

8.3 Housekeeping Amendment to Mid-Western Regional Local Environmental Plan 2012 - Post Exhibition

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 15 MAY 2019 ORDINARY MEETING
GOV400067, LAN900095

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Strategic Planning on the Housekeeping Amendment to Mid-Western Regional Local Environmental Plan 2012 - Post Exhibition; and**
2. **exercise its delegation in the preparation of the amendment to the *Mid-Western Regional Local Environmental Plan 2012* to enable the future subdivision of lots with a minimum area of 2 or 5 hectares within Area D locations as marked on the Lot Size Maps, under the *Community Land Development Act 1989* subject to the Opinion issued by Parliamentary Counsel.**

Executive summary

At Council's 20 March 2019 meeting, Council resolved to support the Planning Proposal and to forward it to the NSW Department of Planning and Environment (DP&E) for a Gateway Determination. A conditional Gateway Determination was granted in March 2019. A copy of the Gateway Determination is provided as Attachment 1.

Council previously supported three Planning Proposals to facilitate the subdivision of lots with a minimum of either 2 or 5 hectares. An error was made during the legal drafting of the Clause resulting in the inability to create lots under the *Community Land Development Act 1989*. Lots can only be created as Torrens Title based on the current legislation. As advised by DP&E, this Housekeeping Amendment will rectify the error. A copy of the Planning Proposal is provided as Attachment 2.

The Planning Proposal was placed on public exhibition from Friday 29 March 2019 and concluded Friday 12 April 2019. No submissions were received during the public exhibition period.

The purpose of this report is to provide Council with a post exhibition report and to seek Council's approval to exercise its delegation in finalising the Planning Proposal.

Disclosure of Interest

Nil.

Detailed report

BACKGROUND

Planning Proposals

The term Planning Proposal is used to describe the process of rezoning or making an amendment to a Local Environmental Plan. 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

DP&E 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 2012 and the progress of the current Planning Proposal through the various stages.

Stage	Completed	Comment
Preparation of a Planning Proposal		
Planning Proposal Drafted	✓	February 2019.
Staff Undertake Initial Assessment	✓	No assessment required as the Planning Proposal is a housekeeping amendment and has been prepared by Staff.
Council Decision to Support Proposal	✓	Planning Proposal reported to 20 March 2019 meeting.
Issue of Gateway Determination		
Council Requests Gateway Determination	✓	21 March 2019.
DP&E Issues Gateway Determination	✓	26 March 2019.
Gateway Conditions Satisfied	N/A	No specific gateway conditions to satisfy prior to public exhibition. Four standard conditions were included in the determination.
Consultation		
Consultation with Relevant Agencies	N/A	No agency consultation required.
Public Exhibition	✓	29 March 2019 – 12 April 2019
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 15 May 2019 meeting.
Finalisation of the Planning Proposal		
Council Exercises Delegation to Prepare LEP		
Draft LEP by Parliamentary Council		
Opinion Issued and LEP Made		

GATEWAY DETERMINATION

A conditional Gateway Determination was received on the 23 March 2019 and included four standard conditions.

CONSULTATION

Condition 1 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 14 days.

Community Consultation

The Planning Proposal and associated documentation was placed on public exhibition from Friday 29 March 2019 and concluded Friday 12 April 2019. The Community Consultation was undertaken in accordance with DP&E A Guide to Preparing Local Environmental Plans. No submissions were received.

FINALISATION OF PLANNING PROPOSAL

The recommendation of staff is to proceed with the finalisation of the Planning Proposal. This will involve drafting LEP provisions.

Draft LEP

Included, as part of the Gateway Determination is a written Authorisation to Exercise Delegation of the Minister's functions under Section 3.36 (previously Section 59) of the *Environmental Planning and Assessment Act 1979*. The documentation will be forwarded to the Office of Parliamentary Counsel to draft the amendment to the LEP and seek an Opinion that the plan may be made. A copy of the request will be forwarded to DP&E – Western Region. Following the receipt of the Opinion, a request that the LEP amendment be notified will be made.

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 is consistent with the Mid-Western Regional Comprehensive Land Use Strategy Part C – Strategy, Addendum – 2 Hectares Criteria.

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 parent lots (and part lots) remain 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 proceed with finalisation of the Planning Proposal, it can withdraw its support at this stage in the Gateway Process. Council would be required to formally resolve not to proceed with the Planning Proposal and advise the proponent and DP&E accordingly.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

30 April 2019

Attachments: 1. Gateway Determination. (separately attached)
2. Planning Proposal. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER