



Office of the Director General

Mr Paul Bennett
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Our ref: PP_2013_TAMWO_001_00 (12/20688)
Your ref:

Dear Mr Bennett,

Planning proposal to amend Tamworth Regional Local Environmental Plan 2010

I am writing in response to Council's letter dated 19 December 2012 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 Tamworth Regional Local Environmental Plan (LEP) 2010 to reinstate dwelling entitlements that have been removed in zones RU1 Primary Production and RU4 Primary Production Small Lots by amending Clause 4.2B 'Erection of dwelling houses on land in certain rural and environmental protection zones' of the LEP.

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

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 3.5 Development Near Licensed Aerodromes, 3.6 Shooting Ranges, 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

Council's intention to reinstate dwelling entitlements that were removed upon notification of its LEP is supported. However, the amendment to Clause 4.2B, as drafted by Council, does not achieve Council's desired outcome for the planning proposal. Consequently, Council is to amend the planning proposal to remove the draft amendment to Clause 4.2B and instead provide a plain English explanation of the intention of the proposed amendment to the Clause. I urge Council to discuss this amendment to the planning proposal with the department's Tamworth regional team prior to public exhibition. The amendment to the Clause will be drafted by Parliamentary Counsel's Office in consultation with Council and the department, once the planning proposal is submitted to the department post exhibition.

The amending LEP is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. 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 NSW 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 regional office of the department on 02 6701 9689.

Yours sincerely,


Sam Haddad
Director General

9/2/2013

Gateway Determination

Planning proposal (Department Ref: PP_2013_TAMWO_001_00): to reinstate dwelling entitlements that have been removed in certain rural zones.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to Tamworth Regional Local Environmental Plan (LEP) 2010 to reinstate dwelling entitlements that have been removed in zones RU1 Primary Production and RU4 Primary Production Small Lots by amending Clause 4.2B of the LEP should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the 'explanation of provisions' within the planning proposal to remove the draft amendment to Clause 4.2B and instead provide a plain English explanation of the intention of the proposed amendment to the Clause.
2. Council is to consult with the NSW Rural Fire Services as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration additional information received, prior to undertaking public exhibition.
3. 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 must be made publicly available for **28 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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2012).
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they 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.

5. 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).



6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated *9th* day of *February* 2013.

S Haddad

Sam Haddad
Director General
Delegate of the Minister for Planning and
Infrastructure