



*Looking After
our Community*

PLANNING PROPOSAL
HOUSEKEEPING
AMENDMENT 2022/23

20 SEPTEMBER 2022

MID-WESTERN REGIONAL COUNCIL
STRATEGIC PLANNING

■ ■ ■ ■ ■ TOWARDS 2030



Version	Date	Notes
V001	September 2022	PP reported to Oct Council
V002	November 2022	PP amended prior to Gateway Determination
V003	November 2022	PP amended prior to Public Exhibition

Table of Contents

Overview	4
Introduction	4
Background	4
Part 1 – Objectives or Intended Outcome	5
Part 2 – Explanation of Provisions	6
Part 3 – Justification	7
Section A - Need for the Planning Proposal	7
Section B - Relationship to Strategic Framework	7
Section C - Environmental, Social and Economic Impact.....	12
Section D - State and Commonwealth Interests.....	12
Part 4 – Mapping	14
Part 5 – Community Consultation	15
Part 6 – Project Timeline	16
Proposed Timeline	16

Overview

Introduction

The Planning Proposal Mid-Western Regional Local Environmental Plan Housekeeping 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 change to the MWRLEP 2012:

Facilitate the erection of dwellings on lots Lot 1 and Lot 2 DP 1278320.

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 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.

The following clause was drafted for the MWRLEP 2012:

4.2A Erection of dwelling houses and dual occupancies on land in certain zones, specifically subclause (3) (c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement.

The above MWRLEP 2012 clause did not account for the situation where a development application for subdivision was lodged under the previous LEP but not determined and lots registered until after commencement of the current LEP.

A search of Council's subdivision development approvals has established Lot 1 and Lot 2 DP 1278320 are the only lots that the erection of a dwelling can't be achieved under the MWRLEP 2012.

Lots 1 and 2 DP 1278320 were created by a Council approved subdivision, Development Consent DA0351/2012. The lots were created in accordance with the previous environmental planning instrument, 40 hectare lots were permissible. The subdivision and lots were approved and created with the intention that they would have a dwelling entitlement to facilitate the future erection of a dwelling.

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.	Reduce the minimum lot size to 40 hectares.	Lot 1 and Lot 2 DP 1278320.	Facilitate the development of dwelling houses on subject lots.

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. Reduce the minimum lot size to 40 hectares.	Map Lot 1 and Lot 2 DP 1278320 as AB4 40 hectares on Lot Size Map – Sheet LSZ_007

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 is not a direct result of any specific strategic study or report. The Planning Proposal is to correct a minor oversight in the drafting of the MWRLEP 2012.

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

The proposed mapping amendment outlined in this Planning Proposal is the best means of achieving the Objectives and Intended Outcomes outlined above.

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?

Central West and Orana Regional Plan 2036

The Planning Proposal has links to the following Directions of the Central West and Orana Regional Plan 2036:

Direction 12: Plan for greater land use compatibility

The proposed amendment is to correct an error in the drafting the MWLEP 2012. The use of the subject lots for dwellings was permissible under the previous EPI, accordingly, the proposed is consistent with Direction 12.

The Actions listed under Direction 12 have been considered below:

12.1 Conduct a pilot study with Central NSW Councils (CENTROC) to investigate practical on-ground mechanisms to help avoid land use conflict between intensive agricultural uses and other sensitive uses.

Not applicable.

12.2 Identify and protect important agricultural land in local plans.

The subject site was identified for the use of dwellings under the previous EPI.

12.3 Create local strategies to limit urban and rural housing development in agricultural and extractive resource areas, industrial areas and transport corridors.

The Planning Proposal does not result in the need to amend the Comprehensive Land Use Strategy.

12.4 Amend planning controls to deliver greater certainty of land use.

The Planning Proposal will result in the certainty for the erection of dwellings on the subject lots.

12.5 Provide non-statutory guidance on appropriate and sympathetic land use in areas where land use conflicts occur.

Not applicable.

Direction 28: Manage rural residential development

Mid-Western Regional 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 regions.

Actions 28.1 Locate new rural residential areas:

- *close to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewer and waste services, and social and community infrastructure;*
- *to avoid and minimise the potential for land use conflicts with productive, zoned agricultural land and natural resources; and*
- *to avoid areas of high environmental, cultural or heritage significance, regionally important agricultural land or areas affected by natural hazards.*

The Planning Proposal relates to lots created for agricultural purposes.

Draft Central West and Orana Regional Plan 2041

The Planning Proposal has links to the following Objectives/Actions/Strategies of the Draft Central West and Orana Regional Plan 2041.

Objective 9: Manage rural residential development

The Planning Proposal relates to the erection of dwellings rural lots.

Objective 13: Protect agricultural production values and promote agriculture innovation, sustainability and value-add opportunities

The former Rylstone Shire facilitated the development of dwellings on lots with a minimum lot size of 40 hectares. The change to the minimum lot size will not result in the creation of additional lots.

Strategy 13.1

Use strategic planning and local plans to:

- *identify and enable emerging opportunities for agriculture, including agriculture innovation and value-add opportunities such as on farm processing that includes provisions for intensification of industry, farm gate sales and small-scale value adding manufacturing that advantages the differentiation of the local produce*

The lots created will accommodate the various agricultural enterprise.

- *encourage local food supply and consumption*

The provision of entitlement will not hinder supply or consumption.

