



*Looking After  
our Community*

PLANNING PROPOSAL  
GENERAL  
AMENDMENT 2022/23  
TOURIST & VISITOR  
ACCOMODATION

1 JUNE 2023

MID-WESTERN REGIONAL COUNCIL  
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



Version	Date	Notes
V001	November 2022	PP reported to December Council
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# Overview

## Introduction

The Planning Proposal Mid-Western Regional Local Environmental Plan General Amendment (the Planning Proposal) explains the intent of, and justification for, the proposed amendment to the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012).

The Planning Proposal is to implement the following changes to the MWRLEP 2012:

Include an additional MWRLEP 2012 provision for consideration in the assessment of development applications for tourist and visitor accommodation.

The additional provision will require land subject of a development application for tourist and visitor accommodation to satisfy Clause 4.2A erection of dwelling houses and dual occupancies on land in certain zones of the Mid-Western Regional Local Environmental Plan 2012.

The Planning Proposal has been prepared in accordance with Section 3.32 and 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and the relevant Department of Planning and Environment, Local Environmental Plan Making Guideline, December 2021.

## Background

*Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012) came into effect on 10 August 2012. MWRLEP 2012 is the consolidation of the previous planning controls into one local environmental plan. It is also a translation of those controls into the NSW Government's Standard Instrument Principal Local Environmental Plan.

Under the MWRLEP 2012 and previous environmental planning instruments, various types of dwellings and tourist and visitor accommodation are, and have been permissible in the rural areas (including land currently zoned R5 Large Lot Residential).

Due to the range of permissible dwellings and tourist and visitor land uses, it is necessary to move the requirement for dwelling entitlement from the Mid-Western Regional Development Control Plan 2013 (DCP 2013) into the MWRLEP 2012 to provide increased clarity for the community and weight when assessing a development application.

The following requirement is in Council's DCP 2013 and has been consistently applied since the commencement of the plan:

### *6.4 Tourist and Visitor Accommodation*

#### *Location*

*(a) Must comply with the MLS map or demonstrate compliance with Clause 4.2A of the LEP 2012.*

*(b) All tourist and visitor accommodation has a residential component and therefore Council will not consider the establishment of any tourist and visitor accommodation on land on which a single dwelling is not permissible in the LEP 2012.*

## Part 1 – Objectives or Intended Outcome

The objective of the Planning Proposal is to implement the following:

PROPOSED AMENDMENT	LAND TO WHICH IT APPLIES	OBJECTIVE/OUTCOME
1. An additional provision will require land subject of a development application for tourist and visitor accommodation to satisfy <i>Clause 4.2A erection of dwelling houses and dual occupancies on land in certain zones.</i>	All land zoned RU1 Primary Production, RU4 Primary Production Small Lots, RU5 Village, R5 Large Lot Residential and E3 Environmental Management.	Tourist and visitor accommodation established on land that satisfies <i>Clause 4.2A erection of dwelling houses and dual occupancies on land in certain zones.</i>

## Part 2 – Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved by the following:

PROPOSED AMENDMENT	EXPLANATION OF PROVISIONS
1. Additional clause.	Inclusion of either a miscellaneous and additional local provision that states tourist and visitor accommodation must not be granted on land unless a dwelling house is permitted to be erected under 4.2A.

## Part 3 – Justification

### Section A - Need for the Planning Proposal

#### Q1: Is the planning proposal the result of an endorsed LSPS, strategic study or report?

Yes, Council's Comprehensive Land Use Strategy (CLUS) outlines the importance of sustainable rural settlement, minimising rural land fragmentation and minimising the proliferation of dwellings on undersized lots.

To provide for rural lifestyle opportunities, a constraints and opportunity mapping exercise was undertaken and identified the location of future rural lifestyle opportunities.

Accordingly, the requirement for tourist and visitor accommodation to be located on land with a dwelling entitlement is consistent with the approach of the CLUS.

#### Q2: Is the planning proposal the best means of achieving the objectives or outcomes, or is there a better way?

The requirement for tourist and visitor accommodation to be located on land with a dwelling entitlement is currently in the DCP 2013.

Including this requirement in the MWRLEP 2012 provides the appropriate weight when assessing a development application for tourist and visitor accommodation in the Region.

### Section B - Relationship to Strategic Framework

#### Q3: Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy?

STRATEGY	DIRECTION/ACTION/OBJECTIVE - COMMENT
Central West and Orana Regional Plan 2036	<i>Direction 12: Plan for greater land use compatibility</i> <i>Action 12.2 Identify and protect important agricultural land in local plans.</i>  The Planning Proposal will assist in protecting important agricultural lands by continuing to limit the number of tourist and visitor accommodation in the rural areas.  <i>Action 12.3 Create local strategies to limit urban and rural housing development in agricultural and extractive resource areas, industrial areas and transport corridors.</i>  Council's Comprehensive Land Use Strategy supports limiting tourist and visitor accommodation in rural areas.  <i>Action 12.4 Amend planning controls to deliver greater certainty of land use.</i>  The control is currently in Council's DCP 2013, including the control in the MWRLEP 2012 provides both greater certainty for landowners, Council and the community at large.



	<p><i>Direction 28: Manage rural residential development</i></p> <p>Council identifies future opportunities and rural residential zones adjoining urban settlements at a minimum lot size from 2 – 5 hectares and with 5 – 10 kilometre radius around the towns within the region.</p>
Draft Central West and Orana Regional Plan 2041	<p><i>Objective 13: Protect agricultural production values and promote agriculture innovation, sustainability and value-add opportunities.</i></p> <p>The Planning Proposal will assist in protecting important agricultural lands by continuing to limit the number of tourist and visitor accommodation in the rural areas.</p> <p><i>Strategy 13.1: Protect agricultural land and industries from land use conflicts and fragmentation.</i></p> <p>The development of dwelling and tourist and visitor accommodation places pressure on proposed subdivision, resulting in fragmentation. Continuing to limit the establishment of dwelling and tourist and visitor accommodation will minimise fragmentation and land use conflict.</p> <p><i>Strategy 13.1: maintain and protect agricultural land and industries from land use conflicts and fragmentation, especially those lands identified as important such as those identified as Class 1-3 using the NSW land and capability mapping, biophysical strategic agricultural land, those currently developed for irrigation, or other special use lands that support specialised agricultural industries.</i></p> <p>Land mapped as Class 1-3 will be further protect with this Planning Proposal.</p> <p><i>Strategy 13.2: Strategic and local planning should maintain and protect the productive capacity of agricultural land in the region.</i></p> <p>The Planning Proposal is consistent with this Strategy item.</p>

**Q4: Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

The Planning Proposal to continue to conserve agricultural land is consistent with Council's LSPS Our Place 2040.

**Q5: Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

The Planning Proposal is consistent with the Department of Primary Industries – Agriculture, various studies regarding minimising land fragmentation and dwellings on agricultural land.

**Q6: Is the planning proposal consistent with applicable SEPPs?**

Yes. An analysis of the applicable State Environmental Planning Policies (SEPP's) is included in the following table.

SEPP TITLE	PLANNING PROPOSAL CONSISTENCY
SEPP (Biodiversity and Conservation) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP Building Sustainability Index (BASIX) 2004	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.



	Future development applications would be required to determine at development application whether the BASIX is applicable.
SEPP (Exempt & Complying Development Codes) 2008	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Housing) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Industry and Employment) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP No 65 – Design and Quality of Residential Apartment Development	Not applicable.
SEPP (Planning Systems) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Not applicable.
SEPP (Precincts – Regional) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resilience and Hazards) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resources and Energy) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Transport and Infrastructure) 2021	Yes - The Planning Proposal will not impede the ongoing implementation of the provisions of the SEPP.

### Q7: Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

These directions apply to planning proposals lodged with the Department of Planning and Environment on or after the date the particular direction was issued and commenced.

Detailed in the table below are the directions issued by the Minister for Planning to relevant planning authorities under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*.

DIRECTION	PLANNING PROPOSAL CONSISTENCY
Focus area: Planning Systems	
1.1 – Implementation of Regional Plan	Not applicable.
1.2 - Development of Aboriginal Land Council land	Not applicable
1.3 - Approval and Referral Requirements	The proposed amendment does not include the requirements for approvals or referrals.
1.4 - Site Specific Provisions	Not applicable, as the proposed amendments are not site specific.
1.5 - Parramatta Road Corridor Urban Transformation Strategy	Not applicable.
1.6 - Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not applicable.
1.7 - Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.8 - Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not applicable.
1.9 - Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not applicable.
1.10 - Implementation of the Western Sydney Aerotropolis Plan	Not applicable.

1.11 - Implementation of Bayside West Precincts 2036 Plan	Not applicable.
1.12 - Implementation of Planning Principles for the Cooks Cove Precinct	Not applicable.
1.13 - Implementation of St Leonards and Crows Nest 2036 Plan	Not applicable.
1.14 - Implementation of Greater Macarthur 2040	Not applicable.
1.15 - Implementation of the Pyrmont Peninsula Place Strategy	Not applicable.
1.16 - North West Rail Link Corridor Strategy	Not applicable.
1.17 - Implementation of the Bays West Place Strategy	Not applicable.
Focus area 2: Design and Place	
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Focus area 3: Biodiversity and Conservation	
3.1 - Conservation Zones	Consistent.
3.2 - Heritage Conservation	Consistent.
3.3 - Sydney Drinking Water Catchments	Not applicable.
3.4 - Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable.
3.5 - Recreation Vehicle Areas	Consistent.
3.6 - Strategic Conservation Planning	Not applicable.
Focus area 4: Resilience and Hazards	
4.1 - Flooding	Not applicable.
4.2 - Coastal Management	Not applicable.
4.3 - Planning for Bushfire Protection	Consistent, the Planning Proposal is not site specific.
4.4 - Remediation of Contaminated Land	Consistent, the Planning Proposal is not site specific.
4.5 - Acid Sulfate Soils	Consistent, the Planning Proposal is not site specific.
4.6 - Mine Subsidence and Unstable Land	Consistent, the Planning Proposal is not site specific.
Focus area 5: Transport and Infrastructure	
5.1 - Integrating Land Use and Transport	Not applicable.
5.2 - Reserving Land for Public Purposes	Not applicable.
5.3 - Development Near Regulated Airports and Defence Airfields	Consistent, the Planning Proposal is not site specific.
5.4 - Shooting Ranges	Consistent, the Planning Proposal is not site specific.
Focus area 6: Housing	
6.1 - Residential Zones	Not applicable.
6.2 - Caravan Parks and Manufactured Home Estates	Not applicable.
Focus area 7: Industry and Employment	
7.1 - Business and Industrial Zones	Not applicable.
7.2 - Reduction in non-hosted short-term rental accommodation period	Not applicable.
7.3 - Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.
Focus area 8: Resources and Energy	
8.1 - Mining, Petroleum Production and Extractive Industries	Consistent, the Planning Proposal is not site specific.
Focus area 9: Primary Production	
9.1 - Rural Zones	The Planning Proposal does not facilitate the rezoning of the land.
9.2 - Rural Lands	Consistent – the minimum lot size is not changing. The Planning Proposal to ensure tourist and visitor accommodation occurs on land with dwelling entitlement supports this Direction.
	The Planning Proposal does not relate to a rural residential land supply.
9.3 - Oyster Aquaculture	Not applicable.

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9.4 - Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.
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## Section C - Environmental, Social and Economic Impact

**Q8: 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?**

Site specific constraints will be considered during the assessment of any future development applications for tourist and visitor accommodation.

**Q9: Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

As set out in Local Environmental Plan Making Guideline, the purpose of this question is to ascertain the likely environmental effects that may be relevant. The nature of the planning proposal is such that no technical information is required.

**Q10: How has the planning proposal adequately addressed any social and economic effects?**

Not applicable.

## Section D - State and Commonwealth Interests

**Q11: Is there adequate public infrastructure for the planning proposal?**

Not applicable as the Planning Proposal will not trigger an upgrade or reliance on public infrastructure.

**Q12: What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

Not applicable due to the nature of the Planning Proposal.

## Part 4 – Mapping

No change to mapping required as part of this Planning Proposal.

## Part 5 – Community Consultation

Community consultation has not been carried out prior to the preparation of the Planning Proposal.

The Planning Proposal is considered 'standard' in accordance with the Local Environmental Plan Making Guideline and requires a public exhibition period of 20 days.

Public exhibition will be undertaken in accordance with any issued Gateway Determination.

## Part 6 – Project Timeline

The Planning Proposal is a housekeeping amendment to the *Mid-Western Local Environmental Plan 2012* and should be able to be achieved within 3 - 6 months of the date of the Gateway Determination.

### Proposed Timeline

MILESTONE	DATE
Gateway Determination	April 2023
Completion of Technical Information	N/A
Agency Consultation	June/July 2023
Public Exhibition	June/July 2023
Consideration of Submissions	August 2023
Legal Drafting & Opinion	August/September 2023
Finalisation	September 2023