

Mr Mark Riley  
Interim General Manager  
Dubbo Regional Council  
PO Box 81  
DUBBO NSW 2830

Our Ref: PP\_2017\_DREGI\_001\_00  
(17/09023)

**Attention: Mr Steven Jennings, Manager – City Strategy Services**

Dear Mr Riley,

**Planning Proposal (PP\_2017\_DREGI\_001\_00) to amend Dubbo Local Environmental Plan 2011 – Boundary Road, Hillview Estate, Dubbo (Lot 399 DP 1199356, Lot 12 DP 1207280, and Lot 503 DP 1152321).**

I am writing in response to Council's request for a Gateway determination under Section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the Planning Proposal to rezone land at Boundary Road, Hillview Estate Dubbo.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination (**Attachment 1**).

The planning proposal is required to be revised to avoid any confusion and ensure the proposal documents are clear for public exhibition purposes. The revised planning proposal including supporting studies are required to be submitted to the Department for endorsement prior to community and agency consultations. Refer to Condition 1 of the Gateway determination.

I commend Council for resolving to undertake a concurrent amendment to the *Stage 1 Structure Plan for the South-East Residential Urban Release Area*. Council is encouraged to finalise its Employment Lands Strategy to ensure the Planning Proposal is consistent with the local landuse strategy framework. The Employment Lands Strategy should clearly identify the proposed B1 Neighbourhood Centre at Hillview Estate and remove reference to a future potential neighbourhood centre at the adjoining Keswick Estate.

The intent of Council's resolution to limit the total retail floorspace of any centre in the B1 Neighbourhood Centre zone to 5,000m<sup>2</sup> is supported. The specific terms and mechanism will be subject to Parliamentary Counsel's Opinion. Refer to Condition 2 of the Gateway determination.

I have also agreed, as delegate of the Secretary, the Planning Proposal's inconsistency with Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and Direction 6.3 Site Specific Provisions is justified to be of minor significance in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Further work is required to demonstrate consistency with Section 117 Direction 1.1 Business and Industrial Zones. Council is required to address this following the outcome of community and agency consultation in the Section 59 report.

The proposed RE2 Private Recreation zone for the section of land south of the indicative future Southern Distributor Road is not supported. This is required to be amended to propose the RU2 Rural Landscape zone with MLS 100ha, to address the inconsistency with Direction 6.2 Reserving Land for Public Purposes.

At this time the planning proposal is inconsistent with Section 117 Direction 1.1 Business and Industrial Zones, Direction 2.3 Heritage Conservation, Direction 4.3 Flood Prone Land, and Direction 6.2 Reserving Land for Public Purposes. Council will be required to consult with the NSW Office of Environment and Heritage and Department of Primary Industries (Water) to address these inconsistencies, and further resolve any outstanding matters through the community consultation process.

I have considered Council's resolution not to exercise delegation in this instance and agree not to issue an authorisation to exercise delegation.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of 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 10 weeks prior to the projected publication date.

All related files for LEP Amendment, including PDF Maps, Map Cover Sheet, Planning Proposal document and GIS Data, if available, must be submitted to the Department via the Planning Portal Website at <https://www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data>. To submit the data, Council is required to create an account and log in using these details.

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 Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Deniz Kilic of the Departments Western Region Office to assist you. Mr Kilic can be contacted on (02) 6841 2180.

Yours sincerely



Katrine O'Flaherty  
**Director Regions, Western  
Planning Services**

Encl: Gateway Determination

15/8/17



## Gateway Determination

***Planning Proposal (Department Ref: PP\_2017\_DREGI\_001\_00): to rezone land at Boundary Road, Hillview Estate (Lot 399 DP 1199356, Lot 12 DP 1207280, and Lot 503 DP 1152321) from R2 Low Density Residential and RE1 Public Recreation to part zone R1 General Residential, part R2 Low Density Residential, B1 Neighbourhood Centre, RE2 Private Recreation and reconfigure the existing RE1 Public Recreation zone; change the minimum lot sizes (MLS) from existing 600m<sup>2</sup> and 4000m<sup>2</sup> to a range of no MLS, 450m<sup>2</sup>, 600m<sup>2</sup>, 800m<sup>2</sup> and 2000m<sup>2</sup>; and create an additional permitted use under Schedule 1 for a recreation facility (indoor); and amend clause 7.12 Shops in Zone B1 Neighbourhood Centre of the Dubbo LEP 2011.***

I, the Director Regions, Western, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the *Environmental Planning and Assessment Act, 1979* (the Act) that an amendment to the Dubbo Local Environmental Plan 2011 to rezone land at Boundary Road, Hillview Estate, Dubbo should proceed subject to the following conditions:

1. Prior to community and agency consultation, the Planning Proposal is required to be revised as follows:
  - a) There should be a single version of the final Planning Proposal and supporting studies to avoid any confusion and ensure the planning proposal is clear for public exhibition purposes.
  - b) Remove any reference to "original planning proposal dated October 2016" in the planning proposal document, supporting studies and appendices.
  - c) Remove any reference to "Lot 2 DP 880413, Sheraton Road, Dubbo" in the Planning Proposal document, supporting studies and appendices, as this land has not been considered in Council's resolution dated 26 June 2017.
  - d) Revise mapping so that the proposed intended effect of zones and minimum lot sizes are clear and accurate.
  - e) Amend the Planning Proposal and all mapping so that land situated to the south of the indicative location of the future Southern Distributor Road be zoned RU2 Rural Landscape with minimum lot size (MLS) 100ha. The proposed RE2 Private Recreation zone for that section of land is not supported.
  - f) Demonstrate consistency with the final Central West and Orana Regional Plan 2036.

The revised Planning Proposal is required to be submitted to the Department for endorsement, prior to proceeding to community and agency consultation.

2. The proposed amendments to *Clause 7.12 Shops in Zone B1 Neighbourhood Centre* of the Dubbo LEP 2011 should achieve the intended outcome so that the total gross floor area of a retail premises on any land zoned B1 Neighbourhood Centre does not exceed 5000m<sup>2</sup>, as resolved by Council on 26 June 2017.



## Planning & Environment

3. Community consultation is required under Sections 56(2)(c) and 57 of the 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 local environmental plans* (Department of Planning and Environment 2016).

4. Consultation is required with the following public authorities and / organisations under Section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:

- Office of Environment & Heritage (OEH) (Direction 2.3 – Heritage Conservation; Direction 4.3 Flood Prone Land)
- Department of Primary Industries – Water (Direction 4.3 Flood Prone Land)
- Roads and Maritime Services
- OEH - National Parks and Wildlife Service
- Dubbo Local Aboriginal Lands Council

Each public authority/organisation 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.

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 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. Prior to the submission of the planning proposal under Section 59 of the Act, the final LEP maps must be prepared and be compliant with the Department's "Standard Technical Requirements for Spatial Datasets and Maps" 2015.

7. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Dated 15<sup>th</sup> day of August 2017.

**Katrine O'Flaherty**  
**Director Regions, Western**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning**