

Mid-Western Regional Local Environmental Plan 2012 - Rezone land at part Lot 2 DP 136904 and part Lot 3 DP 587806 ("Menah"), Wilbertree Road, Mudgee and amend minimum lot size

Proposal Title :	Mid-Western Regional Local Environmental Plan 2012 - Rezone land at part Lot 2 DP 136904 and part Lot 3 DP 587806 ("Menah"), Wilbertree Road, Mudgee and amend minimum lot size		
Proposal Summary :	Rezone land at part Lot 2 DP 136904 and part Lot 3 DP 587806 ("Menah"), Wilbertree Road, Mudgee from RU4 Primary Production Small Lots to R5 Large Lot Residential and amend minimum lot size from 20 hectares to 2 hectares to permit subdivision of the land (25 lots).		
PP Number :	PP_2015_MIDWR_004_00	Dop File No :	15/10342

Proposal Details

Date Planning Proposal Received :	19-Oct-2015	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 :	Wilbertree Road		
Suburb :	Mudgee	City :	Mudgee
		Postcode :	2850
Land Parcel :	Part Lot 2 DP 136904 and part Lot 3 DP 587806		

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

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 land and amend the minimum lot size on land at part Lot 2 DP 136904 and part Lot 3 DP 587806 Wilbertree Road, Mudgee (known as "Menah").**

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

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

Comment : **The explanation of provisions clearly states that the objectives of the planning proposal will be achieved by amending Land Zoning Map Sheet LZN_006 and Lot Size Map Sheet LSZ_006.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008
SEPP (Affordable Rental Housing) 2009

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

1.2 Rural Zone: This Direction is applicable as the planning proposal seeks to rezone land and amend the minimum lot size on land zone RU4 Primary Production Small Lots. The planning proposal seeks to increase the permissible density of residential development on the land by amending the minimum lot size from 20 hectares to 2 hectares.

The endorsed Mid-Western Regional Comprehensive Land Use Strategy (CLUS), identifies opportunity areas for rural residential development with lot sizes of not less than 12 hectares. It is noted that the Strategy does not identify the subject land as an opportunity area for 12 hectare rural residential allotments.

The Strategy does not address the suitability of land for lots with a minimum lot size of 2 hectares. Council have subsequently developed a criteria for the selection of suitable locations for this lot size. The criteria addresses future residential land opportunities, land use conflict, flooding, access, visual impacts, impacts on the groundwater system, supply and demand, biodiversity sensitivity, bushfire hazard and land capacity assessment (focused on protection of productive agricultural land). The land subject to the planning proposal is assessed as consistent with the criteria, noting information addressing flooding and groundwater vulnerability submitted with the planning proposal.

The supply and demand for rural residential allotments (2 hectares) is identified in the Mudgee and Gulgong Urban Release Strategy. It projects demand will average 7 lots per year, or 37 lots over 5 years. If land is released in accordance with the recommendations of the Strategy there will be between 76 and 88 lots available every five years until 2025. Accordingly short term demand can be adequately met. The subject land is not identified in the Urban Release Strategy and will further increase the supply of land above the determined level of demand. In response, Council resolved to support rezoning of an area of land equivalent to 25 lots of 2 hectares, being part Lot 2 DP 136904 and part Lot 3 DP 587806.

The planning proposal is consistent with the criteria prepared for inclusion in the CLUS in respect of rural residential land (2 hectares) and is supported. The proposals inconsistency with the Direction is considered to be of minor significance in this instance as Council has established a strategic basis to consider such proposals.

1.5 Rural Lands: This Direction is applicable as the planning proposal affects land within an existing rural zone. The Direction requires a planning proposal be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008. The planning proposal is inconsistent with the Principles in respect of the importance of rural lands and agriculture, rural land fragmentation and land use conflict.

The inconsistency with this Direction is considered to be of minor significance in this instance given the surrounding pattern of development, zoning of land zone R5 Large Lot Residential north of the site and the residential development occurring south east of the site. Council has also established a strategic basis to consider such proposals.

2.1 Environmental Protection Zones: The Ministerial Direction applies to protect and conserve environmentally sensitive areas. the Direction is relevant to the planning proposal as the subject land is identified on the LEP Groundwater Vulnerability Map as

groundwater vulnerable. The planning proposal does not alter the existing provisions of the LEP for protection and conservation of environmentally sensitive areas. The planning proposal is consistent with this Direction however consultation with the responsible agencies, the NSW Office of Environment and Heritage and Office of Water will be required.

Additional consideration has been given to provision of a sustainable water supply as the land is not proposed to be serviced by a reticulated water supply. It is noted that there is the potential for impacts on the groundwater system - if allotments are serviced by groundwater bores and also proposed the on site treatment of waste water. Information has been provided to justify that groundwater bores are not required - and that future residences can be provided with a sustainable rain water supply. This information shall be provided to the NSW Office of Water for review as part of the required consultation - prior to community consultation being undertaken.

2.3 Heritage Conservation: The Ministerial Direction requires that a planning proposal contain provisions that facilitate the conservation of items, areas, objects and places of environmental heritage significant and indigenous heritage significance. Schedule 5 of the Mid-Western Regional LEP lists three items of heritage significance, located on adjoining land. These items include Menah homestead, Explorers' Tree ("Camping Tree") and a River Red Gum which is located on the Wilbertree road reserve. The planning proposal does not alter the protection of these sites under the provisions of the LEP. The planning proposal is consistent with this Direction.

The planning proposal includes an AHIMS report that identifies 10 Aboriginal sites recorded in or near the subject land. Consultation with NSW National Parks and Wildlife will be required.

3.1 Residential Zones: The Ministerial Direction is relevant as the planning proposal affects land within a proposed residential zone; it is proposed the land be rezoned from RU4 Primary Production Small Lots to zone R5 Large Lot Residential. The proposal seeks to broaden the choice of housing types available in the area and to make use of existing infrastructure in the locality. The planning proposal is consistent with this Direction.

3.4 Integrating land Use and Transport: The Ministerial Direction is relevant as the planning proposal zones the land for residential purposes and alters the minimum lot size provisions. The planning proposal is consistent with this Direction.

4.3 Flood Prone Land: The planning proposal seeks to rezone part of a lot that contains land within the flood planning area; land below the flood planning level (1 in 100 ARI) is not proposed to be rezoned as part of the proposal. Land in the flood planning area will remain zone RU4 Primary Production Small Lots with a minimum lot size of 20 hectares. The planning proposal is consistent with the Direction.

SEPP 55 Remediation of Land: The planning proposal has considered past land uses and identified that there are no known potential contaminants which would prevent future development of the site. There is no further work required for this matter as part of the planning proposal at this stage and a matter that can be considered by Council in detail at the development application stage.

SEPP (Rural Lands) 2008: The planning proposal is inconsistent with a number of the Rural Planning Principles contained within the SEPP, as discussed above. The inconsistencies are of minor significance in this instance given the surrounding pattern of development, zoning of land zone R5 Large Lot Residential north of the site and the residential development occurring south east of the site.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

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Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Adequate locality maps have been included in the planning proposal to identify the subject land.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal shall be publicly exhibited for a period of 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?

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

Proposal Assessment

Principal LEP:

Due Date :

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

Assessment Criteria

Need for planning proposal : The planning proposal is required to permit subdivision of the subject land to a minimum lot size of 2 hectares.

Consistency with strategic planning framework : The planning proposal is consistent with the proposed amendment to the Mid-Western Regional Comprehensive Land Use Strategy which addresses the suitability of land for large lot residential purposes (with a minimum lot size of 2 hectares).

The land is not identified in the Mudgee and Gulgong Urban Release Strategy as a release area for 2 hectare rural residential allotments. To address supply and demand for 2 hectare rural residential allotments, Council resolved to support the rezoning of part of the subject land (allowing development of 25 allotments). Further assessment of supply and demand will be undertaken prior to consideration of additional land for rezoning for rural residential purposes, where a minimum lot size of 2 hectares is proposed.

Environmental social economic impacts : The impacts on groundwater have been considered and information has been provided to assist identification of a sustainable water supply and associated impacts on the groundwater system. The suitability of the proposed minimum lot size for the land with regard to sustainable water supply and the impacts on groundwater will be determined during consultation with the NSW Office of Water prior to community consultation being undertaken.

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Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority **Office of Environment and Heritage**
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 :

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
Gateway Determination dated 11 November 2015.pdf	Determination Document	Yes
Planning Proposal.pdf	Proposal	Yes
Planning Proposal - additional information.pdf	Proposal	Yes
Request for - Initial Gateway determination.pdf	Proposal	Yes
Request for Initial Gateway Determination.pdf	Proposal	Yes
Council Report May 2015.pdf	Proposal	Yes
Council Resolution May 2015.pdf	Proposal	Yes
Evaluation Criteria for the Delegation of Plan Making Functions.pdf	Proposal	Yes

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**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**

4.4 Planning for Bushfire Protection

Additional Information :

1. Prior to undertaking community consultation, consultation is required with the NSW Office of Water to determine the suitability of a 2 hectare 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 of Planning and Environment is satisfied and approves that the water supply and groundwater matters have been adequately addressed.

2. The criteria adopted by Council and proposed to be included in the Mid-Western Regional Comprehensive Land Use Strategy regarding development of rural residential land with a minimum lot size of 2 hectares, and addressing consideration of a sustainable water supply, is to be made publicly available when community consultation is undertaken.

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 28 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) Office of Environment and Heritage

(b) Department of Primary Industries - NSW Office of Water

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 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal seeks to rezone land and reduce the minimum lot size to allow subdivision of the land into 25 rural residential allotments (minimum lot size 2ha).

The planning proposal is consistent with the proposed amendment to the endorsed Mid-Western Regional Comprehensive Land use Strategy which address the suitability of land for development of 2 hectare rural residential allotments.

The planning proposal is supported.

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Signature:

J Holland

Printed Name:

Jessica Holland

Date:

11.11.15

*Endorsed
Wynsey
TLWR*

11/11/15