

## 8.3 Planning Proposal 58 Pitts Lane, Putta Bucca, Lot 2 DP 1252505 and Part of Lot 1 DP 125505 - Post Exhibition

REPORT BY THE MANAGER, STRATEGIC PLANNING  
TO 15 JUNE 2022 ORDINARY MEETING  
GOV400088, LAN900139, GOV400098

### RECOMMENDATION

#### That Council:

- A. receive the report by the Manager, Strategic Planning on the Planning Proposal 58 Pitts Lane, Putta Bucca, Lot 2 DP 1252505 and Part of Lot 1 DP 125505 - Post Exhibition; and**
- B. exercise its delegation in the preparation of the amendment to the Mid-Western Regional Local Environmental Plan 2012 to rezone from RU4 Primary Production Small Lots to RE1 Public Recreation with no minimum lot size and include a buffer and corresponding clause or similar to restrict and ensure future land uses consider odour subject to the Opinion issued by Parliamentary Counsel.**

### Executive summary

At Council's 16 March 2022 meeting, Council resolved to support the Planning Proposal and to forward it to the NSW Department of Planning and Environment (DPE) for a Gateway Determination. The Planning Proposal relates to 58 Pitts Lane, Putta Bucca, Lot 2 DP 1252505 and Part of Lot 1 DP 125505 and proposes to rezone from RU4 Primary Production Small Lots to RE1 Public Recreation with no minimum lot size and include a buffer and corresponding clause or similar to restrict and ensure future land uses consider odour.

A conditional Gateway Determination was granted on 9 May 2022. A copy of the Gateway Determination and Alteration is provided as Attachment 1.

Condition 1 of the Gateway Determination required that prior to the commencement of community consultation the Planning Proposal be updated to include Part of lot 1 DP 1252505. A copy of the amended Planning Proposal that was placed on public exhibition is provided as Attachment 2.

The Planning Proposal was placed on public exhibition on Monday 16 May 2022 until Monday 13 June 2022 in accordance with Gateway Determination Condition 2 (a) and (b) and the Department of Planning and Environment, *Local Environmental Plan Making Guideline*, December 2021. No submissions were received during the exhibition period.

Responses were received from both the Environmental Protection Authority and the Biodiversity, Conservation and Science Directorate of the Department of Planning and Environment.

The purpose of this report is to provide Council with a post exhibition report and to advise DPE to progress to the finalisation stage of the LEP making process.

## Disclosure of Interest

Nil

## Detailed report

### Planning Proposals

Planning Proposal is a term used to describe the application and 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. DPE has issued *Local Environmental Plan Making Guideline*, dated December 2021 to provide guidance and information on the process for preparing planning proposals.

### The Gateway Process

DPE is responsible for assessing Planning Proposals through the Gateway Process. Details of the Gateway Process are outlined in DPE's *Local Environmental Plan Making Guideline*.

### 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
<b>Preparation of a Planning Proposal</b>		
Planning Proposal lodged with Council	✓	10 January 2022
Staff Undertake Initial Assessment	✓	January – March 2022
Council Decision to Support Proposal	✓	16 March 2022
<b>Issue of Gateway Determination</b>		
Council Requests Gateway Determination	✓	4 April 2022
DPIE Issues Gateway Determination	✓	9 May 2022
Gateway Conditions Satisfied	✓	January 2022
<b>Consultation</b>		
Consultation with Relevant Agencies	✓	Agency consultation with: - Environmental Protection Authority. - Department of Planning Environment – Biodiversity and Conservation Division.
Public Exhibition	✓	Monday 16 May 2022 until Monday 13 June 2022
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 15 June 2022 meeting.
<b>Finalisation of the Planning Proposal</b>		
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 9 May 2022 and included five standard conditions. Condition 1 required the Planning Proposal to be updated to include part of Lot 1 DP

1252505. The Planning Proposal was updated prior to exhibition. The report was provided and the Planning Proposal was updated.

## CONSULTATION

### **Community Consultation**

Condition 2 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 28 days. During the public exhibition, no submissions were received.

### **Agency Consultation**

In accordance with Condition 3, the Planning Proposal was referred to the Environmental Protection Authority and the Department of Planning and Environment – Biodiversity and conservation Division.

A submission was received from the Environmental Protection Authority; the submission is provided as Attachment 3. The submission states the proposal does not appear to lead to development that will require an environment protection licence under the *Protection of the Environment Operations Act 1997*. Further, the submission stated, Environmental Protection Authority has no comments to provide on this project and no follow-up consultation is required.

A submission was received from the Biodiversity, Conservation and Science Directorate of the Department of Planning and Environment; the submission is provided as Attachment 4. The submission outlines the primary areas of interest for the Directorate. The submission details the site constraints of biodiversity and flooding and matters for consideration in the future stages of the development and relating to the road construction.

## FINALISATION OF PLANNING PROPOSAL

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

### **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 DPE – Western Region. Following the receipt of the Opinion, a request that the LEP amendment be notified will be made.

## Community Plan implications

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

## Strategic implications

### **Council Strategies**

Mid-Western Regional Comprehensive Land Use Strategy, August 2010.

### **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 landowners and DPE accordingly.

SARAH ARMSTRONG  
MANAGER, STRATEGIC PLANNING

ALINA AZAR  
ACTING DIRECTOR DEVELOPMENT

26 May 2022

*Attachments:*

1. Gateway Determination. (separately attached)
2. Planning Proposal. (separately attached)
3. Environmental Planning Authority Submission. (separately attached)
4. Biodiversity, Conservation and Science Directorate Submission. (separately attached)

### APPROVED FOR SUBMISSION:

SIMON JONES  
ACTING GENERAL MANAGER