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Our ref: PP_2012_MIDWR_002_00 (12/08279)

Mr Warwick Bennett
General Manager
Mid-Western Regional Council
PO Box 156
MUDGEES NSW 2850

Dear Mr Bennett,

Planning proposal to rezone land at Saleyards Lane, Mudgee from Investigation to Residential

I am writing in response to your Council's letter 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 rezone land at Saleyards Lane, Mudgee from Rural Zone Investigation to part Medium Density Residential and part Rural Residential Zone under the Mid-Western Regional Interim LEP 2008 and from RU1 Primary Production to part R1 General Residential and part R5 Large Lot Residential under the draft Mid-Western Regional LEP 2012.

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 Council has included a number of maps with the planning proposal that identify the subject site including a development concept plan and existing zoning maps under the Mid-Western Regional Interim LEP and the draft Mid-Western Regional LEP 2012. However, the mapping provided does not clearly indicate how it would amend Council's existing and draft LEP in terms of zoning and minimum lot size. Therefore, Council is to revise and include additional maps to accurately indicate the zoning under Council's existing LEP and the proposed zoning and minimum lot size under Council's draft Principal LEP. Council is to include the additional and revised maps with the planning proposal for the purposes of community consultation, and provide the Department's Regional Team with a copy of the exhibition material.

It is noted that S117 Directions 1.2 Rural Zones and 1.5 Rural Lands apply to the planning proposal as Council is proposing to rezone rural land for residential purposes. Therefore, Council needs to ensure that the requirements of the Local Planning Directions are addressed and any inconsistencies justified in the public exhibition material.

It is noted that Council has identified the site as having biodiversity value. Council needs to ensure that sufficient information forms part of the public exhibition material to identify the extent of biodiversity value and any impact the rezoning of the land may have on critical habitat, threatened species or ecological communities.

An indication of likely salinity impacts caused by or accruing to the proposed development also needs to be included in the public exhibition material.

Council needs to provide additional information in relation to Aboriginal Heritage to identify any potential heritage significance of the land and ensure that the land is suitable for the proposed future land use. In doing so, Council needs to ensure that the requirements of S117 Direction 2.3 Heritage Conservation have been addressed for the purposes of community consultation. Council is also to consult the Office of Environment and Heritage in relation to the matter and amend the planning proposal, if necessary, to reflect the outcome of this consultation.

It is noted that the requirements of State Environmental Planning Policy 55 – Remediation of Land have not been addressed at this stage. Council is to provide sufficient information to demonstrate that the land is suitable for the proposed use. Potential contamination of the land is to be investigated in accordance with SEPP 55. The planning proposal is to be amended to reflect the outcome of the preliminary contamination assessment prior to the commencement of public exhibition.

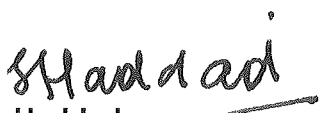
In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the comments from the Commissioner.

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 following the completion of the additional work required under the Determination Notice. 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 Wayne Garnsey of the Regional Office of the Department on 02 6841 2180.

Yours sincerely,


Sam Haddad
Director-General

16/6/2012 .

Gateway Determination

Planning Proposal (Department Ref: PP_2012_MIDWR_002_00): to rezone land at Saleyards Lane, Mudgee from Investigation to Residential.

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 rezone land at Saleyards Lane, Mudgee from Rural Zone Investigation to part Medium Density Residential and part Rural Residential Zone under the Mid-Western Regional Interim LEP 2008 and from RU1 Primary Production to part R1 General Residential and part R5 Large Lot Residential under the draft Mid-Western Regional LEP 2012 should proceed subject to the following conditions:

1. Council is to prepare additional maps to accurately indicate the proposed zoning and minimum lot size under the draft Mid-Western Regional LEP 2012. Council is to include these maps with the planning proposal for the purposes of community consultation, and provide the Department's Regional Team with a copy of the exhibition material
2. Council is to undertake a preliminary contamination assessment into potential contamination of the land in accordance with SEPP 55 – Remediation of Land to ensure the land is capable of supporting the proposed future land use. The planning proposal is to be amended to reflect the outcome of the investigation prior to the commencement of public exhibition.
3. Council is to ensure the requirements of S117 Direction 1.2 Rural Zones and 1.5 Rural Lands are addressed and any inconsistencies justified in the public exhibition material.
4. Council needs to provide additional information within the public exhibition material regarding the following matters to identify all impacts that may result from the proposed development:
 - Aboriginal archaeology and heritage
 - Salinity assessment
 - Biodiversity

Council needs to include the outcomes of this assessment with the planning proposal to provide advice that the land is suitable for the proposed use for the purposes of community consultation.

5. Council is to identify the land as an Urban Release Area under Part 6 of the Mid-Western Regional Interim LEP 2008 and Part 6 of the draft Mid-Western Regional LEP 2012 to ensure that satisfactory arrangements for the provision of state public infrastructure are met prior to the development of the site. The planning proposal is to be amended to reflect state infrastructure provision prior to the commencement of public exhibition.
6. 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Australian Rail Track Corporation (ARTC)
- Central West Catchment Management Authority
- Essential Energy
- NSW Rural Fire Service
- NSW Office of Water
- Office of Environment and Heritage - NSW National Parks and Wildlife Service
- Transport for NSW – Roads and Maritime Services
- Telstra

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.

8. Further to Condition 7 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department's Regional Office.
9. 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).
10. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

16th

day of

June

2012.



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