



IRF24/629

## Gateway determination report – PP-2024-628

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Deletion of Clause 4.1C

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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# 1 Planning proposal

## 1.1 Overview

**Table 1 Planning proposal details**

<b>LGA</b>	Mid-Western Regional Council
<b>PPA</b>	Mid-Western Regional Council
<b>NAME</b>	Deletion of Clause 4.1C
<b>NUMBER</b>	PP-2024-628
<b>LEP TO BE AMENDED</b>	Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)
<b>ADDRESS</b>	Caerleon 2850
<b>DESCRIPTION</b>	Deletion of Clause 4.1C
<b>RECEIVED</b>	22/03/2024
<b>FILE NO.</b>	IRF24/629
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to remove an exception clause to allow for the mapped minimum lot size in this area of 450m<sup>2</sup> to prevail, consistent with the surrounding release area, the Caerleon Masterplan and DCP.

## 1.3 Explanation of provisions

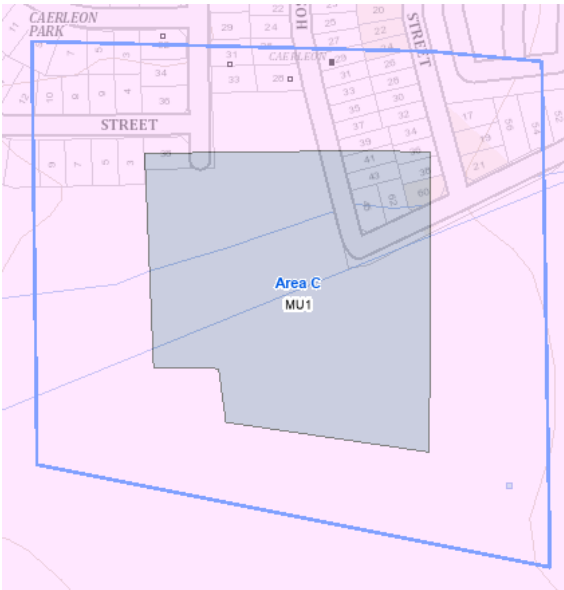
The planning proposal seeks to amend the Mid-Western Regional LEP 2012 to remove:

- Clause 4.1C Exception to minimum subdivision lot sizes around Zone MU1, and
- 'Area C' from the Lot Size Map – Sheet LSZ\_006 and Sheet LSZ\_006C.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The subject area, Area C is located within the locality of Caerleon as shown below.



**Figure 1 Subject site – area within blue line (source: adapted from the NSW Planning Portal)**

## 1.5 Mapping

The planning proposal seeks to amend Sheet LSZ\_006 and Sheet LSZ\_006C, by removing 'Area C' from the Mid-Western Regional Local Environmental Plan 2012, Lot Size Map.

Prior to public exhibition, the planning proposal must include mapping showing the proposed changes to the Lot Size Map, suitable for community consultation. Council should also update the planning proposal to list all the lots that are within the subject land.

## 1.6 Background

- In May 2012, Council resolved to endorse the previous planning proposal (PP-2020-1652), providing an opportunity for an additional 900-1400 residential lots. The proposal included an objective to allow for a variety of lot sizes, ranging from 450m<sup>2</sup> to 2ha.
- In August 2012, the Caerleon Development Control Plan was endorsed for public exhibition and exhibited concurrently with the planning proposal.
- In March 2013, the site was rezoned.

## 2 Need for the planning proposal

The planning proposal is not the result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report. However, it is consistent with some of Councils' goals and priorities outlined in their Local Strategic Planning Statement and Community Plan.

The planning proposal identifies that the current provision, providing no minimum lots size is considered to facilitate the creation of additional small, constrained lots, with minimal frontage.

The Gateway determination has been conditioned to require further detail and background of the impact of the current minimum lot size exemption as well as additional justification why the controls should be removed.

A planning proposal of this nature is the best means to achieve the objectives and intended outcomes, as it is the only means of amending the MWLEP 2012 and it also provides the opportunity for community feedback and suggestions to Council on the proposed changes.

## 3 Strategic assessment

### 3.1 Regional Plan

From an assessment of the planning proposal against the Central Western and Orana Regional Plan 2041 (Regional Plan), the key objective relevant to the proposal is Objective 14, ‘Plan for diverse affordable, resilient and inclusive housing.’

