

Request for Initial Gateway Determination

Relevant Planning Authority Details

Mid-Western Regional Council

Contact Person: Liz Densley

0263 782850 elizabeth.densley@midwestern.nsw.gov.au

Planning Proposal Details

Complete Planning Proposal attached

Signed for and on behalf of the Relevant Planning Authority

Warwick Bennett
General Manager

Date: 5 April 2012

Planning Proposal

Temporary Workers Accommodation

To amend Mid-Western Regional Interim Local Environmental Plan 2008 (Amendment No.3) and Draft Mid-Western Regional Local Environmental Plan 2011 (as exhibited) to specifically define and make provision for Temporary Workers Accommodation.

Mid-Western Regional Council



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Overview

This planning proposal has been prepared by Mid-Western Regional Council in accordance with section 55 of the Environmental Planning and Assessment Act and the relevant Department of Planning and Infrastructure Guidelines.

The planning proposal relates to an amendment to the Mid-Western Regional Interim LEP 2008 and Draft Mid-Western Regional Local Environmental Plan 2011 to define and insert a local clause for Temporary Workers Accommodation.

Mid-Western Regional Local Government Area is experiencing unprecedented growth in the resources industry through an increase in mining activity throughout the region. With this growth comes employment which is typically being sourced from outside the LGA. While the current and draft planning instruments have made provision for urban growth to accommodate the increase in population, pressure is also mounting for alternative accommodation options which offer can offer both an immediate and short term solution to the mounting housing problem.

Temporary workers accommodation is a specific type of development with specific issues and impacts and it is not defined in the Standard Instrument. For the purposes of the Interim LEP 2008, it is considered that a Temporary Workers Accommodation would appropriately be defined for the purposes of the Mid-Western Interim LEP 2008 as *Tourist and Visitor Accommodation* which is defined as follows:

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

This is considered the applicable definition for the Mid-Western Interim LEP as a Temporary Workers Accommodation provides temporary accommodation on a commercial basis.

Pursuant to the Mid-Western Interim LEP, *tourist and visitor accommodation* is permissible with consent in the following zones:

- Village Zone
- Neighbourhood Business Zone
- Mixed Use Zone
- Commercial Core Zone
- Light Industrial Zone
- General Industrial Zone

Pursuant to the Draft Mid-Western Regional LEP 2011, *tourist and visitor accommodation* is permissible with consent in the following zones:

- RU1 Primary Production

- RU4 Primary Production Small Lots
- RU5 Village
- R1 General Residential
- R3 Medium Density Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- SP3 Tourist
- RE2 Private Recreation

A Draft DCP has been prepared on this basis to provide controls and guidance for the development of Temporary Workers Accommodation for mine-related workers or those associated with large scale infrastructure projects. However, tighter controls are required to ensure that Temporary Workers Accommodation is suitably located.

Part 1 Objectives or Intended Outcomes

The planning proposal seeks to specifically define and locate temporary workers accommodation in order to provide certainty for Council, the community and developers. Given the stage at which the Draft LEP 2011 has reached, the planning proposal is too fold in that it seeks to amend both the Mid-Western Regional Interim LEP 2008 and the Draft LEP 2011 (as exhibited).

Part 2 Explanation of Provisions

The amendment (draft local environmental plan) proposes to insert a clause into the LEP 2008 and Draft LEP 2011.

The intension of the clause is to specifically define temporary workers accommodation and provide locational criteria for this type of development. The clause is proposed as follows:

“1. Temporary workers’ accommodation

(1) The objectives of this clause are as follows:

- (a) To enable development for temporary workers’ accommodation if there is a demonstrated need to accommodate employees due to the nature of the work or location of the land,*
- (b) To ensure that temporary workers’ accommodations is appropriately located,*
- (c) To ensure that the erection of temporary workers’ accommodation is not likely to have a detrimental impact on the future use of the land or conflict with an existing land use,*
- (d) To minimise the impact of temporary workers’ accommodation on local roads or infrastructure.*

- (2) *Development consent must not be granted to development for the purposes of temporary workers' accommodation for works unless the Consent authority is satisfied of the following:*
- (a) *the development is to be located within 5 kilometres of the site on which the work is being carried out,*
 - (b) *there is a demonstrated necessity to provide temporary workers' accommodation due either to the nature of the industry that the workers are employed in or because of the remote or isolated location of the work site,*
 - (c) *the development will not prejudice the subsequent carrying out of development on the land in accordance with this Plan or any other applicable environmental planning instrument,*
 - (d) *water and sewerage infrastructure will be provided to adequately meet the requirements of the development,*
 - (e) *when the development is no longer in use, the land will, as far as practicable, be restored to the condition in which it was before the commencement of the development.*

(3) *In this clause:*

temporary workers' accommodation means any habitable buildings and associated amenities erected on a temporary basis for the purpose of providing a place of temporary accommodation for persons employed for the purpose of carrying out works associated with a large-scale infrastructure project, including development for the purposes of an extractive industry, mining, renewable energy or electricity transmission or distribution works."

Part 3 Justification

Section A – Need for the planning proposal.

1. *Is the planning proposal the result of any strategic study or report?*

The planning proposal has come about as a result of the need to specifically define temporary workers accommodation in the LEP. Council has had approaches from numerous companies seeking to develop facilities to house mine related employees. There is little history of this type of development in NSW, and coupled with the lack of an adequate definition has resulted in temporary workers accommodation taking on an array of personas which may include "tourist accommodation", hotels" and "caravan parks".

In order to provide a strategic framework in which to consider applications of this nature, Council has prepared a Draft Development Control Plan (DCP). The DCP defines the use (as above) and provides a series of development standards the intent of which was to provide guidance to both the Council, developers and the community. Interest in the Draft DCP during exhibition was unprecedented with over 300 submission received predominantly from a community with such a proposal likely to eventuate. The overwhelming response was concern

for both social and economic impacts and the suitability of the location of such development adjacent to towns and villages rather than on the site of the mine or major project.

2. *Is the planning proposal the best means of achieving the objectives or outcomes or is there a better way?*

Mid-Western Regional Council has adopted the definition of “tourist and visitor accommodation” as being the most consistent parallel on the basis that the proposals provide temporary accommodation on a commercial basis.

The failing with this approach is that the definition is a group terms and covers a wide range of tourist accommodation uses ranging in scale from a bed and breakfast catering for a single additional couple to a hotel or motel of 400 beds. Using this as a tool for permissibility in the land use tables is therefore problematic.

An alternative would be for the Department of Planning and Infrastructure to consider an amendment to the SI to include a definition for this type of development (and Council will be pursuing this as well), however, this would still not solve the locational factors addressed in a local clause.

3. *Is there a net community benefit?*

Refer Appendix 1

The community benefit will come in the form of certainty in the operation and location of this type of facility. The interest shown by the community following the exhibition of the Draft DCP highlights the concern many have that Council address this issue. Clarification of the definition, and the provision of certainty as to where this type of development will be located will deliver a better, more efficient outcome in terms of the development approval process.

The proposal will result in the reduction of pressure on the existing housing stock as well as tourist and visitor accommodation, stress on Council’s infrastructure services and traffic and transport. Further, evidence from Queensland (refer Redefining KPMG, Regional Planning: Managing Change, Measuring Growth, November 2011) indicates that a proliferation of temporary workers accommodation has had a negative social and economic impact on existing smaller communities where the temporary population/beds outnumber the permanent resident population. These are fully self sufficient facilities catering exclusively for a mine related workforce that fly/drive in and fly/drive out. One of the biggest impacts is likely to be traffic and transport and locating the facilities adjacent to mine sites will mitigate this impact.

Section B – Relationship to strategic planning framework

4. *Is the planning proposal consistent with the application regional or sub-regional strategy?*

There are no regional strategies in place.

5. *Is the proposal consistent with Council's Community Strategic Plan or other local strategic plan?*

Council's Community Strategic Plan (CP) is currently on public exhibition. The proposal is not inconsistent with the Draft DP which includes a strategy to "Develop tools that simplify development processes and encourage high quality commercial and residential development". The Draft CP also cites the LEPs and Comprehensive Land Use Strategy as tools for guiding development within the region.

The Comprehensive Land Use Strategy (CLUS) was prepared to inform the Draft LEP 2011 and sets the direction for the growth of towns and villages within the region. The CLUS makes reference to the importance of mining and related development, however, did not foresee the issues now

6. *Is the planning proposal consistent with applicable state environmental planning policies?*

Refer Appendix 2

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in Appendix 2. The proposal is either consistent with or not offensive to any applicable SEPP's.

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

This planning proposal is generally consistent with the relevant Ministerial Directions as rather than rezone a specific site, the proposal define a terms and sets criteria for location through a mechanism other than zoning.

Section C – Environmental, social and economic impact

8. *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?*

N/A

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

N/A

10. *How has the planning proposal adequately addressed any social and economic effects?*

As the proposal is the insertion of a definition and local clause rather than being site specific social and economic effects are difficult to qualify. However, anecdotal evidence from the Queensland experience would suggest that despite assurances by developers that temporary workers accommodation facilities generate positive economic returns for communities and social impacts are negligible, this is not the case. These facilities on the edge of small communities are fully self sufficient in terms of catering and recreation while placing pressure on physical infrastructure – water, sewer, roads and soft infrastructure in particular health related services. Further, the rotation of occupants weekly or fortnightly depending on the structure for shifts means that every bed might have two people both drawing on services.

Given the self sufficient nature of these facilities, locating them as close to the mine or project site would be a reasonable way of mitigating some of the pressure on small communities. Further, the development approval process could address the need for additional services such as medical to be provided on site.

Section D – State and Commonwealth interests

11. *Is there adequate public infrastructure for the planning proposal?*

N/A

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

N/A at this stage

Part 4 – Community Consultation

The proposal deals with an issue that is currently generating significant community interest and it is considered appropriate to apply the recommended community consultation for ‘All other planning proposals’ which would include the following:

- An exhibition period of 28 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

Appendix 1

Net Community Benefit Analysis -Temporary Workers Accommodation

Net Community Benefit?

The following is based on the Evaluation Criteria provided in the NSW Department of Planning Draft Centres Policy, Planning for Retail and Commercial Development. The proposal is considered to be in the public interest and have a positive net community benefit.

- 1. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800 metres of a transit node)?**

There are no applicable State or Regional strategic directions for development.

- 2. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?**

No.

- 3. Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?**

No.

- 4. Have the cumulative effects of other spot rezoning proposals in the locality been considered?**

N/A – this is not a spot rezoning.

- 5. What was the outcome of these considerations?**

N/A

6. Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?

The proposal will neither facilitate a permanent employment generating activity nor result in the loss of employment lands..

7. Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?

Yes. The housing market within the region is undergoing an increasing level of stress due to the high demand and ability to pay being generated from the mining sector. Core community workers (nurses, police, teachers) are competing for housing in an inflated rental market. Further, the tourism sector is also feeling the strain as a result of a decrease in the number of hotel/motel beds available for tourists as the mining workforce absorb these as a short term option for accommodation through permanent bookings.

In terms of the location of these facilities, the Council is the water and sewer authority and while strategic asset planning has been undertaken for these services based on urban expansion, there is a real concern that situating temporary workers accommodation adjacent to towns will place undue stress on infrastructure and impact on the ability of Council to service residential subdivision in the short to medium term without significant costs associated in bringing upgrades forward and increasing the cost of development.

8. Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site?

Yes.

9. Is there good pedestrian and cycling access?

N/A

10. Is public transport currently available or is there infrastructure capacity to support future public transport?

N/A

11. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?

Yes. The proposal explicitly seeks to reduce the transport burden currently imposed on the region by commuter traffic to and from the towns to mine sites.

12. Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?

No.

13. Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?

No.

14. Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community?

The intention of the proposal is to define temporary workers accommodation and adequately locate them close to the employment generator being the mine or major project site.

15. Will the public domain improve?

No. The proposal will have a limited impact on the public domain.

16. Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

N/A

17. If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

N/A

18. What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?

The proposal serves the public interest through reducing the pressure on the existing housing stock as well as tourist and visitor accommodation, stress on Council's infrastructure services and traffic and transport through the locational factors. Further, evidence from Queensland (refer Redefining KPMG, Regional Planning: Managing Change, Measuring Growth, November 2011) indicates that a proliferation of temporary workers accommodation has had a negative social and economic impact on existing smaller communities where the temporary population/beds out number the permanent resident population. These are fully self sufficient facilities catering exclusively for a mine related workforce that fly/drive in and fly/drive out. One of the biggest impacts is likely to be traffic and transport and locating the facilities adjacent to mine sites will mitigate this impact.

Appendix 2

State Environmental Planning Policy Analysis

State Environmental Planning Policy	Relevant	Consistent	Comment
State Environmental Planning Policy No 1—Development Standards	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 14—Coastal Wetlands	No	N/A	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	N/A	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	N/A	
State Environmental Planning Policy No 21—Caravan Parks	No	N/A	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	N/A	
State Environmental Planning Policy No 26—Littoral Rainforests	No	N/A	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	N/A	
State Environmental Planning Policy No 30—Intensive Agriculture	No	N/A	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	N/A	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	N/A	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	N/A	

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State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	N/A	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	N/A	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	N/A	
State Environmental Planning Policy No 47—Moore Park Showground	No	N/A	
State Environmental Planning Policy No 50—Canal Estate Development	No	N/A	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	N/A	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	N/A	
State Environmental Planning Policy No 55—Remediation of Land	No	N/A	
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential	No	N/A	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	N/A	
State Environmental Planning Policy No 64—Advertising and Signage	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	N/A	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	N/A	
State Environmental Planning Policy No 71—Coastal Protection	No	N/A	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	N/A	

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State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	N/A	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	N/A	
State Environmental Planning Policy (Infrastructure) 2007	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	N/A	
State Environmental Planning Policy (Major Development) 2005	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A	The application of this SEPP to the land will be unaffected by this Planning Proposal.
State Environmental Planning Policy (Rural Lands) 2008	Yes	Yes	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	N/A	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	N/A	
State Environmental Planning Policy (Western Sydney Employment Area) 2009	No	N/A	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	N/A	