to the rezoning of land in Inglis Street from Residential to Mixed Use. It is now proposed to retain the RE1 General Residential zone in Inglis Street for the time being.

Two enquiries were made in relation to the inclusion of Charmichael Park in the land to be reclassified which resulted in the Park being excluded from the reclassification process. It was not the intention of the process to reclassify local parks.

A public hearing was proposed and arranged as required by the Environmental Planning and Assessment Act triggered by the reclassification. However, no-one appeared and no written submissions were made.

The purpose of this report is to confirm the proposed amendments and forward the necessary documentation to the Department of Planning and Environment so that the plan may be made.

The report should be read in conjunction with the planning proposal.

Detailed report

The planning proposal has been prepared to facilitate a number of amendments to the LEP 2012 as follows;

- (a) Clarify dwelling provisions as they relate to split parcels on the Rylstone Lot Size Map ,
- (b) Insert a Farm Adjustment Clause ,
- (c) Clarification of clause 4.2 A – dwellings on rural land,
- (d) Subdivision of land below the minimum lot size for a non-agricultural purpose,
- (e) Clarification of the 2 ha minimum lot size on Lot 1 DP 1166658,
- (f) Reclassify drainage reserves and surplus land from Community to Operational Land,
- (g) Rezoning land from R3 Medium Density Residential to B4 Mixed Use in Inglis St Mudgee,
- (h) Rezoning land from IN2 Light Industrial to B4 Mixed Use on Lots 1 & 2 Section 49 DP 758721 Inglis St Mudgee.

A Gateway Determination (attachment 2) was received from the Department of Planning and Environment on 30 October 2013 which required a number of amendments to be made to the planning proposal prior to public exhibition as follows:

In relation to the hangers associated dwellings and subdivision adjoining Mudgee Airport, the use of Schedule 1 Additional permitted uses was not supported by the Department. Instead the Department would prefer an option where the land was zoned to permit the use. As a result, the land was exhibited with a Special Purposes Zone.

The Gateway Determination includes a number of other requirements to update prior to the exhibition. These are outlined below and followed by a comment in respect to the action taken to meet the requirements.

The planning proposal was also required to be updated 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;**

COMMENT

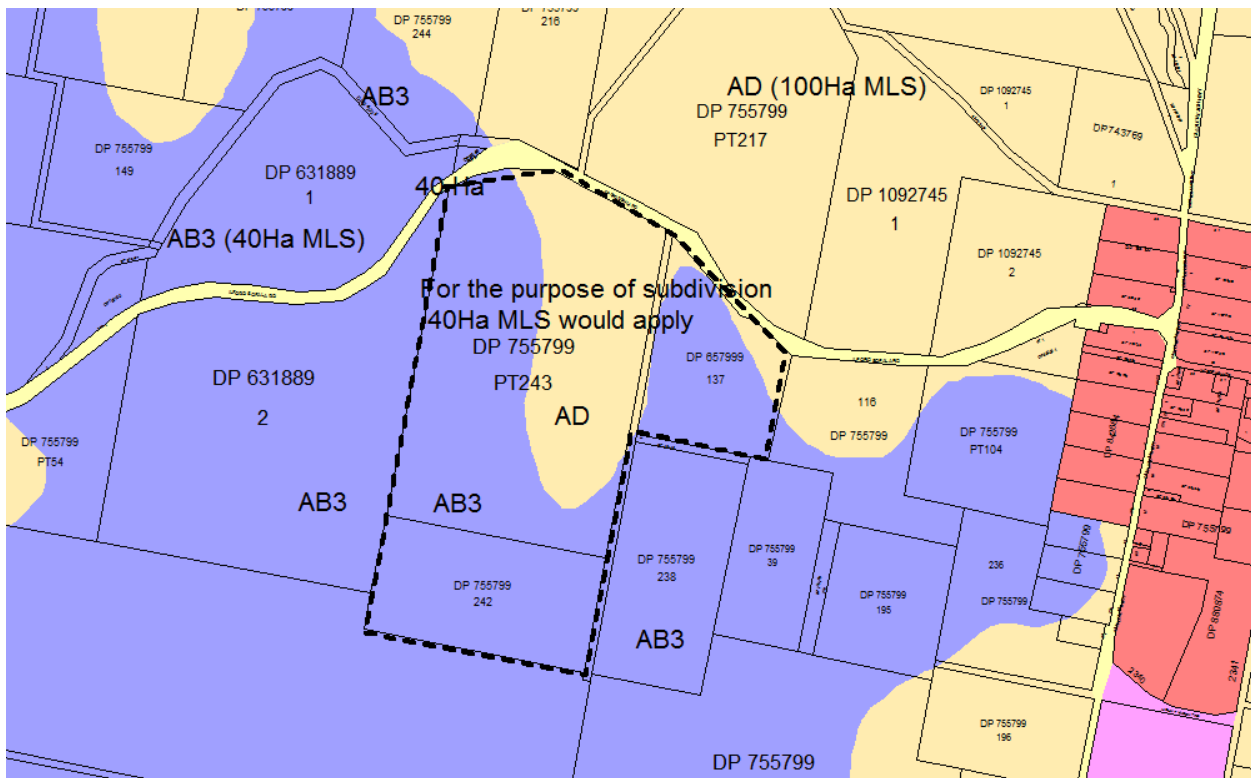
The planning proposal was amended to remove references to “draft” clauses or suggestions of same as per the Gateway advice and include the following:

Split parcels on the Rylstone Lot Size Map

Clause 4.1 as it relates to Rylstone minimum lot size where the land is subject to two minimum lot sizes. Flexibility is considered to be warranted here because of the scale and accuracy of the baseline mapping and current ability to refute this. It is considered that such flexibility is consistent with the intention of Council to “maintain the status quo” in relation to existing subdivision and minimum lot size provisions. Under the previous planning instrument the Council could resolve, on the advice of an agronomist that land was not prime crop and pasture land and therefore could be subdivided for the erection of a dwelling to 40ha.

The intention of the amendment is to provide clarification as to which of the two minimum lot sizes applies to the land. For the purposes of a majority rule approach, 50% is considered reasonable. This is the approach currently taken.

The amendment will not result in the creation of additional dwelling or fragmentation beyond that which is currently the case in the LEP. The amendment will provide clarity in the way that the LEP is currently interpreted and make it clear to land holders.



There is also some confusion as to the circumstances in which a dwelling is permissible on a split zoned lot.

Clause 4.2A(3) (a) provides for the erection of a dwelling on a lot *“that is at least the minimum lot size shown on the Lot Size Map in relation to that land”*. In circumstances where it is a split minimum lot size reference has to be made to a previous planning instrument under clause 4.2A(3) (b)

In order to simplify this, and importantly to avoid the need to reference a previous planning instrument for a straight forward enquiry, it is proposed to insert an additional sub-clause from the former Rylstone LEP that identifies the Former LEP Boundaries Map and allows dwellings on land having an area not less than 40ha.

The inclusion of this clause will reduce both complexity and confusion surrounding the erection of dwellings on existing lots regardless of the MLS shown on the LSM.

b) remove the draft clauses for items (a), (b), (c) and (d) and provide plain English provisions.

COMMENT:

The draft clauses were included because that is how they were exhibited in the Comprehensive LEP as clauses for “exhibition purposes only”. This was retained with a more thorough explanation as to why the draft clauses were included (for consistency) and included also a plain English version and/or explanation.

c) Include a project timeline.

COMMENT:

Completed.

d) Address the requirements for the classification of land.

COMMENT:

Included.

e) Include maps and prepare maps consistent with the Technical Guideline when it makes the request for the Department to finalise.

COMMENT:

Maps included in the exhibition version sufficient to identify the subject land including the drainage reserves proposed to be reclassified. The Department have been prepared the map amendments for Council. We have now been advised that due to resourcing Council should look at whether there is an ability in house to do this or face some delays using the Department. The Department have offered assistance in facilitating the transfer of map drafting in house and we will look into this.

The planning proposal was also updated to include sufficient information in relation to the Section 117 Directions.

Agency Consultation was required with the following:

- Essential Energy
- Department of Primary Industries- Agriculture
- Office of Environment and Heritage
- NSW Rural Fire Service (S 117 Direction 4.4 Planning for Bushfire Protection)
- Civil Aviation Safety Authority (S117 Direction 3.5 Development Near Licensed Aerodromes)

Each public authority was provided with a copy of the planning proposal and relevant supporting material, and given at least 21 days to comment on the proposal. No comments by way of objection were received from any of the above agencies.

Community Consultation: The planning proposal was placed in public exhibition for 28 days commencing 9 March 2014. During this period only one submission (attachment 3) as received (as mentioned above).

The submission raised concerns with rezoning the land in Inglis St from R3 Medium Density Residential to B4 Mixed Use given the predominately residential nature of the area. The intention of the change of land use zone in this area was essentially to provide greater opportunity for the utilisation of existing sheds. Since the planning proposal was commenced, there has been at least one application for the use of land in Inglis St (already zone industrial) which bring some contention amongst adjoining landowners. At this stage, the rezoning has not been driven by a comprehensive strategic study of historic, current or future land use in the vicinity and it is proposed to leave the zone unchanged at this time.

