

Ordinary Meeting of Bathurst Regional Council Item , 19/08/2009

Section 10 - Receive and deal with Department Heads' reports:

SubSection 1 - Director Environmental Planning & Building Services' Report

11 COMPREHENSIVE LEP AND DCP FOR THE BATHURST REGION (20.00143)**Recommendation:** That Council:

- (a) prepare an interim comprehensive Development Control Plan to control development under the Bathurst Regional (Interim) LEP 2005 which implements the recommendations of the Bathurst Region Urban and Rural Strategies and the Bathurst Region Heritage Study in so far as is possible under the current LEP arrangements, and
- (b) prepare and submit a Planning Proposal under Section 55 of the EPA Act to the Department of Planning to amend Bathurst Regional (Interim) LEP 2005 to implement the heritage conservation areas and heritage items as recommended in the Bathurst Region Heritage Study and the Bathurst Conservation Area Review, and
- (c) note that work will continue on the comprehensive LEP and DCP, and
- (d) notify the Department of Planning of its decision, and
- (e) notify those on its mailing list for the comprehensive LEP of its decision.

Report: As Councillors are aware, Council staff are well underway with the preparation of new comprehensive planning controls for the Bathurst Region. The table below summarises progress to date.

Project	Status
Bathurst Region Urban Strategy	Adopted by Council in March 2007. Endorsed by Department of Planning in May 2008.
Bathurst Region Rural Strategy	Adopted by Council in December 2008. Referred to Dept of Planning in January 2009. Strategy not yet endorsed by Dept.
Bathurst Region Heritage Study	Adopted by Council in March 2007. Referred to Dept of Planning but endorsement not required.
Comprehensive LEP	Draft LEP referred to Government Agencies for comment under section 62. Awaiting comments from Department prior to formal submission for a section 65 certificate to place on public exhibition.
Comprehensive DCP	Draft DCP referred to Government Agencies for comment in conjunction with LEP.

Representatives from the Department of Planning met with Council staff on 29 July to discuss progress with the endorsement of the Bathurst Region Rural Strategy. The Strategy was referred to the Department in January 2009.

Key issues raised by the Department include:

- groundwater vulnerability, particularly at Mt Rankin and Peel. The Department is referring this matter to the Department of Water and Energy for further advice.
- Bushfire prone land at Wattle Flat, Hill End, Sofala and Trunkey Creek.
- On-site water availability for rural living blocks.

The Department is also seeking Council to update the Strategy in terms of changes in Government Policy since it was written and inclusion of additional mapping.

Council is now awaiting formal advice from the Department before it can start updating the Strategy as required.

At the meeting it became quite clear to Council staff that endorsement of the Strategy is probably still a number of months away. Given that it took the Department one year to endorse the Urban Strategy, endorsement of the Rural Strategy is probably likely towards the end of this year.

When asked on the progress of the LEP, the Department advised staff that further advice on the LEP would be provided when the Rural Strategy was finalised. Thus it seems unlikely that further progression will be made on the LEP until the Rural Strategy is finalised.

Council's current agreement with the Department is to have the LEP gazetted by December 2009. The Department recently advised all Councils that it will be developing a 2 year priority list for the first round of LEPs it expects to be completed. Council has not been advised if it has been placed on that priority list, however it expects that it will be based on discussions with the Minister.

A December 2009 deadline therefore seems very unlikely at this time. Council staff estimate that the earliest likely timeframe for gazettal of the LEP might not be until the end of 2010 or possibly even the beginning of 2011 given the rate the matter is moving at this time and what seems to be endless policy changes from the Department and policy interference on matters deemed by Council to be of local significance only. The Department's interference seems unlikely to cease given their aim to produce a series of LEPs across the state that are consistent with one another.

Where to from here?

Council staff are getting increasingly frustrated that the Council adopted Strategies/Studies, which are now effectively 2 years old, have not been implemented, notwithstanding the

constant enquiries Council gets from the community on the progress of the new LEP.

Given the ongoing delays Council could implement many of the recommendations of the Strategies/Studies under the current Bathurst Regional (Interim) LEP 2005 as follows.

1. Prepare an interim comprehensive DCP to control development under the 2005 LEP.

This DCP would replace the existing DCPs except for the exempt and complying DCPs. It would enable Council to implement many of the recommendations of the Strategies/Studies that do not require a LEP rezoning (that is they are not reliant on the new comprehensive LEP). Key recommendations of the Strategies/Studies that could be implemented include:

- New residential precincts that will see medium density housing in the suburban areas and removal of the 75m separation rule for dual occupancy developments.
- Sustainable building design and energy efficiency design principles.
- Environmental assessment requirements for new rural developments and subdivision.
- New building design standards for the existing villages.
- New archeological controls for Hill End.
- New outdoor lighting standards to protect the dark night sky.
- New bicycle parking standards for new developments.
- New urban design and heritage management standards for new developments.
- Relocation of Council policy into the DCP including Floodplain Policy, Infill Policy and Structural/Historical assessment policy.
- Updated landscaping and greening standards.
- Updated signage and new colour scheme standards for buildings.
- Updated car parking standards.
- New setback requirements for rural developments.

Key aspects of the Strategies/Studies that could **not** be implemented in the interim DCP would be those matters that require a rezoning as follows.

- Expansion of the existing rural villages.
- Creation of new village zonings at Peel and Yetholme.
- New rural lifestyle living opportunities at Mt Rankin, The Lagoon, Trunkey Creek, Wattle Flat and Robin Hill.
- Urban expansion at Eglinton, East of Kelso, Hope Street and Sydney Road -south (business/industrial).

New exempt and complying provisions would also not be implemented at this time.

2. Amend Bathurst Regional (Interim) LEP 2005 to implement the new heritage conservation areas and heritage items.

An amendment to the existing LEP could quite easily be undertaken to delete the existing

heritage conservation areas and heritage items and implement the heritage conservation areas and heritage items recommended by the Bathurst Region Heritage Study and the Bathurst Conservation Area review. This would see much quicker protection of the regions rural heritage assets which currently continue to remain unprotected.

This would see the implementation of 10 heritage conservation areas and over 300 heritage items as recommended by those Studies.

Conclusion

The proposal to create an interim DCP and amend the current LEP in relation to heritage matters will create additional work for Council staff but it is considered that the work will offset:

- the increasing frustration staff are feeling over the extended time the comprehensive LEP and DCP are taking, and
- some of the frustration that the community are feeling over the extended time the comprehensive LEP and DCP are taking.

Council staff will continue to work towards a comprehensive LEP and DCP that will achieve the rezonings of land that will not be able to be achieved in the shorter term.

An added benefit will be that Council will be able to road test the interim comprehensive DCP and thus improve upon it when the final comprehensive DCP is ultimately adopted by Council.

If Council proceeds with this proposal both the interim comprehensive DCP and the amending LEP would include a community consultation process.

Financial Implications

Preparation of the additional plans will be funded from within existing staff budgets.

Yours faithfully

D R Shaw
DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES

▼ Attachment
Nil.

Minute - Ordinary Meeting of Bathurst Regional Council - 19/08/2009

**15 Item 11 COMPREHENSIVE LEP AND DCP FOR THE BATHURST REGION
(20.00143)**

MOVED: Cr G Westman SECONDED: Cr W Aubin

RESOLVED: That Council:

(a) prepare an interim comprehensive Development Control Plan to control development under the Bathurst Regional (Interim) LEP 2005 which implements the recommendations of the Bathurst Region Urban and Rural Strategies and the Bathurst Region Heritage Study in so far as is possible under the current LEP arrangements, and

(b) prepare and submit a Planning Proposal under Section 55 of the EPA Act to the Department of Planning to amend Bathurst Regional (Interim) LEP 2005 to implement the heritage conservation areas and heritage items as recommended in the Bathurst Region Heritage Study and the Bathurst Conservation Area Review, and

(c) note that work will continue on the comprehensive LEP and DCP, and

(d) notify the Department of Planning of its decision, and

(e) notify those on its mailing list for the comprehensive LEP of its decision.

The result of the division was:

In favour of the motion - Crs Aubin, Bourke, Carpenter, Hanger, Morse, Thompson, Toole, Westman.

Against the motion - Nil.

Absent: - Cr North.

