



*Looking After
our Community*

PLANNING PROPOSAL

HOUSEKEEPING AMENDMENT TO
THE MID-WESTERN REGIONAL
LOCAL ENVIRONMENTAL PLAN 2012

1 OCTOBER 2017

MID-WESTERN REGIONAL COUNCIL
DEVELOPMENT: STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



THIS DOCUMENT HAS BEEN PREPARED BY THE DEVELOPMENT DIRECTORATE FOR MID-WESTERN REGIONAL COUNCIL.

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Overview

Introduction

This Planning Proposal *Housekeeping Amendment* explains the intent of, and justification for, the proposed amendments to the Mid-Western Regional Local Environmental Plan 2012 (MWR LEP 2012).

The planning proposal is to implement a Housekeeping Amendment to the MWR LEP 2012 that:

1. Rezones land at Upper Growee; and
2. Includes three additional heritage items in Schedule 5 Environmental Heritage and amends the legal description of one.

The proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment guidelines, including A Guide to Preparing Local Environmental Plans and A Guide to Preparing Planning Proposals.

Background

Mid-Western Regional Local Environmental Plan 2012 (MWR LEP 2012) came into effect on 10 August 2012. MWR LEP 2012 is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Principal Local Environmental Plan.

Part 1 - Objectives or Intended Outcome

The objectives of the amendments included in this Planning Proposal are outlined in the table below.

AMENDMENT	LAND TO WHICH IT APPLIES		OBJECTIVE/OUTCOME
UPPER GROWEE – REZONE RU4 PRIMARY PRODUCTION SMALL LOTS TO R5 LARGE LOT RESIDENTIAL	Lot 1 DP 730108	Lot 4 DP 1084297	Correct an oversight in mapping of the Mid-Western Regional Local Environmental Plan 2012.
	Lot 4 DP 1055368	Lot 3 DP 1084297	
	Lot 1 DP 1055368	Lot 122 DP 755448	
	Lot 102 DP 1195109	Lot 1 DP 1084297	
	Lot 103 DP 1195109	Lot 1 DP 1179425	
	Lot 101 DP 1195109	Lot 2 DP 1179425	

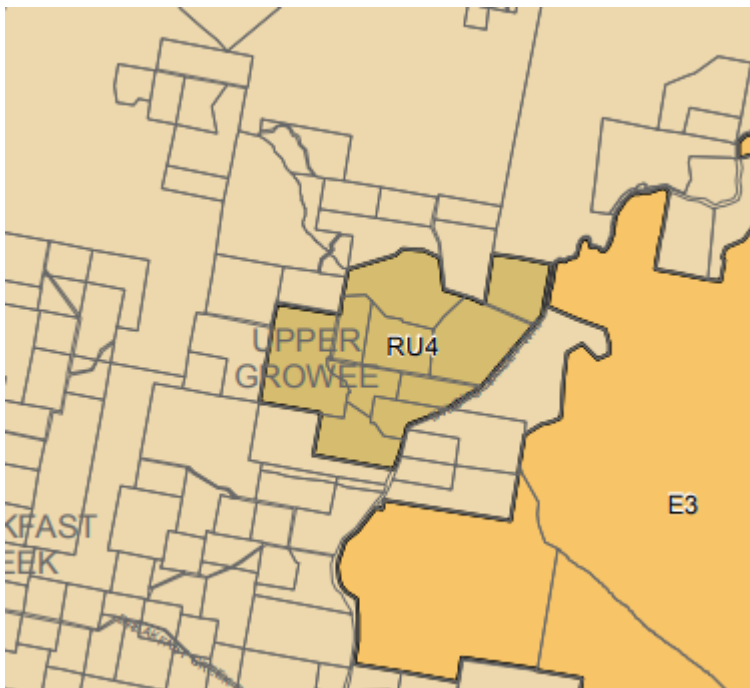


Figure 1: **CURRENT** zoning RU4 of the Upper Growee locality

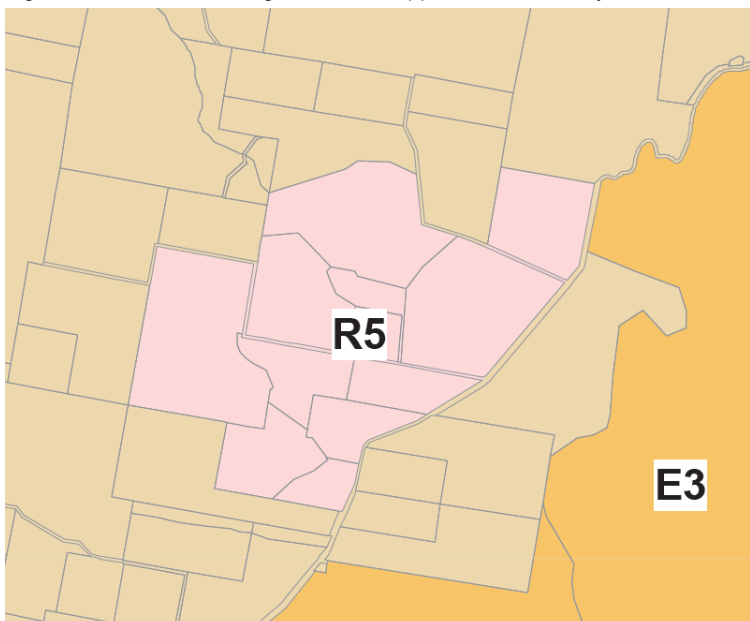


Figure 2: **PROPOSED** zoning R5 of the Upper Growee locality

AMENDMENT	LAND TO WHICH IT APPLIES	OBJECTIVE/OUTCOME
ADDITIONAL ITEMS TO BE INCLUDED IN SCHEDULE 5 AND DESCRIPTION OF ONE ITEM TO BE CORRECTED	Presbyterian Church (former) 90A Louee Street, Rylstone Lot 3 DP 1230710	In accordance with Council resolution dated 7 December 2011 these properties be included in Schedule 5.
	Rylstone Kandos Cemetery 73 – 75A Nerrango Road, Rylstone Lot 1 DP650678 Lot 1 DP1121520 Lot 1 DP668505 Lot 7023 DP1030117 Lot 1 DP724249 Lot 150 DP755789 Lot 1 DP668504 Lot 1 DP1138214	The legal description of St Stephen's Anglican Church Bylong be corrected.
	Uniting Church and Manse 3-5 Ilford Road, Rylstone Lot 1 DP 387675 Lot 2 Section 14 DP 758891	
	St Stephen's Anglican Church Bylong Lot 51 DP 1142227 Bylong Valley Way Bylong	

Part 2 - Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved through the application of the following mechanisms:

(a) Upper Growee – Rezone RU4 Rural Small Holdings to R5 Large Lot Residential

It is proposed that the zoning map sheet LZN_009 be amended from RU4 Primary Production Small Lots to R5 Large Lot Residential.

Background

The locality at Upper Growee was zoned 1(c1) Rural Small Holdings – Rural Retreat under the Rylstone Local Environmental Plan 1996. The following is the Clause relating to subdivision for the purposes of dwellings:

17 Subdivision for the purposes of dwellings within Zone No 1 (c1)

(1) The Council shall not consent to the subdivision of land within Zone No 1 (c1) unless each allotment to be created has an area of 10 hectares or more and the Council is satisfied that each allotment will be used primarily for the purposes of a dwelling-house.

(2) The Council shall not grant consent to the subdivision of land as referred to in subclause (1) unless it has taken into consideration:

- (a) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the number of the allotments proposed to be created, and
- (b) the desirability of providing a range and mixture of allotment sizes, and
- (c) whether each allotment to be created by the subdivision is suitable for the economic provision of services, and
- (d) whether each allotment to be created by the subdivision is suitable for on-site sewage management.

As detailed, there is not a requirement for the establishment of an intensive agricultural pursuit.

