

## Planning and Assessment

IRF19/5959

### Proposed Rezoning and Reduction of Minimum Lot Size at 85 Rocky Waterhole Road, Mount Frome

<b>LGA</b>	Mid-Western Regional Council
<b>PPA</b>	Mid-Western Regional Council
<b>NAME</b>	Proposed Rezoning and Reduction of Minimum Lot Size at 85 Rocky Waterhole Road, Mount Frome
<b>NUMBER</b>	PP_2019_MIDWR_003_00
<b>LEP TO BE AMENDED</b>	Mid-Western Regional Local Environmental Plan 2012
<b>ADDRESS</b>	85 Rocky Waterhole Road, Mount Frome
<b>DESCRIPTION</b>	Lot 2 DP1055152
<b>RECEIVED</b>	4 September 2019
<b>FILE NO.</b>	IRF19/5959
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

To amend the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012) to:

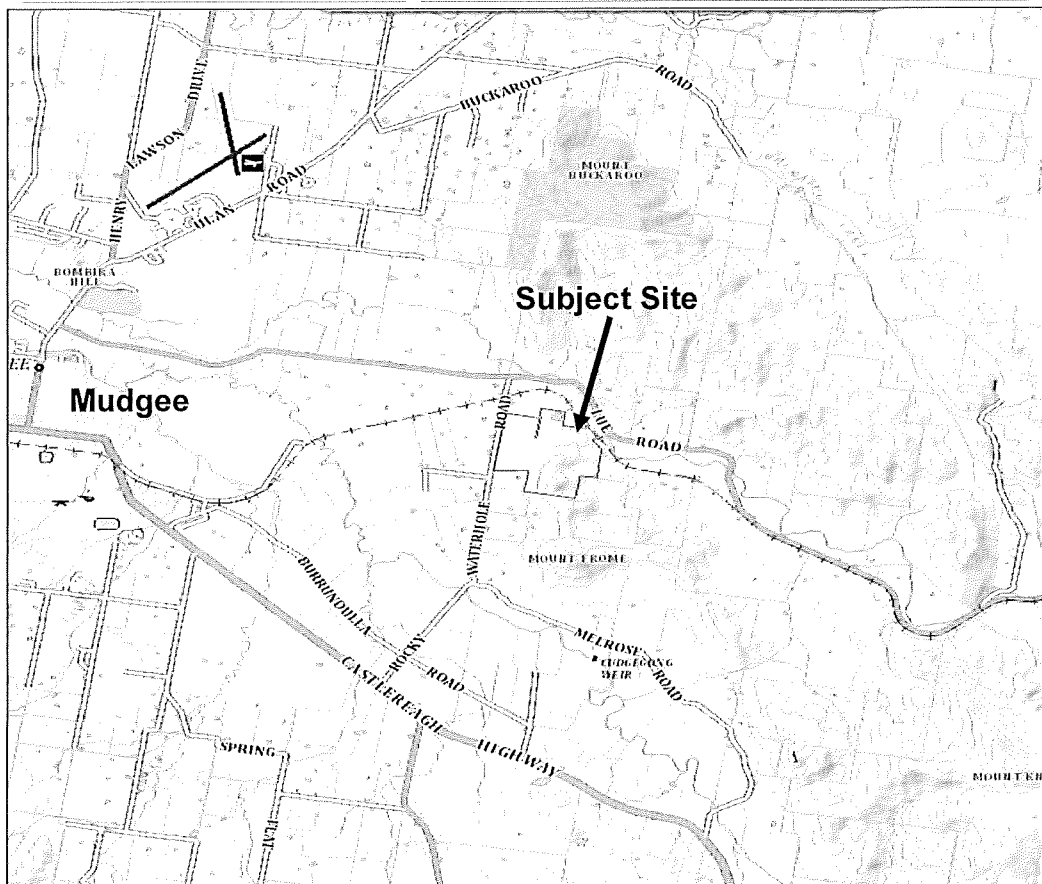
- rezone approximately 65 hectares (ha) of the area of Lot 2 DP 1055152 currently zoned RU1 Primary Production with a minimum lot size of 100 ha, to RU4 Primary Production Small Lots;
- rezone approximately 8.8 ha of the area of Lot 2 DP 1055152 currently zoned RU1 Primary Production to E3 Environmental Management; and
- amend the minimum lot size development standard for each resulting part to 20 ha for RU4 and 400 ha for E3.

