



Planning & Environment

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Our ref: PP_2014_BOGAN_001_00 (14/05943)
Your ref: 211054_LET_500A

Mr Michael Brady
General Manager
Bogan Shire Council
PO Box 221
NYNGAN NSW 2825

Dear Mr Brady,

Planning proposal to amend Bogan Local Environmental Plan 2011

I am writing in response to your Council's letter dated 11 March 2014 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 reduce the minimum lot size of 60 lots surrounding Nyngan, currently zoned RU1 Primary Production, to various lot sizes ranging from 12,500sqm to 129ha.

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

As discussed with Council, it is considered appropriate to rezone part of the subject land, being 45 lots, from RU1 Primary Production to R5 Large Lot Residential. This will reflect the existing on-the-ground settlement pattern, intended future use of the land for residential purposes and the compatibility of the size of the lots with an R5 zoning. It is noted that land currently zoned R5 is located to the south of the 45 lots and this rezoning is considered to be a logical extension of this zone. Consequently, Council is to amend the planning proposal and accompanying maps to be consistent with the above position. A map identifying the 45 lots is attached for your information.

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries and 1.5 Rural Lands are of minor significance. No further approval is required in relation to these Directions.

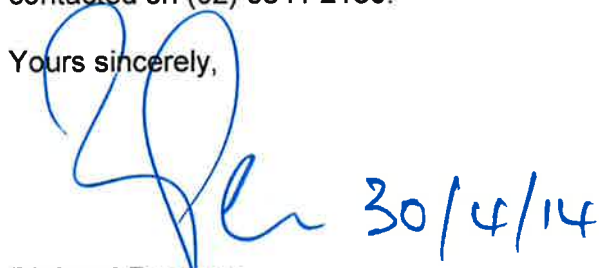
Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation due to the flood study and Floodplain Risk Management Plan which are to be carried out to address the proposal's inconsistency with S117 Direction 4.3 Flood Prone Land.

The amending Local Environmental Plan (LEP) is to be finalised within 12 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 of Planning and Environment to draft and finalise the LEP should be made 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 section 54(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, I have arranged for Ms Rebecca of the Department of Planning and Environment's regional office to assist you. Ms Kell can be contacted on (02) 6841 2180.

Yours sincerely,



Richard Pearson
Deputy Director General
Growth Planning and Delivery

Encl: Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2014_BOGAN_001_00): to reduce the minimum lot size of 60 lots surrounding Nyngan.

I, the Deputy Director General, Growth Planning and Delivery at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Bogan Local Environmental Plan (LEP) 2011 to reduce the minimum lot size of 60 lots surrounding Nyngan, currently zoned RU1 Primary Production, to various lot sizes ranging from 12,500sqm to 129ha should proceed subject to the variations as outlined in the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal and accompanying maps to advise that the proposal will also rezone 45 lots from RU1 Primary Production to R5 Large Lot Residential, consistent with the attached map at Tag A.
2. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed lot size maps, which are at an appropriate scale and clearly identify the subject lands. Proposed lot sizes are to be consistent with lot sizes on map 02C_TP04 211 054 Revision C, at Tag B. Council is to ensure the colours identified on the legend correspond with the colours on the map.
3. Prior to undertaking public exhibition, a flood study and Floodplain Risk Management Plan are to be prepared to address the proposal's inconsistency with S117 Direction 4.3 Flood Prone Land and a Bushfire Assessment Report is to be prepared to address the proposal's inconsistency with S117 Direction 4.4 Planning for Bushfire Protection. Council is to update the planning proposal to take into consideration the outcomes of this work. This work is to be placed on public exhibition with the planning proposal.
4. Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. An initial site contamination investigation report is to be prepared to demonstrate that the land is suitable for rezoning to the proposed R5 zone. The preliminary review of the subject land, which has been undertaken by Council, and initial site contamination investigation report are to be placed on public exhibition with the planning proposal.
5. 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 a minimum of **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 and Environment 2013)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage
 - Department of Primary Industries – Agriculture
 - Department of Primary Industries – Office of Water
 - Transport for NSW - Roads and Maritime Services



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- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

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

7. 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).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

30

day of

April

2014.

Richard Pearson
Deputy Director General
Growth Planning and Delivery
Department of Planning and Environment

Delegate of the Minister for Planning