

**Mid-Western Local Environmental Plan 2012 - Various amendments to Lot Size Map, Land Zoning Map and insert new clause for Minimum Lot Size split zones**

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |               |            |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------|
| Proposal Title :   | Mid-Western Local Environmental Plan 2012 - Various amendments to Lot Size Map, Land Zoning Map and insert new clause for Minimum Lot Size split zones                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |               |            |
| Proposal Summary : | <p><b>Item 1: Amend the minimum lot size on land at Lot 52 DP 633029 Spring Flat Road, Spring Flat from 100Ha to 20Ha to facilitate the subdivision of the land.</b></p> <p><b>Item 2: Rezone land at Lot 76 DP 755434 Adams Lead Road, Gulgong from Zone RU1 Primary Production to Zone R2 Low Density Residential and amend the Lot Size Map from 100Ha to 2Ha.</b></p> <p><b>Item 3: Rezone land at part Lot 41 DP 703056 and part Lot 1 DP 564729 in Market Street, Mudgee from Zone E3 Environmental Management to Zone RE2 Private Recreation and Zone R1 General Residential.</b></p> <p><b>Item 4: Insert the standard instrument clause regarding minimum lot sizes for split zoned lots to provide for subdivision of lots that are within more than one zone.</b></p> |               |            |
| PP Number :        | PP_2014_MIDWR_003_00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Dop File No : | 14/19234-1 |

**Proposal Details**

|                                   |               |                      |                              |
|-----------------------------------|---------------|----------------------|------------------------------|
| Date Planning Proposal Received : | 10-Nov-2014   | 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 :      | Spring Flat Road                               |            |         |
| Suburb :      | Mudgee                                         | City :     | Mudgee  |
| Land Parcel : | Lot 52 DP 633029                               | Postcode : | 2850    |
| Street :      | Adams Lead Road                                |            |         |
| Suburb :      | Gulgong                                        | City :     | Gulgong |
| Land Parcel : | Lot 76 DP 755434                               | Postcode : | 2852    |
| Street :      | Market Street                                  |            |         |
| Suburb :      | Mudgee                                         | City :     | Mudgee  |
| Land Parcel : | Part Lot 1 DP 564729 and part Lot 41 DP 703056 | Postcode : | 2850    |

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**DoP Planning Officer Contact Details**

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**Land Release Data**

|                                       |                                                            |
|---------------------------------------|------------------------------------------------------------|
| Growth Centre :                       | Release Area Name :                                        |
| Regional / Sub<br>Regional Strategy : | Consistent with Strategy :                                 |
| MDP Number :                          | Date of Release :                                          |
| Area of Release<br>(Ha) :             | Type of Release (eg<br>Residential /<br>Employment land) : |
| No. of Lots : <b>0</b>                | No. of Dwellings <b>3</b><br>(where relevant) :            |
| Gross Floor Area : <b>0</b>           | No of Jobs Created : <b>0</b>                              |

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 :

**Supporting notes**

Internal Supporting  
Notes :

External Supporting  
Notes :

**Adequacy Assessment**

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**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **The Planning Proposal clearly states the objective is to rezone and amend the minimum lot size on various parcels of land to permit subdivision and to include a subclause to clarify the minimum lot size for lots that are within more than one zone.**

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

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

Comment : **The explanation of provisions states that the objectives of the planning proposal will be achieved by:**

**Item 1: Amending the minimum lot size on Lot 52 DP 633029 Spring Flat Road, Spring Flat on Lot Size Map LSZ\_006 from 100ha to 20Ha.**

**Item 2: Amending the land use zone on Lot 76 DP 755434 Adams Lead Road, Gulgong on Land Zoning Map LZN\_005C from Zone RU1 Primary Production to Zone R2 Low Density Residential and amending the minimum lot size on Lot Size Map LSZ\_005C from 100ha to 2Ha.**

**Item 3: Rezone part Lot 41 DP 703056 and Lot 1 DP 564729 Market Street, Mudgee on Land Zoning Map LZN\_006C from Zone E3 Environmental Management to Zone RE2 Private Recreation and Zone R1 General Residential. The planning proposal also intends to amend the minimum lot size on Lot Size Map LSZ\_006C to 600 square metres. This is not clearly stated in the Planning Proposal, a condition will be imposed on the Gateway Determination to amend the planning proposal to reflect this prior to public exhibition.**

**Item 4: Insert a new provision to provide for subdivision of lots that are within more than one zone, but cannot be subdivided under clause 4.1. Council is required to determine the zones to which the clause will apply prior to public exhibition of the planning proposal.**

