



New South Wales

# **Mid-Western Regional Local Environmental Plan 2012 (Amendment No 11)**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

**AZARIA DOBSON**

As delegate for the Minister for Planning

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### **1 Name of Plan**

This Plan is *Mid-Western Regional Local Environmental Plan 2012 (Amendment No 11)*.

### **2 Commencement**

This Plan commences on the day on which it is published on the NSW legislation website.

### **3 Land to which Plan applies**

This Plan applies to the land to which *Mid-Western Regional Local Environmental Plan 2012* applies.

### **4 Maps**

The maps adopted by *Mid-Western Regional Local Environmental Plan 2012* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Plan.

## **Schedule 1      Amendment of Mid-Western Regional Local Environmental Plan 2012**

**[1]    Clause 2.1 Land use zones**

Insert in appropriate order under the heading “**Special Purpose Zones**”:

SP1 Special Activities

**[2]    Land Use Table**

Insert after the matter relating to Zone IN3 Heavy Industrial:

### **Zone SP1 Special Activities**

**1    Objectives of zone**

- To provide for special land uses that are not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.
- To provide for dwellings incidental to aviation-related activities.

**2    Permitted without consent**

Nil

**3    Permitted with consent**

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose

**4    Prohibited**

Any development not specified in item 2 or 3

**[3]    Clause 4.1BB**

Insert after clause 4.1A:

**4.1BB    Minimum lot sizes for certain land with split minimum lot sizes**

- (1) The objectives of this clause are as follows:
  - (a) to provide for the subdivision of lots that contain land with more than one minimum lot size, but cannot be subdivided under clause 4.1,
  - (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.
- (2) Despite clause 4.1, development consent may be granted to the subdivision of land in Zone RU1 Primary Production to create other lots (the **resulting lots**) only if:
  - (a) at least one of the resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and

- (b) any resulting lot that contains land that has an area that is less than the minimum size shown on the Lot Size Map in relation to that land does not have a dwelling erected on it.

**[4] Clause 4.1E**

Insert before clause 4.2:

**4.1E Subdivision of land in Zone RU1 for non-agricultural land uses**

- (1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of dwelling houses or dual occupancies.
- (2) Land in Zone RU1 Primary Production may be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that the use of the land after the subdivision will be the same use permitted under the existing development consent for the land (other than for the purpose of a dwelling house or dual occupancy).
- (3) Development consent must not be granted for the subdivision of land in Zone RU1 Primary Production unless the consent authority is satisfied that:
  - (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and
  - (b) the subdivision is necessary for the ongoing operation of the permissible use, and
  - (c) the subdivision will not increase rural land use conflict in the locality, and
  - (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

**[5] Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain zones**

Omit “created” from clause 4.2A (3) (b). Insert instead “or holding that existed”.

**[6] Clause 4.2A (3) (d)**

Omit the paragraph. Insert instead:

- (d) is an existing holding that is not within Zone R5 Large Lot Residential, or

**[7] Clause 4.2A (3) (e)**

Omit “(a)–(e)”. Insert instead “(a)–(d)”.

**[8] Clause 4.2A (3) (f)–(i)**

Omit clause 4.2A (3) (f) and (g). Insert instead:

- (f) is, in the case of land within 500 metres of land within Zone RU5 Village, a lot that has an area of at least 5 hectares, that has a sealed road frontage and that is connected to the sealed road network, or
- (g) is a holding within Zone R5 Large Lot Residential that has an area of at least 5 hectares, that has all weather access, including all weather vehicular access, to which adequate services provided by public utility undertakings are available and that is suitable for the on-site disposal of domestic wastewater, or

- (h) is a former holding, or
- (i) is a former rural lot that has an area of at least 40 hectares.

**[9] Clause 4.2A (5)**

Omit the definition of *existing holding*. Insert instead:

*existing holding* means land that:

- (a) was a holding on the relevant date, and
- (b) is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in the ownership of the holding since the relevant date,

and includes any other land adjoining that land acquired by the owner since the relevant date.

*former holding* means land:

- (a) that was a holding on 9 August 2012, and
- (b) that is a holding at the time the application for development consent referred to in subclause (3) is lodged, whether or not there has been a change in ownership of the holding since 9 August 2012, and
- (c) that is at least the minimum lot size applicable under the environmental planning instrument that applied to the land immediately before the commencement of this Plan.