Further provided, below are the 1(c1) Rural Small Holdings – Rural Retreat Zone Objectives. As detailed below there are no objectives that relate to the establishment of an intensive agricultural pursuit and are in fact in line with the zone objective for the R5 – Small Lots of the Mid-Western Regional Local Environmental Plan 2012 (the proposed zoning).

Zone No 1 (c1) (Rural small holdings—rural retreat)

1 Objectives of zone

The objectives of this zone are:

- (a) to promote development of land identified as suitable for:
 - (i) rural retreat or hobby farm development, or
 - (ii) a range of rural, industrial and storage purposes which are compatible with the environmental capabilities of the land and which are unlikely to adversely affect the land or development in the vicinity and,
- (b) to enable other forms of development which are:
 - (i) in keeping with the rural character of the locality and compatible with existing, and likely future, rural retreat holdings, and
 - (ii) compatible with the environmental capabilities of the land and are unlikely to adversely affect the land or development in the vicinity.

Current Situation

With the gazettal of the Mid-Western Regional Local Environmental Plan 2012 the subject land was rezoned from 1(c1) Rural Small Holdings – Rural Retreat to RU4 Primary Production Small Lots.

This change in zoning has become problematic for land owners when seeking consent for the erection of a dwelling. Any development application for the erection of a dwelling in Zone RU4 Primary Production Small lots (provided below) requires Clause 4.2B Dwellings houses on land in Zone RU4 Primary Production Small Lots to be satisfied.

To satisfy Clause 4.2B the landowners need to demonstrate what intensive agricultural pursuit will be undertaken amongst other requirements and also satisfy the relevant Mid-Western Regional Development Control Plan provisions.

The DCP provisions require landowners to supply a copy of a water licence to support the intensive agricultural pursuit. These requirements were not part of the Rylstone Local Environmental Plan 1996 and landowners have stated the land is not capable of intensive agricultural uses and no water licences exist. Accordingly, rezoning the land to R5 Large Lot Residential would remove this incorrectly imposed requirement for consideration of an intensive agricultural pursuit.

4.2B Dwelling houses on land in Zone RU4 Primary Production Small Lots

(1) The objective of this clause is to ensure that dwelling houses are erected only where they support the permitted agricultural use of the land.

(2) Development consent must not be granted for the erection of a dwelling house on land in Zone RU4 Primary Production Small Lots unless the consent authority is satisfied that:

- (a) the land is being used, or is intended to be used, for the purpose of intensive plant agriculture, and*
- (b) the dwelling house will be required to support the carrying out of the intensive plant agriculture or the irrigation of pasture and fodder crops, and*
- (c) the dwelling house is not likely to cause any land use conflict with existing agricultural uses being undertaken on neighbouring properties in the zone, and*
- (d) services for the supply of water and electricity to support that agricultural use are available or adequate arrangements have been made to make them available when required.*

Proposed Situation

It is proposed that the zoning map sheet LZN_009 be amended from RU4 Primary Production Small Lots to R5 Large Lot Residential.

(b) Additional Items Included in Schedule 5 Environmental Heritage

It is proposed that Schedule 5 Environmental Heritage of the Mid-Western Regional Local Environmental Plan 2012 be amended to include three additional items and that an amendment be made to correct the legal description for St Stephen's Anglican Church, Bylong.

Background

At Council's Ordinary meeting on the 7 December 2011, it was resolved that the following be included in Schedule 5 Environmental Heritage: Presbyterian Church (former), Rylstone Kandos Cemetery and the Uniting Church and Manse.

Current Situation

It is unclear why Schedule 5 Environmental Heritage was not amended at the time to reflect this resolution.

Council received a Local Heritage Grant Application for the St Stephen's Anglican Church, Bylong which requested the reference in Schedule 5 be corrected to Lot 51 DP 1142227.

Proposed Situation

As it has now been identified, it is proposed that these items be listed as per the previous resolution and subject to landowner's consent and the preparation of a heritage Statement of Significance.

The error in the legal description for St Stephen's Anglican Church will also be corrected.

