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Our ref: PP_2012_MIDWR_005_00 (12/14207)
Your ref: (ED) A0420240

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

Dear Mr Bennett,

Planning proposal to amend the Mid-Western Regional Local Environmental Plan 2012

I am writing in response to your Council's letter dated 27 August 2012 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 the Mid-Western Regional Local Environmental Plan (LEP) 2012 to either amend the minimum lot size map for land at Black Springs Rd, Budgee Budgee or rezone the subject site from RU1 Primary Production to R5 Large Lot Residential and amend the lot size map.

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 considered rezoning the subject site R5 Large Lot Residential to align with zoning and minimum lot sizes of adjacent land. The department supports the proposed outcome of the proposal to facilitate the subdivision of the land; the preferred method to achieve the objectives being to retain the RU1 Primary Production zone and amend the minimum lot size accordingly. In doing so, it is noted that surrounding land includes land zoned RU1 Primary Production and R5 Large Lot Residential. Council is therefore encouraged to look at the area more broadly against the local strategic policy direction, and determine an appropriate zone and lot size based on Council's strategic objectives. The outcome of this review could inform a future planning proposal to rezone the land to R5 Large Lot Residential with an appropriate minimum lot size.

The amending LEP is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal within four (4) weeks from the week following this determination. 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 NSW 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

21/9/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_MIDWR_005_00): to amend the Mid-Western Local Environmental Plan 2012 to facilitate residential development.

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 the Mid-Western Local Environmental Plan (LEP) 2012 to either:

- a) amend the lot size map from AD 100ha to AB1 12ha, or
- b) rezone the subject site from RU1 Primary Production to R5 Large Lot Residential and amend the lot size map from AD 100ha to AB1 12ha,

for land at lot 1, DP876505, 502 Black Springs Rd, Budgee Budgee, should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal to:
 - (a) update the 'objectives of the proposal', 'planning provisions' and any references to controls throughout the planning proposal to accurately reference the Mid-Western LEP 2012 and current controls applicable to the site,
 - (b) remove reference to the option to rezone the site from RU1 Primary Production to R5 Large Lot Residential, and
 - (c) clearly identify that the main change sought by this planning proposal is an amendment to the minimum lot size map for the subject site to 12 ha.
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 classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 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 following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

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.

4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

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 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).
6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated **21st** day of **September** 2012.

SHaddad

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