



Planning

Office of the Director-General

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Our ref: D09/00031
Your ref: JB:JM:20.00162

Dear Mr Sherley,

Re: Planning Proposal to implement the heritage conservation areas and heritage items recommended in the Bathurst Region Heritage Study 2007 and Bathurst Conservation Area Review 2007

I am writing in response to your Council's letter dated 14 September 2009 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 Bathurst Regional (Interim) LEP 2005 to implement the heritage conservation areas and heritage items recommended in the Bathurst Region Heritage Study 2007 and Bathurst Conservation Area Review 2007.

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

The Gateway Determination requires that the planning proposal be made publicly available for a period of 28 days.

However, before I am able to agree to the form of the Planning Proposal under section 57(2) of the EP&A Act for the purposes of exhibition, Council is to consult with the Department's Regional Team to ensure that required variations to the Planning Proposal as detailed in the Gateway Determination are undertaken to the satisfaction of the Department.

Council is also advised that the Department will further advise on whether "moveable heritage" should be listed in the LEP when the Planning Proposal is re-submitted for endorsement prior to exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway Determination.

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.

I have formed the opinion that any inconsistencies with the section 117 Directions are minor and justifiable in this instance.

Should you have any queries in regard to this matter, please contact the Regional Office of the Department.

Yours sincerely,

S Haddad

Sam Haddad
Director-General

20/10/2009

Gateway Determination

Planning Proposal (Department Ref: D09/00031): To amend Bathurst Regional (Interim) LEP 2005 to implement the heritage conservation areas and heritage items recommended in the Bathurst Region Heritage Study 2007 and Bathurst Conservation Area Review 2007; detailed as follows:

- remove existing list of heritage items (131 items) and insert new list of heritage items (304 items); and
- remove existing list of 5 Heritage Conservation Areas and insert 10 new Heritage Conservation Areas.

I, the Director General as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment of the Bathurst Regional (Interim) LEP 2005 to implement the heritage conservation areas and heritage items recommended in the Bathurst Region Heritage Study 2007 and Bathurst Conservation Area Review 2007 should proceed subject to the following conditions:

1. The matter should proceed with the following variations:
 - (a) Remove from the proposed heritage list/schedule land that is either "National Park" or a "Nature Reserve" owned by the State.
 - (b) State Heritage Register listed items are to be included in the Heritage Schedule and notated accordingly in the "Significance" column. In the case of the Hill End Historic site, the SHR part of site should be shaded and labelled accordingly on the map and the listing on the Schedule notated as "Part State" in the "Significance" column, except for 'items of moveable heritage'.
 - (c) The heritage provisions (Clause 5.10) of the Standard Instrument Order be incorporated into the amending Plan under the Planning Proposal to replace the current Bathurst LEP heritage provisions.
 - (d) The relevant heritage definitions of the Standard Instrument be included in the draft Plan, including the definition of heritage item that requires heritage items to be mapped.
 - (e) The incentive clause for heritage conservation areas be removed from the existing LEP until such time as the wording of the clause is resolved with the Department of Planning and Council has analysed/mapped the heritage conservation areas to identify "contributory" elements.
 - (f) When listing heritage items that exist on large allotments (such as rural properties) and the listing only applies to a part of that property, the area of the property in which the heritage significant elements exist should only be mapped (i.e. the curtilage of the heritage item) and the listing in Schedule 5 notated accordingly as "Part lot...".
2. 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 not classified as low impact as described in *A Guide to Preparing LEPs* (Department of Planning 2009) and therefore 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).

3. Consultation is required with the Department of Environment, Climate Change and Water under section 56(2)(d) of the EP&A Act.
4. No public hearing is to be held into the matter under section 56(2)(e) of the EP&A Act.
5. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.

Dated 20th day of October 2009.


Sam Haddad
Delegate for the Minister for Planning