



Planning

Office of the Director-General

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Our ref: PP_2009_BATHU_001_01

Mr D Sherley
General Manager
Bathurst Regional Council
Private Mail Bag 17
BATHURST NSW 2795

Dear Mr Sherley,

Re: Planning Proposal to amend the Bathurst Regional (Interim) LEP 2005 to give effect to the Bathurst Region Heritage Study 2007 and the Bathurst Conservation Area Review 2007

I am writing in response to your Council's letter received on 2 November 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 the Bathurst Regional (Interim) LEP to implement the Bathurst Region Heritage Study 2007 and the 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.

In relation to the advertising of development applications which relate to heritage items, it is preferred that these types of procedural matters be included in a DCP. They will not be included in the principal LEP.

Whilst the Department acknowledges the existence of heritage incentive provisions in the existing Bathurst Regional (Interim) LEP 2005 (i.e. clause 24), it is unlikely that such provisions will be supported for inclusion in Council's Principal LEP. Consideration should therefore be given to addressing this issue in Council's strategic work for the Bathurst Principal LEP.

The Gateway Determination requires that the planning proposal be made publicly available for a period of 28 days. Under section 57(2) of the Act I am satisfied that the planning proposal is in a form that can be made available for community consultation.

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.

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

Yours sincerely,

Sam Haddad
Director-General

13/1/2010

Gateway Determination

Planning Proposal (Department Ref: PP_2009_BATHU_001_01): To amend the Bathurst Regional (Interim) Local Environmental Plan 2005 to implement the Bathurst Region Heritage Study 2007 and the Bathurst Conservation Area Review 2007.

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 to implement the Bathurst Region Heritage Study 2007 and the 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, including the Bentinck Street Elm Trees. In the case of the Hill End Historic site, the SHR part of the site should be mapped and listed in Schedule 5 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 (unamended) into the amending Plan to replace the current Bathurst LEP heritage provisions. This includes the reference to "tree" and insertion of the definition for "archaeological sites" and "places of aboriginal significance" and "relic".
 - (d) The proposed provision to control subdivision of heritage items is to be removed.
 - (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) Alternatively, the incentive clause for heritage conservation is to be amended, in consultation with the Department, so that it does not apply to "non-contributory" items in a Heritage Conservation Area.
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 and adjoining local council's under section 56(2)(d) of the EP&A Act. This consultation can be held concurrently with the public exhibition.
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

13th

day of

January

2010.


Sam Haddad

Delegate for the Minister for Planning