*former rural lot* means a lot:

- (a) located in the former Mudgee, Rylstone or Merriwa local government areas, and
- (b) that was created prior to the commencement of this Plan, and
- (c) on which the erection of a dwelling house was permissible immediately before that commencement, and
- (d) that is in Zone RU1 Primary Production, and
- (e) in respect of land in the former Mudgee local government area—that was held in separate ownership from any adjoining land on 11 February 1985.

**[10] Clause 4.2C**

Insert after clause 4.2B:

**4.2C Boundary changes for farm adjustments**

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of the relevant zone.
- (2) This clause applies to land in any of the following zones:
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU4 Primary Production Small Lots,
  - (c) Zone R5 Large Lot Residential,
  - (d) Zone E3 Environmental Management.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:
  - (a) an increase in the number of lots,

- (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
  - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
  - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
  - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
  - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
  - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply:
  - (a) in relation to the subdivision of lots in a strata plan or of land under the *Community Land Development Act 1989*, or
  - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

**[11] Schedule 4 Classification and reclassification of public land**

Omit “Nil” from Column 1 of Part 2.

Insert the following in Columns 1, 2 and 3, respectively:

Gulgong	40 Fisher Street, Lot 2, DP 718061	Nil
Gulgong	20 Tallawang Road, Lot 3, DP 626037	Easement for transmission line (L310591) as noted on Certificate of Title Folio Identifier 3/626037
Mudgee	2A Banjo Paterson Avenue, Lot 157, DP 1082615	Easement for transmission line (BK 3413 No 415) as noted on Certificate of Title Folio Identifier 157/1082615
Mudgee	3A Banjo Paterson Avenue, Lot 158, DP 1082615	Nil
Mudgee	69 Banjo Paterson Avenue, Lot 271, DP 1175650	Easement to drain water (DP 1082615) and easement to drain water (DP 1167671) as noted on Certificate of Title Folio Identifier 271/1175650
Mudgee	40–48 Bellevue Road, Lot 14, DP 1184367	Nil
Mudgee	76A Bellevue Road, Lot 19, DP 1020110	Restrictions on the use of land (DP 1020110) as noted on Certificate of Title Folio Identifier 19/1020110

Mudgee	3 Court Street, Lot 23, DP 816236	Easements affecting the parts shown so burdened in the title diagram created by: DP 749570 easement to drain water variable width and restrictions on the use of land (DP 816236) as noted on Certificate of Title Folio Identifier 23/816236
Mudgee	11 Doug Gudgeon Drive, Lot 1, DP 1182613	Nil
Mudgee	3A Industrial Road, Lot 82, DP 1127630	Nil
Mudgee	14 Lisbon Road, Lot 18, DP 788035	Restrictions on the use of land (DP 788035) as noted on Certificate of Title Folio Identifier 18/788035
Mudgee	16A Lisbon Road, Lot 2, DP 802143	Easements appurtenant to the land created by: DP 802143 easement to drain water as noted on Certificate of Title Folio Identifier 2/802143
Mudgee	44A Mortimer Street, Lot A, DP 408150	Nil
Mudgee	Corner of Queens Pinch Road and Wallinga Lane, Lot 1, DP 1181314	Nil
Mudgee	152 Robertson Street, Lot 18, DP 1110787	Restrictions as to user (DP 1110787) as noted and numbered 2 and 3 on Certificate of Title Folio Identifier 18/1110787
Mudgee	30 Vera Court, Lot 33, DP 1087576	Easement to drain sewage (DP 1080214), easement to drain water (DP 1080214) and restrictions on the use of land (DP 1080214) as noted on Certificate of Title Folio Identifier 33/1087576
Mudgee	15 White Circle, Lot 49, DP 1062044	Nil
Mudgee	49A White Circle, Lot 2, DP 1182624	Easement to drain sewage (DP 1036575) and restrictions on the use of land (DP 1036575) as noted on Certificate of Title Folio Identifier 2/1182624
Mudgee	65A White Circle, Lot 199, DP 1089672	Easement to drain water (DP 1082615) as noted on Certificate of Title Folio Identifier 199/1089672
Mudgee	72 White Circle, Lot 227, DP 1119919	Easement to drain water (DP 1082615) as noted on Certificate of Title Folio Identifier 227/1119919
Mudgee	85–95 White Circle, Lot 228, DP 1119919	Easement to drain water (DP 1082615) as noted on Certificate of Title Folio Identifier 228/1119919
Mudgee	29 Woodside Close, Lot 29, DP 871844	Nil
Ulan	15 Spring Street, Lot 7, Section 1, DP 759017	Covenant (U793262) as noted on Certificate of Title Folio Identifier 7/1/759071