



qB178027

11/17606

Department Generated Correspondence (Y)

Contact: Jon Stone
Phone: (02) 6701 9689
Fax: (02) 6701 9690
Email: Jon.Stone@planning.nsw.gov.au
Postal: PO Box 550, Tamworth NSW 2340

Our ref: PP_2011_GUNNE_003_00 (11/16719)

Mr Robert Campbell
General Manager
Gunnedah Shire Council
PO Box 63
GUNNEDAH NSW 2380

Dear Mr Campbell,

Re: Planning Proposal to amend the Gunnedah LEP 1998 by changing the definition of flood prone land to take into account recent studies and reports that provide more accurate information on potential flood behaviour in Gunnedah

I am writing in response to your Council's letter dated 30 August 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Gunnedah Local Environmental Plan 1998 by changing the definition of flood prone land to take into account recent studies and reports that provide more accurate information on potential flood behaviour in Gunnedah.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that the completion of the Blackjack Creek Floodplain Risk Management Study and Plan 2011 has provided Council with more accurate information on flood behaviour and potential impacts of floods within Gunnedah. The Department supports the inclusion of this information in addition to other available flood studies and flood data and the intended outcome of the planning proposal to identify land to which flood planning development controls apply.

However, the Director General's delegate has determined that in its present form, the planning proposal is inconsistent with S117 Direction 4.3 Flood Prone Land. The proposed amendment is also inconsistent with the NSW Flood Prone Land Policy and the Floodplain Development Manual 2005. These inconsistencies are not considered to be minor. The current and proposed definitions of flood prone land in Gunnedah LEP 1998 are inconsistent with the Floodplain Development Manual 2005 as they apply only to land identified on the specified maps and include land affected by the 1% Annual Exceedence Probability flood event rather than the Probable Maximum Flood event. In addition, it is noted that Council proposes to commence public exhibition of the draft Gunnedah LEP 2011 in the near future, which includes the model local clause relating to flood planning and includes the standard definition for 'flood planning level'.

Therefore, to provide consistency with the definitions of the Floodplain Development Manual 2005 and the proposed controls under the draft Gunnedah LEP 2011, Council is to amend the planning proposal to replace the definition of 'flood prone land' in the Gunnedah LEP 1998 with the definition of 'flood planning level' being 'the level of a 1:100 average recurrent interval flood event plus 0.5 metres freeboard'. It is acknowledged that this required alteration to the planning proposal will necessitate an amendment to Clause 26 of the Gunnedah LEP 1998 and to Council's flood mapping to incorporate a 0.5 metre freeboard where appropriate. In doing so, Council is to consult the Office of Environment and Heritage on the required amendments to the

planning proposal, and is encouraged to consult the Department's Regional Office for further guidance to ensure consistency with the legislative and policy framework.

Given the amendment of the planning proposal as required by the Gateway determination to use the Standard Instrument definition of "flood planning level" the Director General's delegate has agreed that the planning proposal will achieve consistency with S117 Direction 4.3 Flood Prone Land. No further approval will be required in relation to this Direction.

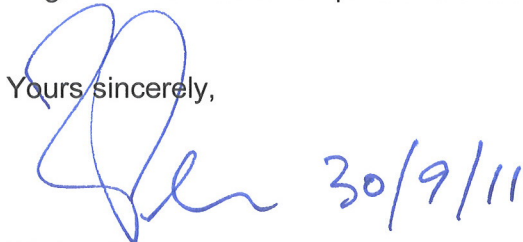
The Director General's delegate has agreed that the planning proposal is consistent with the following S 117 Directions: 1.1 Business and Industrial Zones, 1.5 Rural Lands, 3.1 Residential Zones and 6.1 Approval and Referral Requirements. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jon Stone of the Northern Regional Office of the Department on 02 6701 9689.

Yours sincerely,



Richard Pearson
Deputy Director General
Development Assessment and Systems Performance

Gateway Determination

Planning Proposal (Department Ref: PP_2011_GUNNE_003_00): to amend the Gunnedah LEP 1998 by changing the definition of flood prone land to take into account recent studies and reports that provide more accurate information on potential flood behaviour in Gunnedah.

I, the Deputy Director General, Development Assessments and Systems Performance as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Gunnedah Local Environmental Plan 1998 to change the definition of flood prone land to take into account recent studies and reports that provide more accurate information on potential flood behaviour in Gunnedah should proceed, subject to the following conditions:

1. Council is to replace the definition of "flood prone land" in the planning proposal with the Standard Instrument definition of "flood planning level" as "the level of a 1:100ARI (average recurrent interval) flood event plus 0.5 metres freeboard".
2. Council is to amend Clause 26 of the Gunnedah LEP 1998 to replace the current words of "flood prone land" with "land below the flood planning level".
3. Council is to prepare mapping in consultation with the Office of Environment and Heritage, to incorporate a 0.5m freeboard where appropriate and to place it on exhibition with the planning proposal.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 days**; and
 - (b) the relevant planning 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 section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
5. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The public authority is to be given at least 21 days to comment on the proposal, or to indicate that it will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).

7. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated

30th

day of

September

2011.



Richard Pearson
Deputy Director General
Development Assessment and Systems
Performance
Delegate of the Minister for Planning and
Infrastructure