Part 3 - Justification

Section A - Need for the Planning Proposal

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

The Planning Proposal is not the result on a strategic study or report. The Planning Proposal relates to housekeeping matters.

State and Regional Policies

Whilst there is no specific State or Regional Environmental Plan that addresses future development in Mudgee or that has relevance to the local government area, there are a number of significant challenges common to strategic planning in inland and regional areas of NSW. These are to:

- Support sustainable agriculture
- Conserve valuable environmental assets
- Minimise land use conflict.

At a general policy level, the proposed amendment will facilitate the more efficient use of land and provide clarity in an otherwise complex planning document.

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 intended outcomes.

Section B - Relationship to Strategic Framework

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

The Central West and Orana Regional Plan 2036 applies to the Mid-Western Regional local government area. The regional plan does not apply to the Housekeeping Amendment.

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

Not applicable. The proposed Housekeeping Amendment will not impact upon Council's Community Plan key themes.

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

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

SEPP	CONSISTENCY / RESPONSE
1 – DEVELOPMENT STANDARDS	Not relevant
14 – COASTAL WETLANDS	Not relevant
19 – BUSHLAND IN URBAN AREAS	Not relevant
21 – CARAVAN PARKS	Not relevant
26 – LITTORAL RAINFORESTS	Not relevant
30 – INTENSIVE AGRICULTURE	Not relevant
33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT	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
55 – REMEDIATION OF LAND	Not relevant
62 – SUSTAINABLE AQUACULTURE	Not relevant
64 – ADVERTISING AND SIGNAGE	Not relevant
65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT	Not relevant
70 – AFFORDABLE HOUSING	Not relevant
71 - COASTAL PROTECTION	Not relevant
AFFORDABLE RENTAL HOUSING 2009	Not relevant
BASIX 2004	Not relevant
EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES 2017	Not relevant
EXEMPT AND COMPLYING DEVELOPMENT CODES 2008	Not relevant
HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2004	Not relevant
INFRASTRUCTURE 2007	Not relevant
INTEGRATION AND REPEALS 2016	Not relevant
KOSCIUSZKO NATIONAL PARK - ALPINE RESORTS 2007	Not relevant
KURNELL PENINSULA 1989	Not relevant
MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES 2007	Not relevant
MISCELLANEOUS CONSENT PROVISIONS 2007	Not relevant
RURAL LANDS 2008	Not relevant
STATE AND REGIONAL DEVELOPMENT 2011	Not relevant
STATE SIGNIFICANT PRECINCTS 2005	Not relevant
SYDNEY DRINKING WATER CATCHMENT 2011	Not relevant
SYDNEY REGION GROWTH CENTRES 2006	Not relevant
THREE PORTS 2013	Not relevant
URBAN RENEWAL 2010	Not relevant
VEGETATION IN NON-RURAL AREAS 2017	Not relevant
WESTERN SYDNEY EMPLOYMENT AREA 2009	Not relevant
WESTERN SYDNEY PARKLANDS 2009	Not relevant

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

The relevant section 117 Directions are addressed in Appendix 1. The proposal is consistent with the relevant 117 Directions.

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?

The rezoning from RU4 Primary Production Small Lots will not increase the maximum dwelling development yields or any associated vegetation clearing.

Q8: 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?

Not applicable.

Q9: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

As set out in A Guide to Preparing Planning Proposals, the purpose of this question is to ascertain the likely environmental effects that may be relevant. The nature of the planning proposal is such that no technical information is required.

Q10: How has the planning proposal adequately addressed any social and economic effects?

The change in land zoning from RU4 to R5 will have an economic benefit in terms of delivery of dwellings into the rural lifestyle market.

The additional items to be listed in Schedule 5 Environmental Heritage will help preserve the regions history.

Section D - State and Commonwealth Interests

Q11: Is there adequate public infrastructure for the planning proposal?

Infrastructure is available to support the development generated by the planning proposal.

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

Not applicable.

Part 4 - Mapping

The planning proposal will require an amendment to Map Sheet LZN_009 (Figure 3 provided below).

