

Planning Services

Gateway Determination Report

LGA	Mid-Western
PPA	Mid-Western Regional Council
NAME	General Amendment – Visually Sensitive Land
NUMBER	PP_2019_MIDWR_002_00
LEP TO BE AMENDED	Mid-Western Local Environmental Plan 2012
ADDRESS	Various lots – land identified as Visually Sensitive Land
DESCRIPTION	Amend clause 6.10 Visually sensitive land near Mudgee and Visually Sensitive Land Maps CL1_006 and 006H
RECEIVED	20/05/2019
FILE NO.	IRF19/3306
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to amend the *clause 6.10 Visually sensitive land near Mudgee* and the associated Visually Sensitive Land Maps (CL1_006 and 006H). The objective of *clause 6.10 Visually sensitive land near Mudgee* is to ‘*protect the visually and environmentally significant upper slopes on the urban fringe south of the town of Mudgee*’.

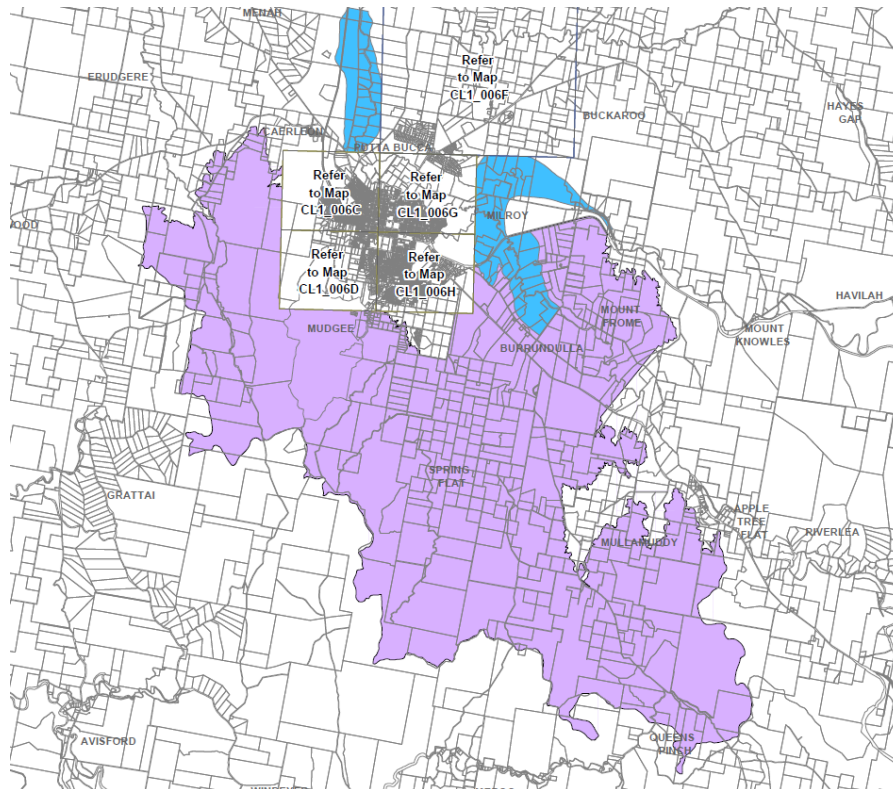
The proposed amendments include listing additional considerations in clause 6.10 and extending the area identified as Visually Sensitive Land.

The amendments are intended to protect the visually amenity of land consisting of agricultural flats and ridgelines visible from the approach into Mudgee from the southeast, via the Castlereagh Highway.

Site description

This planning proposal relates to land referenced as ‘Visually Sensitive Land’ in *clause 6.10 Visually sensitive land near Mudgee* of the Mid-Western Local Environmental Plan (LEP) 2012. This includes land currently identified on the Visually Sensitive Land Maps and the land proposed to be identified, being the northeast ridgelines above the 520m contour and the agricultural flats between these and the southern ridges. The land proposed to be identified extends to the south east limit of the urban area of Mudgee.

A draft map identifying the existing and proposed Visually Sensitive Land is provided below; a copy of the draft map shall be made publicly available with the planning proposal during the community consultation period.



Existing planning controls

The objective of clause 6.10 Visually sensitive land near Mudgee is to *'protect the visually and environmentally significant upper slopes on the urban fringe south of the town of Mudgee'*.

The clause applies to land shown as Visually Sensitive Land, identified on the Visually Sensitive Land Map Sheets CL1_006 and 006H.

The clause lists matters which the consent authority must consider when determining whether to grant development consent to a proposed development. Existing considerations of the clause include: whether the development will complement the visual setting forming the backdrop to Mudgee and location, whether the development will be located to avoid visibility above ridgelines and whether any visual intrusion will be minimised.

Surrounding area

The proposed area of Visually Sensitive Land includes land zoned R2 Low Density Residential, R5 Large Lot Residential, RUI Primary Production, RU4 Primary Production Small Lots and E3 Environmental Management.

Summary of recommendation

Proceed as per submitted – it is recommended for the proposal to proceed as submitted.

PROPOSAL

Objectives or intended outcomes

The planning proposal seeks to amend the *clause 6.10 Visually sensitive land near Mudgee* and the associated Visually Sensitive Land Maps (C1_006 and 006H). The proposed amendments are intended to protect the visually amenity of land consisting of agricultural flats and ridgelines visible from the approach into Mudgee from the southeast, via the Castlereagh Highway.

Explanation of provisions

The objective of the existing *clause 6.10 Visually sensitive land near Mudgee* is to '*protect the visually and environmentally significant upper slopes on the urban fringe south of the town of Mudgee*'.

The clause applies to land shown as Visually Sensitive Land, identified on the Visually Sensitive Land Map Sheet CL1_006 and 006H.

The clause lists matters which the consent authority must consider when determining whether to grant development consent to a proposed development. Existing considerations of the clause include: whether the development will complement the visual setting forming the backdrop to Mudgee and location, whether the development will be located to avoid visibility above ridgelines and whether any visual intrusion will be minimised.

An amendment to the existing clause 6.10 Visually sensitive land near Mudgee seeks to introduce additional assessment criteria. Proposed criteria include:

- Use of appropriate measures to minimise adverse visual impacts on the landscape,
- Use of vegetation to screen views to the development,
- Design and siting of the development to respond to the land form on which it will form part,
- Use of unobtrusive and non-reflective materials to blend structures into the natural environment, and
- Use of measures to minimise the reflection of sunlight from glazed surfaces.

The objectives of the clause will require amendment to recognise the additional land identified as being visually significant and the final wording will be subject to final legal drafting.

There is no objection to the proposed changes.

Mapping

Amendments are required to Visually Sensitive Land Map Sheets CL1_006 and 006H to achieve the intent of this planning proposal. The final maps will need to meet the Departments technical standards for LEP mapping.

NEED FOR THE PLANNING PROPOSAL

The planning proposal indicates the intent to protect Mudgee's town character through protection of the natural and physical elements of the landscape.

Council identify amendment to the existing clause 6.10 and associated mapping of visually sensitive land on the approaches to Mudgee (ridgelines to the southwest and northeast of the Castlereagh Highway on the southern approach to Mudgee) as a means of protecting the town character.

STRATEGIC ASSESSMENT

State

There are no relevant state strategic plans relevant to this proposal.

Regional / District

The Mid-Western Local Government Area is addressed in the Central West and Orana Regional Plan 2036. This planning proposal does not identify any outcomes that are inconsistent with the goals of the Regional Plan; (a) the most diversified regional economy, (b) a strong healthier environment and diverse heritage, (c) quality freight, transport and infrastructure networks and (d) dynamic, vibrant and healthy communities.

Local

This planning proposal is intended to protect and enhance local character of Mudgee. The contribution of the natural and physical elements of the landscape to local character are recognised in the Mid Western Comprehensive Land Use Strategy that was endorsed by the Department on 1 August 2012.

Section 9.1 Ministerial Directions

Direction 1.2 'Rural Zones' is relevant to the planning proposal. The objective of this direction is to protect the agricultural production value of rural land. The planning proposal does not seek to rezone land or increase the permissible density of land within a rural zone and is consistent with the direction.

Direction 1.5 'Rural Lands' is relevant to the planning proposal as it affects land within an existing rural zone and environmental protection zone. Part (4) of the direction has been considered. The planning proposal is consistent with this direction.

Direction 2.1 'Environment Protection Zones' is relevant to the planning proposal. The direction provides that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. This proposal does not detract from the environmental protections within the Mid-Western Regional LEP 2012 and is consistent with this direction.

Direction 2.3 'Heritage Conservation' is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of matters of environmental and Aboriginal cultural heritage significance. This proposal does not detract from the heritage protection provisions within the Mid-Western Regional LEP 2012 and is consistent with this direction.

Direction 3.1 'Residential Zones' is relevant to the planning proposal as the proposal affects land within an existing residential zone. The planning proposal is consistent with this direction.

Direction 3.2 'Caravan Parks and Manufactured Home Estates' is relevant to the planning proposal. The planning proposal does not alter provisions that permit development for the purpose of caravan parks to be carried out on land or change the zoning of existing caravan parks. The planning proposal is consistent with this direction.

Direction 3.4 'Integrating Land Use and Transport' is relevant to the planning proposal. The proposal does not alter the location of zones for urban purposes and is consistent with this direction.

Direction 4.3 'Flood Prone Land' is relevant to the planning proposal as the proposal affects flood prone land. The planning proposal does not seek to rezone land or alter how the Mid-Western LEP 2012 gives effect to the NSW Flood Prone Land Policy. The planning proposal is consistent with this direction.

Direction 4.4 'Planning for Bushfire Protection' is relevant to this planning proposal. The land subject to the planning proposal is identified as bush fire prone land and consultation with the NSW Rural Fire Service (RFS) is required to comply with the requirements of the direction.

Direction 5.10 'Implementation of Regional Plans' is relevant to the planning proposal. The direction provides that a proposal must be consistent with a regional plan released by the Minister for Planning. The proposal is consistent with the Central West and Orana Regional Plan 2036.

Direction 6.1 'Approval and Referral Requirement' is relevant to this planning proposal. The planning proposal does not include provisions that require concurrence, consultation or referral of development applications to a Minister or public authority or identify development as designated development. The planning proposal is consistent with this direction.

State environmental planning policies

Consideration has been given to the proposals consistency with State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The planning proposal is consistent with the objectives of these policies.

SITE-SPECIFIC ASSESSMENT

Social

No adverse social impacts are identified. The proposal is intended to protect and enhance the setting of Mudgee which has been identified as being important to the Mudgee community.

Environmental

The planning proposal does not have any adverse environmental consequences.

Economic

No economic impacts are identified.

Infrastructure

There is no provision or funding of state infrastructure relevant to the assessment of the proposal.

CONSULTATION

Community

The planning proposal identifies that the proposal is a low impact proposal. Council proposed an exhibition period of 14 days. This is supported.

Agencies

Consultation with the Rural Fire Service is required as part of this proposal to satisfy Ministerial Planning Direction 4.4 Planning for Bushfire Protection.

TIME FRAME

Council has proposed a three-month time frame for completing the LEP. To allow adequate time for public exhibition, agency referral and consideration of subsequent submissions, a time frame of 6 months will be provided.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority, through documentation provided 9 May 2019. Council does not have any known interest in the land and should be authorised to be the local plan-making authority.

CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions.

A copy of draft Visually Sensitive Land Map Sheets CL1_006 and 006H shall be made publicly available during the exhibition period with the planning proposal documentation.

RECOMMENDATION

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

1. Consultation is required to NSW Rural Fire Service to address Local Planning Direction 4.4 Planning for Bushfire Protection. The NSW Rural Fire Service is to

be provided to a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the planning proposal.

2. Prior to undertaking community consultation, Council is to prepare a draft amending Visually Sensitive Land Map Sheet (CL1_006 and 006H). These maps are to be publicly exhibited with the planning proposal in accordance with Condition 3 of this Gateway Determination.
3. The planning proposal should be made available for community consultation for a minimum of 14 days.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.
5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Environmental Planning and Assessment Act 1979. 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. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
7. Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
8. The time frame for completing the LEP is to be 6 following the date of the Gateway determination.



22.5.19

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23.5.19

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