Item 8: Development

8.1 Planning Proposal Lot 2 DP 1055152 85 Rocky Waterhole Road, Mount Frome - Post Exhibition

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 15 APRIL 2020 ORDINARY MEETING
GOV400087, 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 - Post Exhibition; and

2. exercise its delegation in the preparation of the amendment to the Mid-Western Regional Local Environmental Plan 2012 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 subject to the Opinion issued by Parliamentary Counsel.

Executive summary

At Council’s 21 August 2019 meeting, Council resolved to support the Planning Proposal and to forward it to the NSW Department of Planning Industry and Environment (DPIE) for a Gateway Determination. The Planning Proposal relates 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. A copy of the Planning Proposal is provided as Attachment 1.

A Gateway Determination was sought in relation to the Planning Proposal. A conditional Gateway Determination was granted and received by Council on 14 October 2019. A copy of the Gateway Determination is provided as Attachment 2.

The Planning Proposal was placed on public exhibition from Friday 6 December 2019 and concluded Friday 13 January 2020 in accordance with Council's Community Participation Plan. No submissions were received.

The Planning Proposal was referred to the NSW Rural Fire Service in accordance with Gateway Determination condition 4. A response from the NSW Rural Fire Service (NSW RFS) was received on 30 March 2020, a copy of this response is provided as Attachment 3.
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

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 Industry & Environment (DPIE) 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 DPIE’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.

<table>
<thead>
<tr>
<th>Stage</th>
<th>Completed</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparation of a Planning Proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planning Proposal lodged with Council</td>
<td>✔</td>
<td>December 2018</td>
</tr>
<tr>
<td>Staff Undertake Initial Assessment</td>
<td>✔</td>
<td>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.</td>
</tr>
<tr>
<td>Issue of Gateway Determination</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council Requests Gateway Determination</td>
<td>✔</td>
<td>4 September 2019</td>
</tr>
<tr>
<td>DP&amp;E Issues Gateway Determination</td>
<td>✔</td>
<td>14 October 2019</td>
</tr>
<tr>
<td>Gateway Conditions Satisfied</td>
<td>✔</td>
<td>20 November 2019</td>
</tr>
<tr>
<td>Consultation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consultation with Relevant Agencies</td>
<td>✔</td>
<td>3 December 2019 – 30 March 2020</td>
</tr>
<tr>
<td>Public Exhibition</td>
<td>✔</td>
<td>6 December 2019 – 13 January 2020</td>
</tr>
<tr>
<td>Post-Exhibition Report to Council</td>
<td>✔</td>
<td>15 April 2020</td>
</tr>
<tr>
<td>Finalisation of the Planning Proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council Exercises Delegation to Prepare LEP</td>
<td></td>
<td></td>
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<tr>
<td>Draft LEP by Parliamentary Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opinion Issued and LEP Made</td>
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</table>

GATEWAY DETERMINATION
A conditional Gateway Determination was received on 14 October 2019 and included 7 standard conditions.
CONSULTATION

Condition 3 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 28 days. No submissions were received.

Agency Consultation

The NSW RFS were consulted in accordance with Gateway Determination condition 4. The submission is provided as Attachment 3. The submission states that any future development on the proposed RU4 zoned land is required to demonstrate compliance with the relevant provisions of Planning for Bush Fire Protection 2019, based on the nature of proposed works. All proposals need to consider the bush fire risk posed by the proposed E3 zoned land retaining native vegetation of high biodiversity value.

It should be noted that any future development application for subdivision would be considered integrated development.

Community Consultation

The Planning Proposal and associated documentation was placed on public exhibition from Friday 6 December 2019 and concluded Friday 13 January 2020. The Community Consultation was undertaken in accordance with DPIE A Guide to Preparing Local Environmental Plans and Council’s Community Participation Plan. 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 DPIE – Western Region. Following the receipt of the Opinion, a request that the LEP amendment be notified will be made.

Community Plan implications

<table>
<thead>
<tr>
<th>Theme</th>
<th>Looking After Our Community</th>
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</thead>
<tbody>
<tr>
<td>Goal</td>
<td>Vibrant towns and villages</td>
</tr>
<tr>
<td>Strategy</td>
<td>Make available diverse, sustainable, adaptable and affordable housing options through effective land use planning</td>
</tr>
</tbody>
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Strategic implications

Council Strategies

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 continued support.

Council Policies
The steps involved towards the notification 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**
Nil.

**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 various landowners and DPIE accordingly.

SARAH ARMSTRONG
MANAGER, STRATEGIC PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

30 January 2020

*Attachments:*
1. Planning Proposal. (separately attached)
2. Gateway Determination. (separately attached)
3. NSW RFS Submission. (separately attached)

**APPROVED FOR SUBMISSION:**

BRAD CAM
GENERAL MANAGER