The Planning Proposal will provide for a minimum lots size of 450m<sup>2</sup> across the R1 General Residential zoning of Caerleon. The current controls, which provide no minimum lot size, facilitate the creation of small, constrained lots, with minimal frontage.

The Department is satisfied the planning proposal is consistent with the Regional Plan.

### 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement – Our Plan 2040	The planning proposal is considered consistent with Planning Priority 2 of the LSPS ‘Making available diverse, sustainable, adaptable and affordable housing options through effective land use planning’ as the proposal allows for the creation of more affordable and diverse housing.

### 3.3 Section 9.1 Ministerial Directions

Key applicable Directions are discussed in detail below.

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	<p>Direction 1.1 aims to give legal effect to the vision, land use strategy, goals directions and actions contained in Regional Plans. Planning proposals must be consistent with the relevant Regional Plan.</p> <p>As identified earlier in this report, the planning proposal is consistent with key objectives in the Central Western and Orana Regional Plan and this Direction.</p>

4.1 Flooding	Yes	<p>Direction 4.1 aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>The proposal is located outside of the flood planning area and is not likely to affect land mapped as flood planning.</p>
4.3 Planning for Bushfire Protection	Uncertain until consultation has occurred	<p>Direction 4.3 aims to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas; and encourage sound management of bush fire prone areas.</p> <p>The planning proposal will likely affect land mapped as bushfire-prone land and the direction is applicable.</p> <p>The Gateway determination requires consultation with the NSW RFS prior to undertaking community consultation.</p>
4.4 Remediation of Contaminated Land	Yes	<p>Direction 4.4 aims to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The proposal will likely affect land identified as contaminated. However, the nature of this proposal does not change the zone or alter permissibility on the land. Any subsequent development application to Council would need to fully address potential contamination and remediation. The planning proposal is considered consistent.</p>

6.1 Residential Zones	No - justified	<p>Direction 6.1 aims to encourage a variety and choice of housing types to provide for existing and future housing needs; make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and minimise the impact of residential development on the environment and resource lands.</p> <p>The planning proposal will affect land mapped in residential zones and is applicable.</p> <p>The planning proposal is inconsistent with the terms of the direction as it seeks to reduce the residential density permitted on the land. However, the inconsistency with the direction is justified given the proposed density is supported by a Caerleon Masterplan and DCP.</p>
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### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all SEPPs. There are no specific SEPPs that are directly applicable to the amendments that form part of this proposal LEP amendment.

## 4 Site-specific assessment

### 4.1 Environmental

No direct or adverse environmental impacts are anticipated because of this planning proposal.

Any subsequent development application to Council utilising the proposed provisions would need to fully address potential environmental impacts.

### 4.2 Social and economic

The planning proposal is likely to result in positive social and economic impacts as it will still enable medium density housing on a range of lots around land in Zone MU1 Mixed Use. The proposed amendments are also consistent with the adopted DCP that applies to this area.

### 4.3 Infrastructure

No significant or adverse infrastructure impacts are anticipated because of this planning proposal.

The proposal will not trigger an upgrade or increased reliance on public infrastructure, as the intent is not to increase the density of development in the subject area.



## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 20 days.

The exhibition period proposed is considered appropriate, and forms a condition on the Gateway determination.

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted. It is recommended that the No consultation with Government agencies is required.

## 6 Timeframe

Council proposes a 6-9 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 22 February 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council does not request delegation to be the local plan-making authority.

As the planning proposal is minor in nature and is of local significance the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that the planning proposal is consistent with the relevant section 9.1 Directions except for 4.3 Planning for Bushfire Protection which will require consultation with the NSW RFS.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated to:
  - Include mapping of the proposed changes to the Lot Size Map.
  - List all the lots that are incorporated in the amendment
  - provide further detail and background on the impact of the existing minimum lot size exemption clause and justification why the controls should be removed.
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.

3. Consultation with NSW RFS is required.

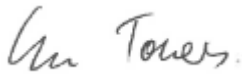
Given the nature of the planning proposal, it is recommended that the Gateway determination authorise council to be the local plan-making authority and that an LEP completion date of 22 February 2025 be included on the Gateway.



13/5/24

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