**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

**1.5 Rural Lands**

**2.1 Environment Protection Zones**

**3.1 Residential Zones**

**3.4 Integrating Land Use and Transport**

**4.3 Flood Prone Land**

**4.4 Planning for Bushfire Protection**

**6.1 Approval and Referral Requirements**

**6.2 Reserving Land for Public Purposes**

**6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

**SEPP (Rural Lands) 2008**

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

**SEPP 55 Remediation of Land has not been considered in the planning proposal.**

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

**1.2 Rural Zones – This direction applies where a planning proposal will affect land within an existing or proposed rural zone.**

**Item 1: This Direction is applicable as the Planning Proposal contains a provision that**

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will increase the permissible density of land within a rural zone. The Planning Proposal does not address this Direction. The Item has been assessed as inconsistent with the endorsed Mid-Western Regional Comprehensive Land Use Strategy (CLUS) which does not identify the subject land for rural residential development. Item 1 is inconsistent with the Ministerial Direction and is not supported.

It is recommended that further studies be carried out to strategically justify use of the land and surrounding area for large lot residential development. The Mid-Western Regional Comprehensive Land Use Strategy should be reviewed prior to the consideration of a further amendment to the Mid-Western Regional LEP 2012 which alters a development standard on rural land.

Item 2: The planning proposal states that Item 2 is consistent with the Ministerial Direction as the proposal will permit one additional dwelling on the land and is of minor significance with regard to the agricultural value of rural land. The planning proposal also states that as the proposal affects a single lot, it will not significantly impact or undermine the Mid-Western Regional CLUS.

The planning proposal does not provide strategic justification for the proposals inconsistency with the Mid-Western Regional CLUS. Item 2 is inconsistent with the Ministerial Direction and is not supported.

It is recommended that further studies be carried out to strategically justify use of the land and surrounding area for large lot residential development. The Mid-Western Regional Comprehensive Land Use Strategy should be reviewed prior to the consideration of a further amendment to the Mid-Western Regional LEP 2012 which alters a development standard on rural land.

**1.5 Rural Lands** – This Direction is applicable to the Planning Proposal as the Planning Proposal affects land within existing rural and environmental protection zones. The planning proposal states that Items 1, 2 and 3 are considered to be of minor significance though the Rural Planning Principles have not been considered and are not addressed.

Items 1 and 2 of the Planning Proposal have been assessed as inconsistent with the Rural Planning Principles and Rural Subdivision Principles. The inconsistency with the Direction has not been adequately justified. These Items are not supported.

In regard to item 3, the planning proposal affects land within an existing environmental protection zone. The proposed changes to minimum lot size reflect existing land uses and will not reduce the environmental protection of the land. This inconsistency with the Direction is considered minor. This Item is supported.

**2.1 Environment Protection Zones** – This Direction applies when a planning proposal is prepared. The items within this planning proposal are not located on environmentally sensitive lands and will not reduce the environmental protection standards for the land. The planning proposal is consistent with this Direction.

**2.3 Heritage Conservation** – This Direction applies when a planning proposal is prepared. Item 3 affects two local heritage items. The planning proposal does not seek to amend the heritage listing, therefore this planning proposal is consistent with this Direction.

**4.3 Flood Prone Land** – This Direction applies to all relevant planning authorities that are responsible for flood prone land. The Planning Proposal does not address this direction in regard to Items 1 and 2; the subject land is not identified as flood prone. In respect of Item 3, the Planning Proposal states that subject land is not flood prone, however a portion of the land proposed to be zoned RE2 Private Recreation falls within the land identified as flood prone. As the land identified as flood prone is not for

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residential or habitable purposes and recreation only, the matter is considered to be of minor significance.

**4.4 Bushfire Prone Land** – This Direction is applicable where a planning proposal affects land that is identified or is in proximity to land mapped as bushfire prone land. In respect of Items 2 and 3, the Planning Proposal states that the items are not identified as bushfire prone land. The Planning Proposal does not address Item 1 with regard to this Direction. A condition will be imposed on the Gateway Determination to refer the planning proposal to the NSW Rural Fire Service for concurrence.

**SEPP 55 Remediation of Land** – The planning proposal does not address this SEPP, accordingly it is not known whether the subject land has previously potential contaminated land uses. A condition will be imposed on the Gateway Determination to address SEPP 55 prior to public exhibition.

**SEPP (Rural Lands) 2008** – The planning proposal does not address this SEPP. It is considered that Items 1 and 2 are inconsistent with the rural planning principles, specifically with regard to the fragmentation of agricultural land and the consideration of impacts on services and infrastructure. Items 1 and 2 of the Planning Proposal are not supported.

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment : Adequate locality maps have been provided for the purpose of public exhibition.

Mid-Western Regional Council have requested the Department assist in the production of draft LEP maps consistent with the Department's mapping guidelines. Draft LEP maps will be prepared for submission under Section 59.

The following maps are proposed to be amended:

Item 1:

5270\_COM\_LSZ\_006\_160\_20140710

Item 2:

5270\_COM\_LZN\_005C\_010\_20130702

5270\_COM\_LSZ\_005C\_010\_20140122

Item 3:

5270\_COM\_LZN\_006C\_010\_20140327

5270\_COM\_LSZ\_006C\_010\_20140122

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : Council's proposed community consultation is acceptable. Council intends to public exhibit the planning proposal for a period of 28 days. Council proposes community consultation will include notification on Council's website and local newspaper.

Consultation with the Office of Environment and Heritage will be required as the subject lots of Item 3 are listed as a local heritage item under Schedule 5 of the Mid-Western Regional LEP 2012.

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**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? **No**

If No, comment : **The proposal is adequate in the information provided.**

**Proposal Assessment**

**Principal LEP:**

Due Date : **August 2012**

Comments in relation to Principal LEP : **Mid-Western Regional Local Environmental Plan 2012 was notified on 10 August 2012.**

**Assessment Criteria**

Need for planning proposal :

**Item 1: The planning proposal is required to permit subdivision of the subject land. Development consent was granted for a two lot subdivision of the land under the previous LEP, the development consent has now lapsed. The Planning Proposal seeks to amend the minimum lot size on the lot from 100 hectares to 40 hectares. The current RU1 Primary Production zoning is proposed to be retained. Sufficient strategic merit for the need for the planning proposal has not been demonstrated. This item is not supported.**

**Item 2: The planning proposal is required to permit subdivision of the subject land. This item seeks a rezoning from Zone RU1 Primary Production to Zone R2 Low Density Residential and an amendment of the minimum lot size from 100 hectares to 2 hectares. Sufficient strategic merit for the need for the planning proposal has not been demonstrated. This Item is not supported.**

**Item 3: The planning proposal is required to permit subdivision of the subject land and to reserve a portion of land for future recreation uses. This item seeks to rezone a portion of land from Zone E3 Environmental Management to Zone R1 Low Density Residential and an amendment to the minimum lot size from 400 hectares to 600 square metres. A portion of land is also proposed to be rezoned from Zone E3 Environmental Management to Zone RE2 Private Recreation. This Item is supported.**

**Item 4: The planning proposal is required to clarify the minimum lot size for lots that are within more than one zone, on land in certain zones. This item seeks to include the standard instrument clause, 'Minimum lot sizes for certain split zones'. This Item is supported.**

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Consistency with strategic planning framework :

Items 1 and 2 of the planning proposal are inconsistent with the endorsed Mid-Western Regional Comprehensive Land Use Strategy (CLUS), which was used in the preparation of the Mid-Western Regional LEP 2012.

The CLUS identifies several precincts for short, medium and long term development potential. These areas were identified based on constraints and opportunities. Items 1 and 2 were not considered as part of these considerations and were not identified as part of the future development opportunity areas. As these proposals are isolated in nature, the amendment is not considered to impact significantly on the demand and supply outcomes of the CLUS. The Planning Proposal is however inconsistent with the objective of the CLUS to separate opportunity areas for future development and recognise the agricultural value of other land.

It is recommended that further studies be carried out to strategically justify use of additional land for residential purposes. The Mid-Western Regional Comprehensive Land Use Strategy should be reviewed prior to consideration of any further amendments to the Mid-western Regional LEP 2012 which alter the provisions on rural land.

Item 3 seeks to rezone land within an existing residential precinct to reflect the existing land use. The proposed minimum lot size amendment from 400 hectares to 600 square metres is consistent with the Mid-Western Regional CLUS and the existing provisions for land in Zone R1 General Residential.

As proposed, the amendment would result in an isolated portion of land zoned E3 Environmental Management surrounded by land in Zone R1 General Residential. This portion of land is currently occupied by a residential dwelling, it is considered appropriate to zone the land Zone R1 General Residential as part of this amendment. A condition will be imposed on the Gateway Determination to this effect.

Item 4 seeks to clarify the minimum lot size for lots within more than one zone and is not related to the strategic planning framework.

Environmental social economic impacts :

The planning proposal states that impacts will be negligible.

Items 1 and 2 are considered to have environmental and social impacts as they permit fragmentation of agricultural land. These Items are inconsistent with the Mid-Western Regional CLUS and are not supported.

Item 3 is not considered to have environmental, social or economic impacts as the proposal seeks to reflect the existing use of the land.

Item 4 seeks to clarify a matter relating to minimum lot sizes for split zoned lots and is not expected to result in environmental, social or economic impacts.

### Assessment Process

Proposal type :

Community Consultation  
Period :

**28 Days**

Timeframe to make  
LEP :

**9 months**

Delegation :

**RPA**

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

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

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

If no, provide reasons : **Items 1 and 2 are not recommended to proceed. Items 3 and 4 are supported.**

**The Planning Proposal does not demonstrate strategic merit for Items 1 and 2. These items are inconsistent with the endorsed Mid-Western Regional Comprehensive Land Use Strategy 2010, used to prepare the Mid-Western Regional LEP 2012. This item is inconsistent with Ministerial Directions 1.2 Rural Zones, 1.5 Rural Lands and SEPP (Rural Lands) 2008.**

**It is recommended Council carry out further studies to identify the suitability of the localities for rural residential development. Particular in respect of Item 1 given the sites location, adjacent to an identified future development opportunity area. Any future amendments should be considered as part of a review of the Mid-Western Regional Comprehensive Land Use Strategy (CLUS) and a subsequent planning proposal, if determined suitable.**

**In respect of Item 2, Council identified Zone R2 Low Density Residential as a preferred land use zone for to facilitate the intent of the amendment without permitting detached dual occupancies. It is considered that the zone objectives of Zone R2 Low Density Residential are not appropriate on the subject land given its setting.**

**It is suggested that once strategically justified the intent of the proposal could be achieved through Schedule 1 Additional Permitted Uses to permit a lot size of 2 hectares whilst retaining the existing Zone RU1 Primary Production. Further, the permitted land uses and objectives of Zone R5 Large Lot Residential are consistent with the expected future intended use of the subject land and could be considered with a minimum lot size of 2ha.**

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**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**

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3.4 Integrating Land Use and Transport  
 4.3 Flood Prone Land  
 4.4 Planning for Bushfire Protection  
 6.1 Approval and Referral Requirements  
 6.2 Reserving Land for Public Purposes  
 6.3 Site Specific Provisions

**Additional Information :**

1) Items 1 and 2 are not to proceed for the following reasons:  
 - Inconsistent with the Mid-Western Regional Comprehensive Land Use Strategy;  
 - Inconsistent with Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands, and  
 - Inconsistent with State Environment Planning Policy (Rural Lands) 2008.

The following conditions relate to Items 3 and 4 of the Planning Proposal.

2. Prior to undertaking public exhibition, Council is to amend the Planning Proposal:

- a) to remove Items 1 and 2 from the Planning Proposal,
- b) to address State Environmental Planning Policy (SEPP) 55 Remediation of Land,
- c) to outline the zones which are to be affected by the minimum lot size for split zones provision,
- d) to clearly indicate the intent to amend the minimum lot size on part Lot 41 DP 703056 and Lot 1 DP 564729 Market Street, Mudgee to 600 square metres, and
- e) to zone land that forms part Lot 42 DP 703056 within Zone E3 Environmental Management, Zone R1 General Residential and amend the minimum lot size to 600 square metres.

The Planning Proposal is not to be placed on public exhibition until the Department is satisfied that the above amendments have been adequately addressed.

3. 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 and Infrastructure 2013).

4. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act and/or comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. Prior to submission of the Planning Proposal under section 59 of the EP&A Act a Land Zoning Map and Lot Size Map that applies to the subject land is to be prepared compliant with the Department's 'Standard technical requirements for LEP maps'.

7. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway Determination.

**Supporting Reasons :**

Items 1 and 2 are inconsistent with the Mid-Western Regional Comprehensive Land Use Study, Ministerial Directions 1.2 Rural Zones and 1.5 Rural Lands, SEPP (Rural Lands) 2008 and demonstrate no strategic merit. These Items are not supported.

Item 3 of the planning proposal seeks to rezone land from Zone E3 Environmental Management to Zone R1 General Residential, which reflects the existing uses on the land. The proposed minimum lot size amendment from 400 hectares to 600 square metres is consistent with the surrounding area and the current provisions for Zone R1 General Residential.

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Item 4 seeks to include provisions to clarify the minimum lot size for lots that are within more than one zone, on land within certain zones by insertion of a Standard Instrument clause.

Signature:



Printed Name:

Jessica Holland

Date:

8 December 2014