

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Mid-Western
<b>PPA</b>	Mid-Western Regional Council
<b>NAME</b>	Facilitate community title subdivision
<b>NUMBER</b>	PP_2019_MIDWR_001_00
<b>LEP TO BE AMENDED</b>	Mid-Western Local Environmental Plan 2012
<b>ADDRESS</b>	Zone R5 Large Lot Residential Land in Mid-Western LGA
<b>DESCRIPTION</b>	Facilitate community title subdivision on certain land
<b>RECEIVED</b>	21/03/2019
<b>FILE NO.</b>	IRF19/1961
<b>POLITICAL DONATIONS</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal requests for an amendment to the relevant clause, being '4.1AA Minimum subdivision lot size for community title schemes' to permit subdivision of land zone R5 Large Lot Residential, identified as "Area D" on the relevant lot size maps as part of a community title scheme.

The planning proposal does not seek to amend the minimum lot size maps; the existing minimum lot size that applies to the land will apply to future community title subdivision under the amended clause.

### Site description

Land subject to this planning proposal includes land zone R5 Large Lot Residential as "Area D" on the relevant lot size maps.

### Existing planning controls

The existing minimum lot size for land identified as "Area D" is 5 hectares; in accordance with Clause 4.1(3B) where a lot is serviced by a water reticulation system, land may be subdivided to create lots of at least 2 hectares.

Land identified as "Area D" is located within zone R5 Large Lot Residential. This area is a result of PP\_2016\_MIDWR\_002\_00 – Burrundulla, PP\_2015\_MIDWR\_004\_00 – Menah and PP\_2015\_MIDWR\_003\_00 – Broadhead Road – Mid Western Regional LEP 2012 Amendments 18 and 19. The intent of these proposals were to allow the subdivision of the subject land to 2ha subject to a sustainable water supply. The intent was to be achieved by Torrens or Community

Title. The Community Title provision was not allowed in the finalisation of these proposals. This proposal is to correct this issue.

### **Surrounding area**

Not applicable.

### **Summary of recommendation**

Proceed as per submitted – It is recommended for the proposal to proceed as submitted. This will enable the intended development to proceed, being community title subdivision on the subject land.

Subdivision of the land under the Community Land Development Act 1989 may be necessary to achieve servicing proposed lots by a water reticulation system in the form of a community bore. In accordance with Clause 4.1(3B) of the Mid-Western LEP 2012, land may be subdivided to create lots of at least 2 hectares, where a lot is serviced by a water reticulation system.

### **PROPOSAL**

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

To amend clause '4.1AA Minimum subdivision lot size for community title schemes' to permit subdivision of land zone R5 Large Lot Residential, identified as "Area D" on the relevant lot size maps as part of a community title scheme.

#### **Explanation of provisions**

Clause '4.1AA Minimum subdivision lot size for community title schemes' applies to the subdivision of land under the Community Land Development Act 1989 in the following zones:

- Zone RU1 Primary Production
- Zone RU4 Primary Production Small Lots
- Zone E3 Environmental Management

Subclause (3) provides that any lot resulting from a subdivision of land to which the clause applies is not to be less than the minimum lot size shown on the lot size map.

This planning proposal seeks for Clause 4.1AA to apply to land Zone R5 identified as "Area D" on the lot size map; and intends to permit subdivision of land under this clause. It is intended that the minimum lot size applying to a subdivision under this clause be consistent with Clause 4.1(3B) which provides that land identified as "area D" may be subdivided to create lots of at least 2 hectares, where a lot is serviced by a water reticulation system.

#### **Mapping**

There are no mapping amendments required to achieve the intent of this planning proposal.

## **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal indicates that Council intended amendment No. 18 & No. 19 would facilitate the subdivision of land zone R5 Large Lot Residential and identified as "Area D" on the lot size map, under the Community Land Development Act 1989.

It is now understood that an amendment to Clause 4.1AA is required to achieve this intent.

## **STRATEGIC ASSESSMENT**

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### **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.

There are no identified inconsistencies with the Central West and Orana Regional Plan 2036.

### **Local**

This planning proposal is consistent with the endorsed Mid Western Comprehensive Land Use Strategy. The Strategy provides that the land to which this proposal applies is subject to limited opportunities for development as it is above the maximum serviceable elevation for reticulated water. The land is identified on the endorsed Rural Lifestyle Opportunity Map as suitable for short-term prioritisation for lots of 2-12 hectares and zone R5 Large Lot Residential.

This planning proposal is intended to facilitate development of 2 hectare lots through community title subdivision with a sustainable water supply.

### **Section 9.1 Ministerial Directions**

The following 9.1 Ministerial Directions are applicable to the planning proposal:

3.1 Residential Zones: The planning proposal applies to land within a residential zone, being R5 Large Lot Residential. This planning proposal is intended to facilitate development of 2 hectare lots through community title subdivision and is not inconsistent with this Direction.

4.4 Planning for Bushfire Protection: The planning proposal identified that the land is affected by a buffer zone from bush fire prone land. Consultation with the NSW Rural Fire Service (RFS) is required to comply with Direction 4.4.

Consultation with the NSW RFS was undertaken as condition on the Gateway Determination for Planning proposal (PP\_MIDWR\_2015\_003\_00 - Broadhead Road) which amended the minimum lot size provision on the subject land to permit subdivision of lots to a minimum of 2 hectares, where lots were serviced by a reticulated water system.

This planning proposal does not have any additional consequences relating to bush fire prone land, rather it intends to facilitate the development of 2 hectare allotments as determined satisfactory in planning proposal PP\_MIDWR\_2015\_003\_00 – Broadhead Road.

A copy of the NSW RFS correspondence associated with planning proposal PP\_MIDWR\_2015\_003\_00 – Broadhead Road was submitted with this planning proposal to satisfy Direction 4.4 No further consultation is required as part of this planning proposal.

5.10 Implementation of Regional Plans: There are no identified inconsistencies with the Central West and Orana Regional Plan 2036.

### **State environmental planning policies**

The proposal is not inconsistent with state policies.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

No social impacts are identified.

### **Environmental**

The land subject to this planning proposal is identified on the Mid-Western LEP 2012 Groundwater Vulnerability, Biodiversity and Visually Sensitive Land Maps.

Planning proposal (PP\_MIDWR\_2015\_003\_00 - Broadhead Road) amended the minimum lot size provision on the subject land to permit subdivision of lots to a minimum of 2 hectares, where lots were serviced by a reticulated water system.

The impacts associated with development of 2 hectare lots on the land, including impacts on groundwater, visual amenity and biodiversity was considered as part of the planning proposal in consultation with the NSW Office of Environment and Heritage and NSW Office of Water.

This planning proposal does not have any additional environmental consequences, rather it intends to facilitate the development of 2 hectare allotments as determined satisfactory in planning proposal PP\_MIDWR\_2015\_003\_00 - Broadhead Road.

### **Economic**

No economic impacts are identified.

### **Infrastructure**

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

## **CONSULTATION**

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### **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

Extensive consultation was undertaken with DPI Water regarding water supply and groundwater impacts as part of the planning proposal which sought to amend the minimum lot size on the subject land (by inclusion of Clause 4.1(3B) and amendments to the relevant lot size map to identify land as "Area D"). This proposal does not seek to alter these provisions and no further consultation with Agencies is required as part of this proposal.

## TIME FRAME

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Council has proposed a six (6) month time frame for completing the LEP. This is considered appropriate given the low impact nature of the proposal.

## LOCAL PLAN-MAKING AUTHORITY

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Council has requested to be the local plan-making authority, through documentation provided 21 March 2019. Council is not known to own or have any known interest in the land and should be authorised to be the local plan-making authority.

## CONCLUSION

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

Inclusion of a subclause in Clause 4.1AA is intended to facilitate subdivision of land zone R5 Large Lot Residential, identified as "Area D" on the relevant lot size maps as part of a community title scheme.

## RECOMMENDATION

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

1. The planning proposal should be made available for community consultation for a minimum of 14 days. No agency consultation is required.
2. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
3. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.
4. 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).



25.3.19

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26.3.19

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