

8.6 Planning Proposal Lot 2 DP 1055152, 85 Rocky Waterhole Road, Mount Frome

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 21 AUGUST 2019 ORDINARY MEETING
GOV400067, LAN900094

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 2 DP 1055152, 85 Rocky Waterhole Road, Mount Frome;**
2. **provide initial support for the Planning Proposal in relation to the rezoning of part of Lot 2 DP 1055152, 85 Rocky Waterhole Road, Mount Frome from RU1 Primary Production to RU4 Primary Production Small Lots and E3 Environmental Management and change the minimum lot size from 100 hectares to 20 hectares and 400 hectares for the area to be zoned RU4 Primary Production Small Lots and E3 Environmental Management respectively;**
3. **forward the Planning Proposal to amend the *Mid-Western Regional Local Environmental Plan 2012* to the NSW Department of Planning Industry and Environment seeking a Gateway Determination, in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*; and**
4. **undertake community consultation as outlined within any approved Gateway Determination.**

Executive summary

Council has received a Planning Proposal to rezone part of Lot 2 DP 1055152 from RU1 Primary Production to RU4 Primary Production Small Lots and E3 Environmental Management and reduce the minimum lot size from 100 to 20 hectares and 400 respectively. The potential future maximum lot yield would be three; however, a concept subdivision plan has been provided that demonstrates a two-lot subdivision.

The subject site measures approximately 113 hectares and is split zoned RU1 Primary Production (measuring approximately 76 hectares) and E3 Environmental Management (measuring approximately 37 hectares).

The subject site is currently developed with a dwelling; a vineyard (16.5 hectares), cherry orchard (3 hectares) and cellar door (with an attached secondary dwelling) and is located at 85 Rocky Waterhole Road.

The Planning Proposal provided as Attachment 1 has been prepared generally in accordance with the structure outlined in the NSW Department of Planning and Environment's (DP&E) Guide to Preparing Planning Proposals. The report outlines the context, intended outcomes, explanation of provisions and justification for the Planning Proposal.

A key consideration for staff is agricultural capability and the provision of an adequate water supply to support various intensive agricultural uses on any future lots. The proponent has appropriately demonstrated this and addressed it in the body of the report.

The staff recommendation is to provide initial support for the Planning Proposal and to send to Department of Planning, Industry and Environment (DPIE) for a Gateway Determination. If the staff recommendation is supported, the Planning Proposal along with the Council resolution will be forwarded to DP&E for Gateway Determination.

Disclosure of Interest

Nil.

Detailed report

Planning Proposals

Planning Proposal is a term used to describe the process of rezoning or making an amendment to a Local Environmental Plan (LEP). A Planning Proposal application is a document that explains the intended effect of the LEP amendment and provides a strategic justification for doing so. NSW Department of Planning & Environment (DP&E) has issued A Guide to Preparing Planning Proposals, to provide guidance and information on the process for preparing planning proposals.

The Gateway Process

DPIE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DP&E's A Guide to Preparing Local Environmental Plans.

Gateway Timeline

The following table summarises the key components of making an amendment to the Mid-Western Regional Local Environmental Plan and the progress of the current Planning Proposal through the various stages. The below table demonstrates the Planning Proposal is within the initial stage of the process.

Stage	Completed	Comment
Preparation of a Planning Proposal		
Planning Proposal lodged with Council	✓	December 2018
Staff Undertake Initial Assessment	✓	December 2018 – August 2019, further information requested, submitted by the proponent during this period and assessed by Council staff. The focus of the further information was around the provision of an adequate water supply.
Council Decision to Support Proposal	✓	The Planning Proposal is being reported to 21 August 2019 meeting.
Issue of Gateway Determination		
Council Requests Gateway Determination		
DP&E Issues Gateway Determination		
Gateway Conditions Satisfied		
Consultation		
Consultation with Relevant Agencies		
Public Exhibition		
Post-Exhibition Report to Council		
Finalisation of the Planning Proposal		
Council Exercises Delegation to Prepare LEP		
Draft LEP by Parliamentary Council		
Opinion Issued and LEP Made		

CONTEXT

The subject site is located at 85 Rocky Waterhole Road, Mount Frome and is developed with a dwelling, vineyard, cherry orchard and cellar door (with an attached secondary dwelling). The site is currently spilt zone RU1 Primary Production and E3 Environmental Management and has minimum lots size of 100 and 400 hectares respectively.

The area of the lot zoned E3 Environmental Management is under the minimum lot size of 400 hectares and is currently vegetated, the vegetation and Soil Class 8 (Extreme Limitations) extends beyond the E3 Environmental Management zone boundary. The Planning Proposal includes the rezoning of this area from RU1 to E3 Environmental Management. This will increase the area of land zoned E3 Environmental Management from 37 hectares to approximately 45.8ha (subject to a survey). This will result in an area of approximately 65 hectares to be zoned RU4 Primary Production Small Lots.

Clause 4.2B Dwelling houses on land in Zone RU4 Primary Production Small Lots of the LEP stipulates requirements for the erection of dwellings houses on land in Zone RU4 Primary Production Small Lots. Clause 4.2B (2) (b) and (d) details the requirements of the land being used for an intensive agricultural pursuit and has a water supply to support that pursuit. Accordingly, the proponent was required to demonstrate the agricultural capability of the land and detail an adequate water supply.

Agricultural Capability

The subject site has a land and soil capability of Class 4 Moderate to Severe Limitations and Class 8 Extreme Limitations. There is no Class 1 Extremely High Capability Land located within the local government area and only limited Class 2 Very High Capability Land located on the northern extremities of the local government area.

The area zoned currently and the area proposed to be zoned E3 Environmental Management generally aligns with the area of the site identified at Class 8 Extreme Limitations.

Within the local government area, the land currently zoned RU4 Primary Production Small Lots comprises land and soil capability Class 3 High Capability Land and Class 4 Moderate Capability Land. The proponent also detailed the agricultural capability of the land with the consideration of the Soil Landscapes of Dubbo; this further supports the potential agricultural capability of the land.

Water Supply

The Water Resources Plan (Plan) details a licenced water supply of 228 mega litres. Copies of the licences have been provided. The Plan details a water application rate of 4.9 mega litres per hectare. This application rate is consistent with rates previously approved by Council and the Australian Bureau of Statistics, Water Use on Australian Farms by Commodity.

The Planning Proposal would result in an area of 68 hectares to be zoned RU4 Primary Production Small Lots. The minimum lot size for the RU4 zone is 20 hectares. This equates to a maximum lot yield of three. It has been demonstrated with previous approvals of Council that an intensive agricultural pursuit area of 15 hectares is reasonable to assume.

Accordingly, utilising the water application rate of 4.9 hectares at 15 hectares per lot, results in a required water volume of 73.5 mega litres per lot. The potential maximum lot yield is three multiplied by 73.5 mega litres, which equates to 220.5 mega litres, and therefore there is sufficient licenced water to support a variety of future intensive agricultural uses on the potential lots created.

INTENDED OUTCOMES

The intended outcome is that the area of Lot 2 DP 1055152 currently zoned RU1 Primary Production with a minimum lot size of 100 hectares, be rezoned to RU4 Primary Production Small Lots and E3 Environmental Management with a minimum lot size of 20 and 400 hectares respectively.

EXPLANATION OF PROVISIONS

The intended outcomes outlined above will be achieved with an amendment to the *Mid-Western Regional Local Environmental Plan 2012*:

1. Amending the zone indicated on Land Zoning Map – Sheet LZN_006 from RU1 Primary Production **to** RU4 Primary Production Small Lots and E3 Environmental Management.
2. Amending the minimum lot size indicated on the Lot Size Map – Sheet LSZ_006 from (AD) 100 hectares **to** (AB3) 20 hectares and (AF) 400 hectares.

JUSTIFICATION

The DPIE guide to preparing Planning Proposals outlines eleven questions to be addressed in the Planning Proposal, the proponent has addressed the eleven questions.

NEXT STEP

The recommendation of staff is to provide initial support for the Planning Proposal and forward to DPIE for a Gateway Determination. If Council accepts this recommendation, the next step would involve forwarding the Planning Proposal and a Council resolution of initial support to DP&E seeking a Gateway Determination.

Community Plan implications

Theme	Looking After Our Community
Goal	Vibrant towns and villages
Strategy	Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning

Strategic implications

Council Strategies

The Planning Proposal will result in the reduction of one RU1 Primary Production zoned lot and an additional two RU4 Primary Production Small Lots. Council currently has 623,192 hectares of land zoned RU1 Primary Production. This reduction of land represents 0.012 percent of the total. This reduction is considered acceptable. Council's Comprehensive Land Use Strategy has limited detail around the need for additional land zoned RU4 Primary Production Small Lots, so this Planning Proposal has been considered on its merit and specific emphasis has been placed on agricultural capability and water supply to recommend initial support.

Council Policies

The forwarding of the Planning Proposal will not require any change to relevant policies.

Legislation

The Planning Proposal has been considered in accordance with Division 3.4 Environmental Planning Instruments - LEPs (previously Division 4) Local Environmental Plans of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Local Environmental Plan 2012*.

Financial implications

The current lot is unserviced and any future lots will not be serviced by Council's reticulated water and sewer infrastructure, accordingly there are no financial implications for Council.

Associated Risks

If Council does not wish to provide initial support for the Planning Proposal, Council may resolve not to proceed with the Planning Proposal and advise the proponent accordingly.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

24 April 2019

Attachments: 1. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER