

Item 8: Development

8.1 Planning Proposal Lot 1 and 2 DP 1278320, 7443 Castlereagh Highway, Ilford - Post Exhibition

REPORT BY THE MANAGER, STRATEGIC PLANNING
TO 15 FEBRUARY 2023 ORDINARY MEETING
GOV400103, LAN900147

RECOMMENDATION

That Council:

- A. receive the report by the Manager, Strategic Planning on the Planning Proposal Lot 1 and 2 DP 1278320, 7443 Castlereagh Highway, Ilford - Post Exhibition; and**
 - B. request the Department of Planning and Environment to draft and finalise the amendment to the Mid-Western Regional Local Environmental Plan 2012 to amend the minimum lot size to 40 hectares for Lots 1 and 2 DP 1278320.**
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Executive summary

At Council's 19 October 2022 ordinary 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 Lot 1 and 2 DP 1278320, 7443 Castlereagh Highway, Ilford and will facilitate the erection of dwellings in accordance with the Council approved subdivision and previous local environmental plan.

A conditional DPE Gateway Determination was granted on 18 November 2022. A copy of the Gateway Determination is provided as Attachment 1. The Planning Proposal was amended in accordance with Condition 1, prior to public exhibition.

In accordance with Condition 2, the NSW Rural Fire Service were consulted, the response is provided as Attachment 2.

The Planning Proposal was placed on public exhibition on Thursday 12 January 2023 until Wednesday 25 January 2025, in accordance with Condition 3. No submissions were received during the exhibition period.

The purpose of this report is to provide Council with a post exhibition report and to advise DPE to progress to Stage 6 Finalisation 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 September 2022, 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		
Staff prepared the Planning Proposal	✓	September 2022
Council Decision to Support Proposal	✓	19 October 2022
Issue of Gateway Determination		
Council Requests Gateway Determination	✓	20 October 2022
DPE Issues Gateway Determination	✓	18 November 2022
Gateway Conditions Satisfied	✓	January 2023
Consultation		
Consultation with Relevant Agencies	✓	Agency consultation with: - NSW Rural Fire Service
Public Exhibition	✓	Thursday 12 January 2022 – Wednesday 25 January 2023 (inclusive, 10 working days as detailed in Gateway Determination).
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 15 February 2023 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 18 November 2022 and included six conditions.

CONSULTATION

Community Consultation

Condition 3 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 10 days. During the public exhibition no submissions were received.

Agency Consultation

In accordance with Condition 2, the Planning Proposal was referred to the NSW RFS. The submission is provided as Attachment 2. The NSW RFS raised no objection to the Planning Proposal.

FINALISATION OF PLANNING PROPOSAL

The recommendation of staff is to proceed to Stage 6 - Finalisation. Stage 6 is the last stage in the LEP making process. This stage involves sending the finalisation package to DPE to facilitate the preparation of the mapping and progress a map only amendment to the LEP.

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

ALINA AZAR
DIRECTOR DEVELOPMENT

16 January 2023

Attachments: 1. Gateway Determination.
2. NSW Rural Fire Service Referral.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2022-3733): minimum lot size amendment at Lot 1 & Lot 2 DP 1278320, 7443 Castlereagh Highway, Ilford.

I, the Director at the Department of Planning and Environment, as delegate of the Minister for Planning have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Mid-Western Regional Local Environmental Plan 2012 to amend the minimum lot size to 40ha at Lot 1 & Lot 2 DP 1278320, 7443 Castlereagh Highway, Ilford should proceed subject to the following conditions:

1. Prior to commencing community consultation, the planning proposal is to be updated to:
 - (a) Amend the Project Timeline to reflect gateway determination of the proposal and subsequent milestones for finalisation in six (6) months; and
 - (b) Include existing and proposed Minimum Lot Size maps for the subject lots.
2. As required under section 3.34(2)(d) of the Act and Direction 4.3(1) of the Section 9.1 Ministerial Directions, consultation with the Commissioner of the NSW Rural Fire Service is required prior to the commencement of community consultation.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as basic as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 10 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022).
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
 - (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

6. The LEP should be completed within six (6) months of the date of the Gateway determination.

Dated 18th day of November 2022.



Garry Hopkins
Director, Western Region
Local and Regional Planning
Department of Planning and Environment

Delegate of the Minister for Planning



NSW RURAL FIRE SERVICE

Mid-Western Regional Council
PO Box 156
MUDGEES NSW 2850

Your reference: (PP-2022-3733) Ref-1859
Our reference: SPI20221130000158

ATTENTION: Sarah Armstrong

Date: Sunday 22 January 2023

Dear Sir/Madam,

**Strategic Planning Instrument
Other – Planning Proposal**

The planning proposal seeks to undertake housekeeping amendments to the Mid-Western Regional Local Environmental Plan 2012 in order to facilitate development of dwelling houses on 2 existing allotments. The objective of this planning proposal is clear and adequately explains the intent of the proposal.

I refer to your correspondence dated 30/11/2022 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

No objection is raised in relation to the subject Planning Proposal to allow a minimum lot size of 40 hectares instead of 100 hectares for Lot 1 & Lot 2 DP 1278320.

For any queries regarding this correspondence, please contact Marc Ellwood on 1300 NSW RFS.

Yours sincerely,

Alastair Patton
**Supervisor Development Assessment & Plan
Built & Natural Environment**

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