In summary the effect of the planning proposal would be as follows:

Zone	Before (ha)	After (ha)
RU1 Primary Production	76	
RU4 Primary Production Small Lots		65
E3 Environmental Management	37	45.8

NB. anomaly between total areas before and after is from the planning proposal

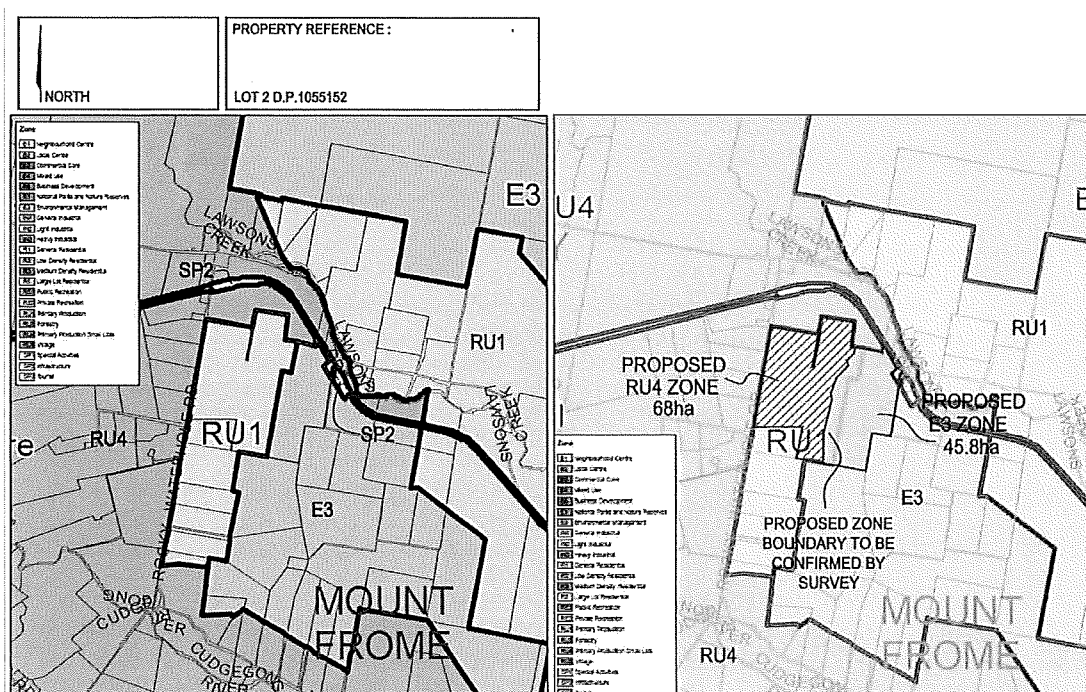
## 1.2 Site description



The planning proposal states the area of the subject site is approximately 113 ha and contains a dwelling, a vineyard (16.5 ha), cherry orchard (3 ha) and cellar door (with an attached secondary dwelling).

The eastern part of the site (approximately 40% of the total area) contains remnant native vegetation and is zoned E3 Environmental Management. The planning proposal will extend the area zoned E3 to include all land in agricultural land capability class 8.

The north western part of the subject site adjoins and is partly incised by an area of road reserve. Under the submitted planning proposal this land would remain RU1 surrounded by RU4.



### 1.3 Existing planning controls

Current zones, areas and minimum lot sizes are:

Zone	Area	Minimum Lot Size
RU1 Primary Production	76 ha	100 ha
E3 Environmental Management	37 ha	400 ha

The eastern part of the site is mapped as having high biodiversity sensitivity and the western and southern part of the site is mapped as groundwater vulnerable land. Clauses within the MWRLEP 2012 require assessment of these matters at development application stage.

The land is identified as bushfire prone on Council's bushfire maps. The site is not identified as flood prone in Council's flood mapping and is not affected by mine subsidence.

#### 1.4 Surrounding area

The area to the west and north is predominantly zoned RU4 Primary Production Small Lots and is utilised for agricultural purposes.

The land immediately to the east and south-east is zoned E3 Environmental Management, contiguous with the E3 Environmental Management section of the subject site and is mostly vegetated.



To the immediate south are 6 lots zoned RU1 Primary Production. These lots vary in size with the largest being approximately 16 ha. The approval of this planning proposal would result in a small isolated pocket of RU1 Primary Production land remaining to the south of the site. It is recommended that Council review this land and its future use and document this in the planning proposal.

It is also recommended that Council consider whether the road reserve in the north west of the site should be rezoned as part of this planning proposal to avoid a small area of RU1 remaining surrounded by RU4.

#### 1.5 Summary of recommendation

This report recommends the proposal be supported subject to Council considering the future of the RU1 land to the south and north-west.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives of the planning proposal are clearly stated. The Gateway determination should be conditioned to require Council to consider the future zoning of the remaining RU1 land to the south and the RU1 road reserve in the north west. This may lead to a need for amendment of this section of the planning proposal prior to public exhibition.

### **2.2 Explanation of provisions**

The planning proposal notes that the amendment will include:

1. Changing the zone indicated on Land Zoning Map – Sheet LZN\_006 from RU1 Primary Production to RU4 Primary Production Small Lots and E3 Environmental Management
2. Change the minimum lot size indicated on Lot Size Map – Sheet LSZ\_006 from (AD) 100 ha to (AB3) 20 ha and (AF) 400 ha.

The explanation of provisions included show proposed controls and do not require updating prior to community consultation.

### **2.3 Mapping**

The planning proposal includes amendments to LEP maps. The maps included show the current and proposed controls and do not require updating prior to community consultation.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The proposal states that the need for the rezoning is a change in economic conditions which favour smaller, more intensive industries over larger operations.

An alternative to create smaller lots could be the use of clause 4.2(3) of MWRLEP 2012 which allows subdivision of rural land below the minimum lot size but without a dwelling entitlement. This option has not been considered in the planning proposal.

The land is currently used for intensive agriculture and the future intended use is to maintain the current use as well as allow for further intensive agriculture activities. The proposal includes a concept subdivision which proposes the subdivision of the subject lot into 2 lots, reflecting minimal land use change however the proposal does not restrict the outcome to 2 lots as the minimum lot size would allow 3 lots.

The amendment will complement the adjacent land zoning and 20 ha minimum lot size.

Although an alternative to create smaller lots exists and has not been considered, given the adjacent zoning and subdivision pattern and the existence of clause 4.2(B) of MWRLEP 2012, there is enough reason to support the proposal. (Clause 4.2(B) will require the consent authority to be satisfied that any future development applications for dwelling houses on RU4 will be primarily to support agricultural use of the land.)

The RU1 land zoning is limited in this area and applies only to the subject lot and land to the south. The Gateway requires Council to consider the future of this adjoining RU1 land and Council could consider rezoning this land in this or a future planning proposal.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional / District**

The Central West and Orana Regional Plan applies to the Mid-Western Regional Local Government Area. It is considered that the proposal is consistent with the vision and corresponding actions of the Regional Plan.

### **4.2 Local**

The Planning Proposal will result in the reduction of one RU1 Primary Production zoned lot and an additional two RU4 Primary Production Small Lots. Council has identified there is currently 623,192 ha of land zoned RU1 Primary Production and this proposal represents a minor reduction of land in this zone. Council's Comprehensive Land Use Strategy has limited detail around the need for additional land zoned RU4 Primary Production Small Lots, so this Planning Proposal has been considered by Council on its merit and specific emphasis has been placed on agricultural capability and water supply.

### **4.3 Section 9.1 Ministerial Directions**

#### 1.2 Rural Zones

The subject site is within an existing and proposed rural zone. The proposal will not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The proposal is consistent with this Direction.

#### 1.5 Rural Lands

The subject site is within an existing and proposed rural zone. The proposal is considered to complement the existing adjacent land use, increase the availability of land suitable for intensive agriculture options and not adversely affect the operation and viability of rural land uses. The proposal will increase the land zoned E3 Environmental Management which will maintain the biodiversity and native vegetation value of part of the lot. The proposal is consistent with this Direction.

#### 2.1 Environment Protection Zones

A section of the site is zoned E3 Environmental Management reflecting the environmental value of the land. The amendment proposed will increase the land zoned E3 Environmental Management, which achieves the objective of this Direction, to protect and conserve environmentally sensitive areas. The proposal is consistent with this Direction.

#### 2.3 Heritage Conservation

The proposal states an Aboriginal Heritage Information Management System search identified no record of Aboriginal sites in or near the subject site. The proposal will not result in any adverse impact on land zoned for environmental protection. The proposal will not adversely impact environmental heritage significance and is consistent with this Direction.

#### 4.4 Planning for Bushfire Protection

The subject lot includes land mapped as bushfire prone on the Council's Bushfire Prone Land Map. Council will be required to consult with the NSW Rural Fire Service as a condition of the Gateway determination.

#### 5.10 Implementation of Regional Plans

The Central West and Orana Regional Plan applies to this proposal. The proposal is consistent with the vision and corresponding directions and action of the Regional Plan.

#### **4.4 State environmental planning policies (SEPPs)**

The planning proposal pre-dates State Environmental Planning Policy (Primary Production and Rural Development) 2019 and includes references to the now repealed SEPP 30 and SEPP (Rural Lands). The planning proposal should be updated to reflect these changes.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The planning proposal is considered to provide additional options for intensive agriculture lots within the LGA, complementary to the current adjoining zonings. The proposal would result in a maximum capacity of three lots (68 ha / 20 ha equal to 3.4 lots). The intent for the proposal is to create two lots, in order to retain all existing vineyard plantings within one lot and create one additional lot for primary production however the planning proposal would allow for three lots to be created.

#### **5.2 Environmental**

The site is partly mapped as having high biodiversity sensitivity and the E3 boundary is to be amended to capture additional high biodiversity value land. Any future development within the RU4 zone would be required to consider the impact on the biodiversity quality of the site. It is proposed that the E3 portion of the land would be retained within a single allotment of land to ensure the longevity of the conservation and preservation of the environment. The proposed portion of the land to be rezoned RU4 is primarily cleared of vegetation as part of the vineyard and managed land.

A Water Servicing Report with the proposal identifies that there is sufficient availability under the current water licence to accommodate future agricultural and residential activities on the land.

Groundwater vulnerability and biodiversity would be considered at development application stage.

#### **5.3 Economic**

The planning proposal considers the viability and diversity of Mount Frome agricultural area will be enhanced and that the proposal will provide potential for a range of agricultural uses close to the existing regional centre of Mudgee.

The proposal identifies that the rezoning can connect to existing utility, transport and communications infrastructure.

## **6. CONSULTATION**

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### **6.1 Community**

The proposal does not propose the specific details of community consultation. It is considered appropriate that this proposal be placed on exhibition for a minimum of 14 days.

### **6.2 Agencies**

Consultation with the Rural Fire Service is required by section 9.1 Direction 4.4.

## **7. TIME FRAME**

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Council does not propose a time frame for completing the LEP. Given the Gateway requires only minor updates to the planning proposal and only one agency referral the recommended timeframe to complete the planning proposal is 9 months.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority, and this is supported given the nature of the planning proposal.

## **9. CONCLUSION**

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The planning proposal is supported to proceed with conditions.

The proposal would result in a maximum capacity of three lots (68 hectares / 20 hectares equal to 3.4 lots).

The amendment will complement the existing adjacent land zoning. The RU1 zoning is limited in the immediate area and Council is encouraged to also consider the future intended use of the land immediately south of this land in conjunction with any future strategic investigations.

It is recommended that Council review its consideration of SEPPs and update the planning proposal prior to community consultation.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated to reflect changes to SEPPs (eg. State Environmental Planning Policy (Primary Production and Rural Development) 2019, SEPP 30 and SEPP (Rural Lands)).
2. The future intended land use for the road reserve in the north-west and land adjoining the southern part of the lot, both zoned RU1 Primary Production, should be considered and documented in the planning proposal.
3. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. NSW Rural Fire Service 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.



4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



24/09/2019

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