- *protect agricultural land and industries from land use conflicts and fragmentation*

The proposed change to the minimum lot size will not create an opportunity for subdivision.

- 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

The subject lots are not mapped, developed for irrigation or other special use lands. The Planning Proposal will not result in fragmentation and future dwellings will be subject to stipulated setbacks to provide separation to adjoining land uses.

- *enable freight and logistics precincts and intermodal hubs to grow and adapt to changing needs*

Not applicable.

- *support sustainable and efficient use of water by agricultural industries*

The Planning Proposal will facilitate the erection of dwellings on the subject lots. The dwellings are required to provide their own water supply. The Planning Proposal will not hinder any potential agricultural enterprises requiring water.

Strategy 13.2

Strategic and local planning should maintain and protect the productive capacity of agricultural land in the region.

The Planning Proposal is consistent with this Strategy item.

Strategy 13.3

Use strategic and local planning to consider the quality of the land for agriculture and the scarcity of productive agricultural land in the region when making decisions regarding:

- *the permissibility of compatible non-agricultural land uses in rural zones, without compromising agricultural production*

The zoning and accordingly, the permissibility is not changing.

- *minimum lot sizes, standards for dwellings and limiting land fragmentation*

The Planning Proposal will not result in the fragmentation of

- *farm boundary adjustments and subdivisions to create a lot for primary production*

The Planning Proposal does not relate to the creation of lots.

- *identifying suitable areas for smaller agricultural holdings for activities such as horticulture, whether these areas are suitable for inclusion in the primary production small lot zone, and ensure they are not developed for rural residential use.*

Such land uses are currently permissible.

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 of such a minor nature; this question is not relevant.

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

The Planning Proposal is of such a minor nature; this question is not relevant.

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 dwelling 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	
-	
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 zoning of the land is not proposed to change, only the minimum lot size.
9.2 - Rural Lands	Consistent – The minimum lot size is changing, however, the Planning Proposal is making provision for a consistent approval granted under the previous EPI. It should be noted, the Council approved subdivision has been approved and the lots created. This Planning Proposal will not result in the creation of additional lots. It is considered the erection of dwellings on the subject lots will impact the current and proposed agricultural enterprises. The Planning Proposal does not relate to a rural residential land supply.
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 site specific constraints were considered in the assessment of the previous development application for subdivision.

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?

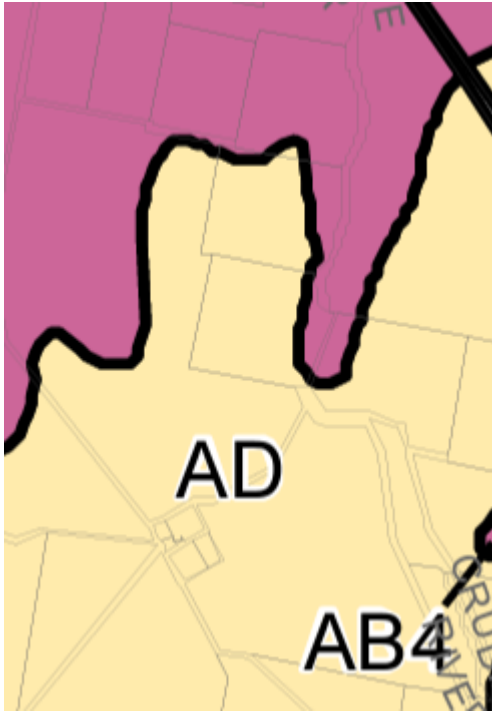
Not applicable as the Planning Proposal will not trigger an upgrade or reliance on public infrastructure.

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

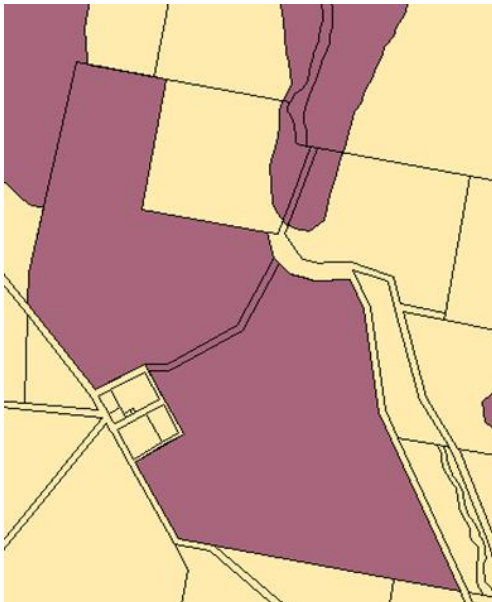
Not applicable due to the nature of the Planning Proposal.

Part 4 – Mapping

Lot Size Map – Sheet LSZ_007, Map Identification Number: 5270_COM_SLZ_007_160_20120619 will be updated to map Lot 1 and 2 DP 1278320 as AB4 40ha.



Existing Lot Size Map – Sheet LSZ_007 (relevant excerpt)



Proposed Lot Size Map – Sheet LSZ_007 (relevant excerpt)

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 Local Environmental Plan Making Guideline 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 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	November 2022
Completion of Technical Information	N/A
Agency Consultation	November/December 2022, January 2023
Public Exhibition	January 2023
Consideration of Submissions	February 2023
Legal Drafting & Opinion	February 2023
Finalisation	March 2023