

8.2 Planning Proposal 540 Buckaroo Road, Buckaroo, Lot 2 DP 1227923 - Post Exhibition

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 20 JULY 2022 ORDINARY MEETING
GOV400098, LAN900136

RECOMMENDATION

That Council:

- A. receive the report by the Manager, Strategic Planning on the Planning Proposal 540 Buckaroo Road, Buckaroo, Lot 2 DP 1227923 - Post Exhibition; and**
- B. exercise its delegation in the preparation of the amendment to the Mid-Western Regional Local Environmental Plan 2012 to list bulk storage and reload facility in Schedule 1 Additional Permitted Uses and prepare corresponding mapping subject to the Opinion issued by Parliamentary Counsel.**

Executive summary

At Council's 13 October 2021 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 540 Buckaroo Road, Buckaroo Lot 2 DP 1227923 and will facilitate the development of a bulk storage and reload facility.

A conditional Department of Planning and Environment Gateway Determination was granted on 26 November 2022. A copy of the Gateway Determination is provided as Attachment 1.

Condition 1 of the Gateway Determination required that prior to the commencement of community consultation the NSW Rural Fire Service and the Environment Protection Authority were to be consulted with. The NSW Environment Protection Authority responded, provided as Attachment 2. The NSW Rural Fire Service acknowledged the referral via the NSW Planning Portal, however no response was received. Accordingly, the Department of Planning and Environment advised Council to progress to public exhibition, a copy of this advice is provided as Attachment 3.

The Planning Proposal was placed on public exhibition on Friday 3 June 2022 until Friday 1 July 2022 in accordance with Gateway Determination Condition 2. Two submissions were received during the exhibition period and is provided as Attachment 4. The concern raised in the submission is discussed in the body of the report.

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 *A guide to preparing local environmental plans*, dated 2018, 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
Preparation of a Planning Proposal		
Planning Proposal lodged with Council	✓	22 July 2021
Staff Undertake Initial Assessment	✓	July – October 2021
Council Decision to Support Proposal	✓	13 October 2021
Issue of Gateway Determination		
Council Requests Gateway Determination	✓	1 November 2021
DPIE Issues Gateway Determination	✓	26 November 2021
Gateway Conditions Satisfied	✓	26 May 2022
Consultation		
Consultation with Relevant Agencies	✓	Agency consultation with: <ul style="list-style-type: none"> - NSW Rural Fire Service. - NSW Environmental Protection Authority. - Department of Planning Environment – Biodiversity and Conservation Division. - NSW Mining, Energy and Geoscience.
Public Exhibition	✓	Friday 3 June 2022 – Friday 1 July 2022.
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 20 July 2022 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 26 November 2021 and included seven standard conditions.

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, two submissions were received. Both submissions raised the same issues, detailed below and a staff comment provided has been provided.

Matter/comment raised in the Submission	Staff comment
<p>Increased Traffic along and condition of Buckaroo Road and the intersection with Buckaroo Lane.</p>	<p>The subject site has frontage to Buckaroo Road, a Council road. The Planning Proposal documentation states truck movements will commence at 1-3 trucks and increase to 2-3 trucks (50 tonnes per truck) per week after the first twelve months. The Planning Proposal was referred to Council’s Development Engineers who raised no concerns and stated that the specifics of the proposal can be assessed at development application stage. Therefore, any future development application will be referred to Council’s Development Engineers to consider traffic generated from the development and traffic impact.</p>

Agency Consultation

In accordance with Condition 1, the Planning Proposal was referred to the NSW Rural Fire Service and the NSW Environmental Protection Authority. A response was received from the NSW Environmental Protection Authority that stated no objection to the proposed additional use, however SafeWork NSW should be consulted regarding the handling, storage and potential manufacture of explosives. The response states, if a licence is not required for the future use, Council would be the Appropriate Regulatory Authority in relation to environmental matters regulated under the Protection of The Environment Operations Act 1997.

Council continued to follow-up with the NSW RFS, a response was provided, and raised no objection. The response is provided as Attachment 5.

A submission was received from the Biodiversity, Conservation and Science Directorate of the Department of Planning and Environment; the submission is provided as Attachment 6. The submission outlines the primary areas of interest for the Directorate and did not make any specific comment.

A submission was received from the NSW Department of Regional NSW – Mining, Exploration and Geoscience, who raised no concerns or issues regarding the proposal. The response is provided as Attachment 7.

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 additional permitted use map.

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

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

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
27 June 2022

ALINA AZAR
ACTING DIRECTOR DEVELOPMENT

- Attachments:**
1. Department of Planning and Environment Gateway Determination. (separately attached)
 2. NSW Environmental Protection Authority. (separately attached)
 3. Department of Planning and Environment letter to Council advising to proceed to exhibition. (separately attached)
 4. Submissions. (separately attached)
 5. NSW Rural Fire Service. (separately attached)
 6. Department of Planning and Environment - Biodiversity, Conservation and Science Directorate. (separately attached)
 7. NSW Department of Regional NSW Mining Exploration and Geoscience response. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER