

Mid-Western Regional Local Environmental Plan 2012 - Rezone land at Lots 3 & 4 DP 1069441, Spring Flat Road, Burrundulla, Mudgee and amend the minimum lot size

Proposal Title : **Mid-Western Regional Local Environmental Plan 2012 - Rezone land at Lots 3 & 4 DP 1069441, Spring Flat Road, Burrundulla, Mudgee and amend the minimum lot size**

Proposal Summary : **To amend the Mid-Western Regional LEP 2012 by rezoning land at Lots 3 and 4 DP 1069441 Spring Flat Road, Burrundulla, Mudgee, from RU4 Primary Production Small Lots to R5 Large Lot Residential and reduce the minimum lot size from 20ha to 2ha.**

PP Number : **PP_2016_MIDWR_002_00** Dop File No : **16/04743**

Proposal Details

Date Planning Proposal Received : **20-Apr-2016** 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 : **Burrundulla** City : **Mudgee** Postcode : **2850**

Land Parcel : **Lot 3 and 4 DP 1069441**

DoP Planning Officer Contact Details

Contact Name : **Megan Jones**

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RPA Contact Details

Contact Name : **Mark Lyndon**

Contact Number : **0263782850**

Contact Email : **Mark.Lyndon@midwestern.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Wayne Garnsey**

Contact Number : **0268412180**

Contact Email : **wayne.garnsey@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Consistent with Strategy : **Yes**

Regional Strategy :

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MDP Number :		Date of Release :	
Area of Release (Ha)	55.90	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	25
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **There have been no known meetings with registered lobbyists.**

Supporting notes

Internal Supporting Notes : **Info requested on Tuesday 5 April 2016 as planning proposal was missing consideration of the following:**

- Rural Lands SEPP
- SEPP 55 (Remediation of Land)
- Mining, Petroleum etc SEPP
- S117 1.3 Mining, Petroleum and Extractive Industries.

Information regarding the above matters was received on 20 April 2016 and is now adequate.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The objective is to facilitate release of land for large lot residential use with a 2ha minimum lot size for a dwelling, and allocate land along the Sydney Road (Castlereagh Highway) to RE1 Public Recreation to establish a vegetation visual buffer.**

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

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

Comment : **The planning proposal is required to amend the Mid-Western LEP 2012 to rezone the applicable land from RU4 Primary Production Small Lots to R5 Large Lot Residential and reduce the MLS from 20ha to 2ha.**

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

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

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

Additional information requested on 5th April 2016 as planning proposal was missing consideration of the following:

- **Rural Lands SEPP**
- **SEPP 55 (Remediation of Land)**
- **Mining, Petroleum etc SEPP**
- **S117 1.3 Mining, Petroleum and Extractive Industries.**

Council provided the information on 20 April 2016 and is now adequate.

1.2 Rural Zones

The proposal is inconsistent with this Direction as it seeks to rezone rural zoned land to a residential zone. An inconsistency may be justified if it is supported by a study or strategy that gives consideration to this direction or is of minor significance. Although it does not address the specific concerns of the direction, the Mudgee Gulgong Urban Release Strategy 2014 (URS) identifies this land for R5 Large Lot Residential use to be released post 2015. The URS is endorsed by the Department of Planning and Environment. The inconsistency may be argued to be of "minor significance" in this case due to the following factors:

- (a) The proposed rezoning is identified in the URS;
- (b) The proposed rezoning has been justified against "land use suitability criteria" (which is proposed to be inserted into the Mid-Western Comprehensive Land Use Strategy (CLUS), refer PP_2015_MIDWR_003_00) which supports the rezoning along with consideration of groundwater impacts;
- (c) The Gateway may condition the approval to proceed to require the CLUS be finalised with the inclusion of the land use suitability criteria, prior to this planning proposal being finalised.

Given the abovementioned points, it is considered that the Director Regions, Western can be satisfied that the planning proposal's inconsistency with Direction 1.2 is of minor significance and may proceed.

1.3 Mining, Petroleum Production and Extractive Industries

The proposal is inconsistent with Direction 1.3 as it seeks to restrict potential development of resources by permitted a land use (residential) that is inconsistent with such development. Council has presented the following points for consideration in relation to this inconsistency:

"The site is not located in the CLUS as a significant resource of coal, other minerals, petroleum or extractive material; There are no existing mines, petroleum production or extractive industries occurring in the area subject to the planning proposal; and The site is already adjacent to the residential fringe of Mudgee and therefore unsuitable for

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mining and extractive industry."

The points above have sound planning merit and this position is agreed to by DP&E.
The Director Regions, Western can be satisfied that the inconsistency is therefore
considered to be of minor nature and the proposal may proceed.

1.5 Rural Lands

The proposal is inconsistent with Direction 1.5 as it does not fully accord with the SEPP
(Rural Lands) 2008 rural planning and rural subdivision principals. However a proposal
may be inconsistent with the Direction if the inconsistency is justified by a strategy. The
DP&E endorsed Mudgee URS (as mentioned above) supports the proposed rezoning of
the land, therefore the Director Regions, Western can be satisfied that the inconsistency
is justified and may proceed.

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 :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **28 days.**

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 :

Proposal Assessment

Principal LEP:

Due Date : **August 2012**

Comments in relation
to Principal LEP :

Assessment Criteria

Need for planning proposal :	Council is seeking to rezone land and amend the minimum lot size required for a dwelling on land, therefore a planning proposal is the appropriate mechanism to achieve this.
Consistency with strategic planning framework :	The land is identified within the Mudgee Gulgong Urban Release Strategy 2014 for R5 use with a 2 ha MLS. The requirement for the RE1 Public Recreation buffer along the highway is proposed by Council and is supported.

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Environmental social
economic impacts :

The subject land is identified as being groundwater vulnerable and is situated up-stream from the Mudgee town water catchment. The development is not proposed to be connected to reticulated water or sewer, therefore consultation is required with DPI - Water regarding this matter. Biodiversity value land is identified along the creek line, therefore consultation is required with OEH. This is included as part of the Gateway conditions.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Other		

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 :

Consultation required with:

- **DPI (Water) regarding groundwater vulnerability and appropriate lot size.**
- **OEH regarding biodiversity.**
- **RMS regarding frontage to Castlereagh Highway.**

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
Cover Letter Requesting Gateway.docx	Proposal Covering Letter	No
Report to Council meeting 17 June 2015 - 6.2.2	Proposal	No
Supplementary Report - Planning Proposal 'Burrundulla' Spring Flat Rd v2.pdf		
Amended PP.pdf	Proposal	No
Min no 161-15 Council meeting 17 June 2015 - 6.2.2	Proposal	No
Supplementary Report - Planning Proposal Burrundulla.pdf		
Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_making_functions.doc	Proposal	No

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REQUEST FOR INITIAL GATEWAY DETERMINATION.docx	Proposal	No
Addendum.pdf	Proposal	No
Additional Info Letter.pdf	Proposal	No

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

Additional Information : **1. Prior to community consultation, consultation is required with the Department of Primary Industries - Water to determine an appropriate minimum lot size for the land having regard to water supply and impacts on groundwater. The planning proposal is not to be placed on exhibition until the Department is satisfied that the matter has been adequately addressed.**

2. Prior to community consultation, the proposed amendment to the Mid Western Comprehensive Land Use Strategy 2010 to insert criteria for assessing the suitability of land for 2 hectare rural residential use, as proposed in (PP_2015_MIDWR_003_00), must be progressed to a stage suitable for community consultation. This proposed amendment requires approval of the Department of Planning and Environment.

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 is required to be made publicly available on exhibition for days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

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.

4. Consultation is required with the following State Agencies under Section 56 (2)(d) of the EP&A Act and/or to comply with the requirements of relevant section 117 Directions:

- (a) Department of Primary Industries - Water**
- (b) Roads and Maritime Services**
- (c) Office of Environment and Heritage**

Each public authority 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 planning proposal prior to community consultation.

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, the LEP maps must be prepared and be 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.

8. Council be authorised to exercise delegation in this case.

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Supporting Reasons : The planning proposal is consistent with the relevant (Department endorsed) land use strategy (URS) but also requires the CLUS to be amended as required with PP_2015_MIDWR_003).
As the subject land is groundwater vulnerable, Council needs to consult with DPI- Water regarding an appropriate MLS and groundwater impacts; RMS regarding frontage to Castlereagh Highway; and OEH regarding identified biodiversity lands.

Signature:



Printed Name:

Megan Jones

Date:

13/5/16.

Endorsed
Wyamsen 13/5/16
TLWR