Council utilises the assistance of the Department of Planning and Environment in drafting all map amendments and this will again be the case in this instance. Mapping amendments will be requested following the public exhibition period to avoid duplication and re-drafting. This has been the practice with previous amendments. Figure 3 below will be used for exhibition purposes.

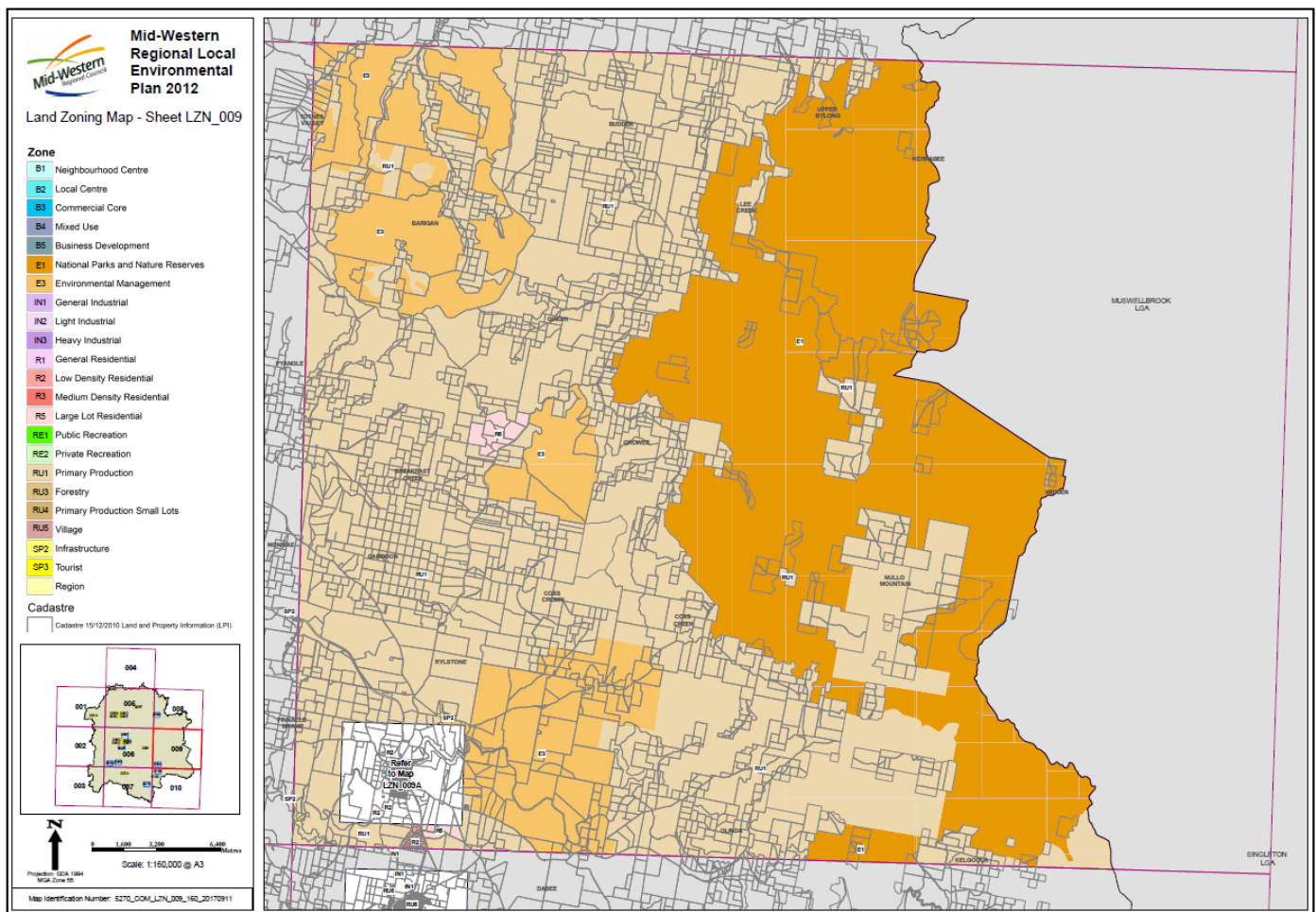


Figure 3: **PROPOSED** amended land zoning map at Upper Growee

Part 5 - Community Consultation

The proposal is of minor significance and is considered to be a low impact proposal as outlined in 5.5.2 Community Consultation “Guide to preparing local environmental plans”. The proposal is:

- Consistent with the pattern of surrounding land use zones and/or land uses
- Consistent with the strategic planning framework
- Presents no issue with regard to infrastructure servicing
- Not a principal LEP
- Does not reclassify public land

As such the following consultation is proposed:

- An exhibition period of 14 days commencing on the date that a notice of exhibition is printed in the local news press
- Advertising in the local newspaper at the start of the exhibition period
- Advertising on Council’s website for the duration of the exhibition period

Consultation with agencies external to Council is not considered necessary.

Part 6 - Project Timeline

The planning proposal is a minor housekeeping amendment to the Mid-Western Regional Local Environmental Plan 2102 and should be able to be achieved within 3 months of the date of the Gateway Determination.

Proposed Timeline

MILESTONE	DATE
Gateway determination	October/November 2017
Completion of technical information	N/A
Agency Consultation	N/A
Public Exhibition	November/December 2017
Consideration of Submissions	December 2017
Mapping, Legal Drafting & Opinion	December/January 2017
RPA makes plan	January/February 2018

Appendix 1 - Section 117 Directions

The Section 117 Directions have been identified in the table below. The planning proposal is generally consistent with the directions.

SECTION 117 DIRECTION	APPLICABLE	CONSISTENT	COMMENT
1. Employment and Resources			
1.1 Business & Industrial zones	No	N/A	
1.2 Rural zones	Yes	N/A	The rezoning from RU4 Primary Production Small Lots to R5 Large Lot Residential is correcting an oversight in the mapping of the Mid-Western Regional Local Environmental Plan 2012.
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A	
1.4 Oyster Aquaculture	No	N/A	
1.5 Rural Lands	Yes	N/A	The rezoning from RU4 Primary Production Small Lots to R5 Large Lot Residential is correcting an oversight in the mapping of the Mid-Western Regional Local Environmental Plan 2012.
2. Environment & Heritage			
2.1 Environment Protection Zones	No	N/A	
2.2 Coastal Protection	No	N/A	
2.3 Heritage Conservation	No	N/A	
2.4 Recreation Vehicle Areas	No	N/A	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	No	N/A	
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	No	N/A	
3.2 Caravan Parks and Manufactured Home Estates	No	N/A	
3.3 Home Occupations	No	N/A	
3.4 Integrating Land Use and Transport	No	N/A	

3.5 Development Near Licensed Aerodromes	No	N/A	
3.6 Shooting Ranges	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	No	N/A	
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	
5.8 Second Sydney Airport: Badgerys Creek	No	N/A	
5.9 North West Rail Link Corridor Strategy	No	N/A	
5.10 Implementation of Regional Plans	No	N/A	
6. Local Plan making			
6.1 Approval and Referral Requirements	Yes	Yes	This Planning Proposal will encourage the efficient and appropriate assessment of development. In particular in relation to the land to be rezoned at Upper Growee.
6.2 Reserving Land for Public Purposes	No	N/A	
6.3 Site Specific Provisions	Yes	Yes	This Planning Proposal will result in listing of additional items, this listing is not considered unnecessarily restrictive. The correction of the mapping oversight will allow the appropriate consideration of the applications for the erection of dwellings on land at Upper Growee.
7. Metropolitan Planning			
7.1 Implementation of A Plan for Growing Sydney	No	N/A	
7.2 Implementation of Greater Macarthur Land Release Investigation	No	N/A	
7.3 Parramatta Road Corridor Urban Transformation Strategy	No	N/A	
7.4 Implementation of North West Priority Growth	No	N/A	

Area Land Use and Infrastructure Implementation Plan		
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	No	N/A
