

542 Spring Flat Road, Mudgee - dwelling on zone RU1 Primary Production land

Proposal Title :	542 Spring Flat Road, Mudgee - dwelling on zone RU1 Primary Production land		
Proposal Summary :	Council is seeking to permit a dwelling house on Lots 74, 147 and 148 DP 756894 (25.48ha) Spring Flat Road Mudgee.		
PP Number :	PP_2015_MIDWR_006_00	Dop File No :	15/16212

Proposal Details

Date Planning Proposal Received :	26-Nov-2015	LGA covered :	Mid-Western Regional
Region :	Western	RPA :	Mid-Western Regional Council
State Electorate :	ORANGE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **Lots 74, 147 and 148 DP 756894, 542 Spring Flat Road Mudgee**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**
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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

Residential /

Employment land) :

No. of Lots : 0

No. of Dwellings : 1

(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of

Conduct has been

complied with :

If No, comment :

Have there been No

meetings or

communications with

registered lobbyists? :

If Yes, comment : No known meetings have been held with lobbyists.

Supporting notesInternal Supporting
Notes :

Council is seeking to permit/reinstate the ability to construct a dwelling house on the subject land that is 25ha which is not permitted under the Mid Western Regional LEP 2012.

Council proposes to use Schedule 1 Additional Permitted Use provisions. It is being recommended that the best mechanism to achieve Councils outcome is to change the minimum lot size map to 20 ha over all of the subject parcels.

The land has history of having a dwelling house approved on it. The land is adjacent to rural living land in an approved strategy. The settlement pattern indicates that a dwelling house is not out of place on this land.

Council should further strategically review the land in the Spring Flat Road area having regard to the land use in the area and the interface between urban and rural lands.

Council is seeking plan making delegation and this is acceptable in this case.

Council was asked (5 November 2015) to submit assessment of s117 Directions - 1.3 Mining, Petroleum Production and Extractive Industries & 6.3 Site Specific Provisions which were not included as part of original planning proposal, therefore the planning proposal was incomplete. An initial response was received on 17 November 2015, however it was not adequate (in response to s117 Dir. 1.3) and Council was asked to revise. A subsequent, adequate response was received on 26 November 2015 which includes a map indicating the subject land is not encumbered by any current mining or related resource land allocations.

External Supporting
Notes :**Adequacy Assessment****Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? Yes

Comment :

The planning proposal seeks to allow a dwelling on an under-size lot in the RU1 Primary Production zone as a Schedule 1 additional permitted use. Current MLS is 100ha. The combined area of lots 74,147 and 148 DP756894 is 25ha.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The planning proposal proposes to identify the land in Schedule 1 of the LEP to allow a dwelling house as an additional permitted use.
Instead it is recommended that the most appropriate mechanism to achieve the intended outcome is to apply a 20ha MLS over all of the subject land.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered :

The planning proposal is inconsistent with the following section 117 Directions:

1.2 Rural Zones, 1.5 Rural Lands and SEPP (Rural Lands) 2008: The Ministerial Directions are relevant as the planning proposal affects land in the rural zone by permitting a dwelling house on land that does not have a dwelling entitlement under the Mid Western Regional LEP 2012. The Directions require that the land is not amended from a rural zone to a residential zone and not contain provisions that increase the permissible density of the land. The planning proposal is inconsistent with these Directions. The land is identified in the endorsed Mid-Western Regional Comprehensive Land Use Strategy 2010 as being located between short and long term opportunity areas for rural lifestyle development. The subject land is not identified as being within a residential release area in the endorsed Mudgee and Gulgong Urban Release Strategy 2014. Having regard to the strategy, history of the land and the surrounding land use pattern the Acting General Manager can be satisfied that the inconsistency with this Direction is of minor significance.

1.3 Mining, Petroleum Production and Extractive Industries: The Ministerial Direction is relevant as the planning proposal seeks to permit a dwelling on rural land. The mechanism to achieve this is to retain zone RU1 Primary Production and to change the lot size to 20ha. Mining and extractive industries will still be permitted but will be restricted a proposed new dwelling house. The land is not identified as a major resource land and is located between short and long term large lot residential opportunity areas. In addition having regard to history of the land and settlement pattern in this locality the Acting General Manager can be satisfied that the inconsistency in this case is of minor significance.

