

8.2 Planning Proposal Temporary Workers' Accommodation - Post Exhibition

REPORT BY THE DIRECTOR DEVELOPMENT
TO 21 JUNE 2023 ORDINARY MEETING
GOV400103, LAN900146

RECOMMENDATION

That Council:

1. receive the report by the Manager, Strategic Planning on the Planning Proposal Temporary Workers' Accommodation - Post Exhibition; and
2. exercise its delegation in the preparation of the amendment Clause 6.11 Temporary workers' accommodation of the Mid-Western Regional Local Environmental Plan 2012 to:
 - i) allow persons, as detailed in the clause to be accommodated in temporary workers' accommodation beyond the 5-kilometre radius requirement; and
 - ii) allow public authorities to develop beyond the 5-kilometre radius subject to the Opinion issued by Parliamentary Counsel.

Executive summary

At Council's 21 September 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 sought an amendment to the *Mid-Western Regional Local Environmental Plan 2012 (LEP)* to amend *Clause 6.11 Temporary Workers' Accommodation* to facilitate the development by public authorities of temporary workers' accommodation on suitable sites within the local government area beyond the 5-kilometre radius of the major project or mine. The Planning Proposal also sought to include a definition of temporary workers' accommodation in the Dictionary and determine land use permissibility by inserting the definition in the land use tables of the *Mid-Western Regional Local Environmental Plan 2012*.

A conditional DPE Gateway Determination was granted on 2 February 2023. Condition 1 b) required Council to remove all matters relating to the proposed Dictionary and Land Use Table amendments as DPE are undertaking planning reform in relation to season and temporary workers' accommodation. Further DPE advised single council changes to the standard local environmental plan Dictionary are not supported. DPE have consulted with councils across NSW and found strong support for a standard definition to provide more consistency across the state and enable permissibility to be clearly established. Therefore, it is likely Council will be provided with the opportunity to insert the definition into the *Mid-Western Regional Local Environmental Plan 2012 (LEP)* and determine permissibility in the future. The Planning Proposal was amended in accordance with Condition 1 b), prior to public exhibition. Accordingly, the Planning Proposal placed on public exhibition was different to that considered by Council in September 2022.

The Planning Proposal was placed on public exhibition on Friday 5 May 2023 until Thursday 1 June 2023, in accordance with Condition 2. One submission was received during the exhibition period from a proponent of multiple renewable energy developments. The submission outlined the scenario of one temporary workers' accommodation camp being utilised by construction

workforces from multiple sites/developments and that this possibility should be accommodated in the proposed amendment to *Clause 6.11 Temporary Workers' Accommodation*.

Due to the significant volume of employment-generating projects within and adjoining the local government area requiring accommodation and the current and projected market housing supply, Council have considered this further amendment to *Clause 6.11 Temporary Workers' Accommodation* appropriate and necessary. The recommendation of this report includes this amendment.

In accordance with Condition 3, the Energy Corporation of NSW (Energy Co) were consulted, Energy Co advised they had no formal comments to provide.

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 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	✓	21 September 2022
Issue of Gateway Determination		
Council Requests Gateway Determination	✓	27 September 2022
DPE Issues Gateway Determination	✓	2 February 2023
Gateway Conditions Satisfied	✓	May 2023
Consultation		
Consultation with Relevant Agencies	✓	Agency consultation with: - Energy Corporation of NSW (Energy Co)
Public Exhibition	✓	Friday 5 May 2023 until Thursday 1 June 2023 (inclusive, 20 working days as detailed in Gateway Determination).
Post-Exhibition Report to Council	✓	Planning Proposal Post Exhibition is being reported to 21 June 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 27 September 2022 and included six conditions. Gateway Determination has been included as Attachment 1. Condition 1 of the Gateway Determination required the Planning Proposal to be updated prior to public exhibition. The Planning Proposal was updated prior to being placed on public exhibition.

CONSULTATION

Community Consultation

Condition 2 of the Gateway Determination required Council to undertake community consultation with a public exhibition period of 20 days. During the public exhibition one submissions was received from a proponent of multiple renewable energy developments in the Central West Orana Renewable Energy Zone. A copy of the submission is provided as Attachment 2. The submission details support of the amendment and proposes an additional amendment to the Clause.

The relevant sub-section of the existing Clause is provided below:

(2) Development consent must not be granted to development for the purposes of temporary workers' accommodation unless the consent authority is satisfied of the following—

(a) the development is to be located—

(i) if the development relates to a mine—within 5 kilometres of the relevant mining lease under the Mining Act 1992, or

(ii) in any other case—within 5 kilometres of the large-scale infrastructure in which persons are to be employed.

The submission outlined the scenario of one temporary workers' accommodation camp being utilised by construction workforces from multiple projects at any time, and over time and that this possibility should be accommodated in the proposed amendment.

Due to the significant volume of employment-generating projects within and adjoining the local government and the lack of current and projected market housing supply, Council have considered this inclusion appropriate. It must be highlighted that the volume of projects and the consideration of housing employment-generating workforces has evolved since the preparation of this Planning Proposal, accordingly, this inclusion is necessary. The reports recommendation includes this amendment.

It is anticipated temporary workers' accommodation camps will be established (by developers, not public authorities) within 5 kilometres of a large-scale infrastructure (projects, including development for the purposes of an extractive industry, mining, renewable energy or an electricity transmission or distribution network), this temporary workers' camp will then be utilised by the workforce of the subject project and other projects in the region.

Agency Consultation

In accordance with Condition 3, the Planning Proposal was referred to Energy Co. Energy Co advised they had no formal comments to provide.

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. Part of this process is to seek Council's approval to exercise its delegation in finalising the Planning Proposal.

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 DPE accordingly.

ALINA AZAR
DIRECTOR DEVELOPMENT

5 June 2023

Attachments: 1. Gateway Determination.
2. Submission.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2022-3461): Clause 6.11 - Temporary Workers' Accommodation.

I, the Director, Western Region 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 enable public authorities to develop Temporary Workers' Accommodation beyond a 5-kilometre radius of a major project or mine should proceed subject to the following conditions:

1. Prior to community consultation, the planning proposal is to be amended to address the following matters:
 - a) Amend the Project Timeline to reflect the Gateway determination of the proposal and subsequent milestones for finalisation in six (6) months.
 - b) Remove all matters related to the proposed Dictionary and Land Use Table amendments.
 - c) Include justification for the proposed provisions to permit public authorities to develop temporary workers' accommodation beyond a 5km radius of a major project including commentary on the public authorities expected to use the provisions.
2. 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 standard 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 twenty (20) working days.
 - 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).
3. Consultation is required with Energy Corporation of NSW under section 3.34(2)(d) of the Act. Energy Corporation of NSW is to be given a copy of the planning proposal and any relevant supporting information and given 28 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2) 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. The 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 this Gateway determination.

Dated 2nd day of February 2023.



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

Delegate of the Minister for Planning



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1 June 2023

General Manager
Mid-Western Regional Council
PO Box 156
MUDGEE NSW 2850

Attention: Mr Brad Cam

**Planning Proposal Clause 6.11 - Temporary Workers' Accommodation
Submission in support of proposed amendments**

Thank you for the opportunity to provide a written submission in support of the proposed amendment to the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012), Clause 6.11 to allow public authorities to establish temporary workers' accommodation on appropriate sites and not be subject to the current 5-kilometre locational requirement.

ACEN Australia has considered the supporting information provided on the MWRC website, and supports the proposed amendment to remove the current 5-kilometre locational requirement for temporary workers' accommodation. In addition, ACEN Australia requests and recommends that the proposed amendment also remove restrictions placed on the number of projects that may utilise temporary workers' accommodation facilities at any time, and over time.

We believe such amendments would enable greater value capture for Council, communities and developers, while also providing for a smoother and more efficient planning pathway.

With several renewable energy projects planned for the Central West Orana Renewable Energy Zone (CWOREZ) over the years, ACEN Australia is very much invested in the region and committed to working with stakeholders and communities to balance the impacts and opportunities that a growing renewable energy industry can bring. Initial forecasts of ACEN Australia's workforce requirements in the CWOREZ over the next several years is estimated to exceed 1,000 non-local workers at peak. Additionally, studies and reports by EnergyCo indicate that temporary workers' accommodation facilities will be required in the region as more projects move into construction and compete for local workforces.

Planning and delivery of temporary workers' accommodation facilities by ACEN Australia to support its projects in the Mid-Western Regional LGA will require significant investment by the company. As you know, ACEN Australia is currently exploring options for a workers accommodation facility that could service multiple projects within the MWRC area. This includes a commitment from ACEN Australia to invest in legacy solutions that focus on improving the liveability and sustainability of regional townships.



As such, an amendment to the MWRLEP 2012 to remove the following restrictions would be welcomed by ACEN Australia enable greater value capture for Council, communities and developers, while also providing for a smoother and more efficient planning pathway:

1. Remove the current 5-kilometre locational requirement for temporary workers' accommodation from the associated project site; and
2. Remove restrictions placed on the number of projects that may utilise temporary workers' accommodation facilities at any time, and over time.

Thank you once again for the opportunity to provide ACEN Australia's submission in support of the planning proposal to amend Clause 6.11 Temporary workers' accommodation of the MWRLEP 2012.

Please do not hesitate to contact the undersigned on 0447 033 404 or email at cedric.berge@acenrenewables.com.au should you have any queries or require any additional information.

Kind Regards,
ACEN Australia

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Cédric Bergé
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