

*Looking After
our Community*

PLANNING PROPOSAL
MINIMUM SUBDIVISION
LOT SIZE FOR STRATA
AND COMMUNITY
TITLE PLANS IN
CERTAIN RURAL AND
RESIDENTIAL ZONES

30 JULY 2024

MID-WESTERN REGIONAL COUNCIL
STRATEGIC PLANNING



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Table of Contents

Overview	4
Introduction	4
Background	4
Part 1 – Objectives or Intended Outcome	5
Objectives	5
Intended Outcomes	5
Land to which the Planning Proposal applies	6
Part 2 – Explanation of Provisions	7
Part 3 – Justification	8
Section A - Need for the Planning Proposal	8
Section B - Relationship to Strategic Framework	8
Section C - Environmental, Social and Economic Impact	12
Part 4 – Mapping	13
Part 5 – Community Consultation	14
Part 6 – Project Timeline	15
Proposed Timeline	15

Overview

Introduction

The Planning Proposal seeks to amend the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012) by inserting the requirement for minimum subdivision lot size for strata plan schemes in the RU1 Primary Production, RU4 Primary Production Small Lots, R5 Large Lot Residential and C3 Environmental Management zonings and inserting a requirement for a minimum subdivision for community title schemes for the R5 Large Lot Residential zoning.

The objective of this Planning Proposal is to ensure that land to which this amendment applies is not fragmented by subdivisions that would create additional dwelling entitlements. The objective of this amendment is consistent with the direction of the *Mid-Western Comprehensive Land Use Strategy 2010* (CLUS). The CLUS never intended strata and community title schemes in the rural zones (including R5 Large Lot Residential and C3 Environmental Management zones).

The Planning Proposal explains the intent of, and justification for, the proposed amendments to MWRLEP 2012.

The 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, Housing and Infrastructure (DPHI), *Local Environmental Plan Making Guideline*, August 2023.

Background

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.

Council's position on dwellings within the rural zones (and R5 Large Lot Residential and C3 Environmental Management) is established in the DPHI endorsed CLUS. Lots created for the purpose of the erection of dwellings are to comply with the mapped minimum lot size to limit the proliferation of dwellings. Further, the opportunity for rural lifestyle dwellings are identified in the rural areas on the 'rural lifestyle opportunity mapping for each of the four towns.

Clause 6.14 Minimum subdivision lot size for community title schemes on certain land in Zone R5 applies to this land. This land is identified on mapping as 'Area D'.

Part 1 – Objectives or Intended Outcome

Objectives

The objective of the Planning Proposal is to amend the MWRLEP 2012 by inserting the requirement for minimum subdivision lot size for strata plan schemes in the RU1 Primary Production, RU4 Primary Production Small Lots, R5 Large Lot Residential and C3 Environmental Management zonings and inserting a requirement for a minimum subdivision for community title schemes for the R5 Large Lot Residential zoning. The size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the relevant lot size map.

Intended Outcomes

The intended outcomes of the Planning Proposal is that lots created by a strata or community title scheme are to meet the mapped minimum lot size in the RU1 Primary Production, RU4 Primary Production Small Lots, R5 Large Lot Residential and C3 Environmental Management zonings.

Land to which the Planning Proposal applies

The land to which the planning proposal applies is land zoned RU1 Primary Production, RU4 Primary Production Small Lots, R5 Large Lot Residential and C3 Environmental Management.

Part 2 – Explanation of Provisions

The objectives and intended outcomes as described in Part 1 will be achieved by amending the below Clause and included an additional clause ‘minimum subdivision lot size for strata plan schemes in certain rural and residential zones’.

4.1AA Minimum subdivision lot size for community title schemes

(1) The objectives of this clause are as follows—

(a) to ensure land to which this clause applies is not unduly fragmented.

(2) This clause applies to a subdivision (being a subdivision that requires development consent) under the Community Land Development Act 2021 of land in any of the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU4 Primary Production Small Lots,

(c) Zone C3 Environmental Management,

but does not apply to a subdivision by the registration of a strata plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 2021) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause applies despite clause 4.1.

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?

The Planning Proposal consistent with the Mid-Western Comprehensive Land Use Strategy, specifically in reference to the provision of dwellings in the rural areas (including R5 Large Lot Residential, the zone used for rural lifestyle lots).

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

The Planning Proposal is the best and only means of amending MWRLEP 2012 and achieve the intended outcomes and objectives of the Planning Proposal.

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?

Yes, the Planning Proposal will give effect of the Central Western and Orana Regional Plan 2041.

STRATEGY	DIRECTION/ACTION/OBJECTIVE - COMMENT
Central West and Orana Regional Plan 2041	<i>Objective 14: Plan for diverse affordable, resilient and inclusive housing.</i> The Planning Proposal will provide clarity for the minimum lots size for dwellings in the applicable zones.

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 is consistent with Council's Toward's 2040 and Our Place 2040, Local Strategic Planning Statement. Specifically **Planning Priority 2** *Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning.*

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

The Planning Proposal is minor in terms of broader State and regional strategies. Whilst no studies or strategies specifically relate to the Planning Proposal, there is nothing that the Planning Proposal is inconsistent with.

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.

MINIMUM SUBDIVISION LOT SIZE FOR STRATA AND COMMUNITY TITLE PLANS IN CERTAIN RURAL AND RESIDENTIAL ZONES

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 (Sustainable Buildings) 2022	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP. Future development application would need to address the SEPP.
SEPP (Exempt & Complying Development Codes) 2008	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Housing) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Industry and Employment) 2021	Yes - The Planning Proposal is consistent with the SEPP and 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 is consistent with the SEPP and 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 is consistent with the SEPP and 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 is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resilience and Hazards) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Resources and Energy) 2021	Yes - The Planning Proposal is consistent with the SEPP and will not impede the ongoing implementation of the provisions of the SEPP.
SEPP (Transport and Infrastructure) 2021	Yes - The Planning Proposal is consistent with the SEPP and 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 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 1: Planning Systems	
1.1 – Implementation of Regional Plan	Consistent with Regional Plan as detail above.
1.2 - Development of Aboriginal Land Council land	Not applicable.

DIRECTION	PLANNING PROPOSAL CONSISTENCY
1.3 - Approval and Referral Requirements	The proposed amendments do not include the requirements for approvals or referrals.
1.4 - Site Specific Provisions	Not applicable, as the proposed amendments are not site specific.
1.4A – Exclusion of Development Standards from Variation	Not applicable.
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.
1.18 – Implementation of the Macquarie Park Innovation Precinct	Not applicable.
1.19 – Implementation of Westmead Place Strategy	Not applicable.
1.20 – Implementation of Camellia-Rosehill Place Strategy	Not applicable.
1.21 – Implementation of South West Growth Area Structure Plan	Not applicable.
1.22 - Implementation of Cherrybrook Station Place Strategy	Not applicable.
Focus area 2: Design and Place	
-	
Focus area 3: Biodiversity and Conservation	
3.1 - Conservation Zones	Not applicable.
3.2 - Heritage Conservation	Not applicable.
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	Not applicable.
3.6 - Strategic Conservation Planning	Not applicable.
3.7 – Public Bushland	Not applicable.
3.8 – Willandra Lakes	Not applicable.

MINIMUM SUBDIVISION LOT SIZE FOR STRATA AND COMMUNITY TITLE PLANS IN CERTAIN RURAL AND RESIDENTIAL ZONES

DIRECTION	PLANNING PROPOSAL CONSISTENCY
3.9 – Sydney Harbour Foreshore and Waterways	Not applicable.
3.10 – Water Catchment Protection	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	Not applicable.
4.4 - Remediation of Contaminated Land	Not applicable.
4.5 - Acid Sulfate Soils	Not applicable.
4.6 - Mine Subsidence and Unstable Land	Not applicable.
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	Not applicable.
5.4 - Shooting Ranges	Not applicable.
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	Not applicable.
Focus area 9: Primary Production	
9.1 - Rural Zones	Consistent.
9.2 - Rural Lands	Consistent.
9.3 - Oyster Aquaculture	Not applicable.
9.4 - Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.

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?

The proposal to provide clarity for the minimum lot size for strata and community title schemes will not have any direct adverse impacts on critical habitat or threatened species, populations or ecological communities, or their habitats. Site specific constraints will be considered during the assessment of any future development applications within the subject area.

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 Department's *Local Environmental Plan Making Guideline* (August 2023), 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?

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 as the intent is not to increase the intensity or density of development in the subject area.

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

The views of state and federal public authorities and government agencies were not sort prior to Gateway determination due to the nature of the Planning Proposal.

Part 4 – Mapping

The Planning Proposal is a text only amendment.

Part 5 – Community Consultation

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

The Planning Proposal is considered 'basic' in accordance with the Department's *Local Environmental Plan Making Guideline* (August 2023) and requires a public exhibition period of 10 days.

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

Part 6 – Project Timeline

The Planning Proposal is a minor amendment to the *Mid-Western Local Environmental Plan 2012* and should be able to be achieved within 6-9 months of the date of the Gateway Determination.

Proposed Timeline

MILESTONE	DATE
Gateway Determination	18 September 2024
Completion of Technical Information	N/A
Agency Consultation	September 2024
Public Exhibition	19 September 2024 – 2 October 2024
Consideration of Submissions	16 October 2024
Legal Drafting & Opinion (incl Mapping)	October 2024
Finalisation	November 2024