The planning proposal is consistent with the following relevant section 117 Directions; 2.3 Heritage conservation, 3.1 Housing Infrastructure and Urban Development, Environment Protection Management; 3.3 Home occupations; 4.4 Planning for bushfire Protection (the land is not identified as being affected by bushfire) and 6.3 Site Specific Provisions.

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SEPP 55 Remediation of Land: The past land uses have been considered and identified that there are no known potential contaminants which would prevent future development of the site. There is no further work required for this matter as part of the planning proposal. Noting a dwelling house has previously been approved on the land.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Acceptable locality maps are provided**

Council will need to prepare a new LEP lot size map/s identifying the land with a revised 20ha MLS in accordance with the Gateway conditions. This mapping will need to be in accordance with the technical requirements for LEP maps and provided at section 59 stage.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Community consultations is to be undertaken for 28 days.
No consultation with agencies is required.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **However it is recommended that instead of utilising Schedule 1 Additional Permitted Use the land should be identified with a 20ha MLS.**

Proposal Assessment

Principal LEP:

Due Date : **August 2012**

Comments in relation to Principal LEP : **Mid Western LEP 2012 was notified 10 August 2012.**

Assessment Criteria

Need for planning proposal : **A dwelling house on the subject land is prohibited as the proposal does not meet the requirements of Clause 4.2A of the Mid Western regional LEP 2012. The land is not legally created and does not meet the minimum lot size requirements for a dwelling house on zone RU1 land (100ha).
It is not suitable to consider CI 4.6 Exceptions to Development Standards in this case. Council has submitted a planning proposal to permit a dwelling house on the land.**

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Consistency with strategic planning framework :

The subject land is not specifically identified for large lot living but falls between areas identified as short and long term rural lifestyle opportunities in the endorsed Mid Western Comprehensive Land Use Strategy 2010. The land is not identified for residential land release in the endorsed Mudgee and Gulgong Urban Release Strategy 2014. In this area there is a pattern of lifestyle development with about 20 dwellings in this area, including on land not identified for future rural lifestyle development. Having regard to the history of the land and the surrounding development pattern the proposal has merit however Council should strategically review this area.

Environmental social economic impacts :

The land is identified as being groundwater vulnerable however with a total land area of 25 ha is adequate to accommodate groundwater mitigation methods and water supply at the development application stage. There are no other known environmental constraints.

Previous use of the land as farmland has been adequately addressed by Council in consideration of SEPP 55 - Remediation of land which is sufficient for the rezoning of the land. Further detailed investigations can be required by Council at future development application stage. Noting that a dwelling house has already been approved by Council to be erected on the land.

Assessment Process

Proposal type : **Consistent**

Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months**

Delegation : **RPA**

Public Authority Consultation - 56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name

DocumentType Name

Is Public

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information : It is recommended that the planning proposal proceed subject to the following conditions:

(1) Prior to community consultation Council is to amend the planning proposal to apply a 20 hectare minimum lot size over Lots 74, 147 and 148 DP 756894 (inclusive) and amend the relevant LEP map/s and supporting exhibition material to reflect this as the mechanism to permit a dwelling house on the land. This amended proposal is to be submitted to the Department of Planning and Environment for approval.

(2) Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 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 in section 5.5.2 of 'A Guide to Preparing LEPs' (Department of Planning and Infrastructure 2013).

No consultation is required with agencies.

(3) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Environmental Planning and Assessment Act 1979.

(4) Prior to submission of the planning proposal under Section 59 of the Environmental Planning and Assessment Act 1979, the LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for LEP maps'.

(5) The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons : Having regard to the history of the land and surrounding land use pattern the proposal should proceed subject to the conditional Gateway determination. Council should strategically review this land and surrounding land.

Signature:



Printed Name:

W GARNSEY

Date:

3/12/15