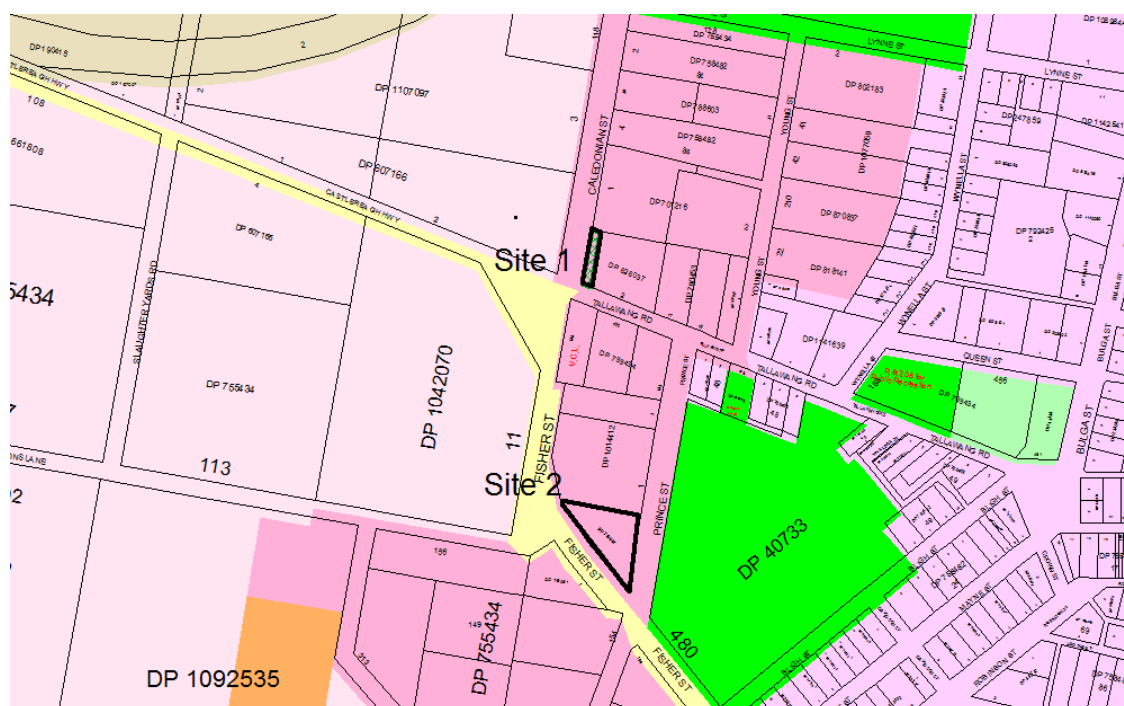
In relation to Lots 1 and 2 DP 758721, the change from Light Industrial to Mixed use enables the dwellings to continue to be used as such and as will proceed on that basis.

Reclassification of Land

In addition to the general amendments to the LEP, the Planning Proposal included a number of items proposed to be reclassified from community to operational land (a map showing the location of the community land to be reclassified is attachment 4). Most of these were drainage reserves, however, there are also five properties that, with an operational classification will be able to be disposed. These include:

Asset No	Description	Prop no	Notes
140862	Vacant land - 15 Spring	13933	Prior to LG amalgamation in

Asset No	Description	Prop no	Notes
	Street ULAN Lot 7 Section 1 DP 759017 - 2,023 m2.		2004 Lot 7 was owned by Merriwa Shire Council. Is zoned RU5 Village
LA00519	Former closed Council Road - 3A Industrial Road MUDGEE Lot 82 DP 1127630 - 380 m2.	19941	Lot 82 was registered on 2/9/2008. Is being used as a carpark (former closed Council Road). Is zoned In1 General Industrial
140826	Public Reserve - 20 Tallawang Road GULGONG Lot 3 DP626037 - 630.9m2. See map below site 1	11104	Lot 3 was dedicated as Public Reserve on plan dated 8/4/1982. It is fenced in and is being used as a part of the garden area of Lot 2. Zoned Residential.
140828	Public Reserve 40 Fisher Street GULGONG Lot 2 DP 718061 - 4,124 M2. See map below site 2	11128	Lot 2 was dedicated as Public Reserve on plan dated 20/6/1985. Vacant Land. Zoned Residential.
	Lot 1 DP 1181314 3104m2 Queens Pinch WTS corner of Queens Pinch Rd and Wallinga Lane	21856	Site of a waste Transfer Station closed under the Roads Act, plan dated 19/2/2013



Where Council proposes to reclassify public land from Community to Operational it is a requirement of the Environmental Planning and Assessment Act that a Public Hearing be held. Council arranged the public hearing, advertised the date and time in accordance with the requirements and arranged for an independent Chairperson to travel from Orange. There were neither and written, nor any verbal representations and there was one in attendance.

There was, however, a representation made during the public exhibition process which, as outline above, resulting in the exclusion of Lot 47 DP 862452 Public Reserve 18A Macquarie Drive also known as Charmicheal Park from that land to be reclassified.

Financial and Operational Plan implications

Not applicable.

Community Plan implications

The ongoing refining of the Mid-Western Local Environmental Plan 2012 is an operational function consistent with the Looking After Our Community there in the Community Plan.



ELIZABETH DENSLEY
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CATHERINE VAN LAEREN
DIRECTOR, DEVELOPMENT & COMMUNITY SERVICES

20 June 2014

Attachments: (included at the end of the business paper)

1. Planning Proposal – General Amendments
2. Gateway Determination
3. Submission
4. Drainage Reserves

APPROVED FOR SUBMISSION:



BRAD CAM
GENERAL MANAGER