



Mr Steve Loane
General Manager
Forbes Shire Council
PO Box 333
FORBES NSW 2871

Dear Mr Loane

Planning proposal [PP_2019_FORBE_001_00] to amend Forbes Local Environmental Plan 2013 – Additional Permitted Use for 23 and 25 Lower Wambat Street, Forbes

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) on 02 May 2019 and additional information received on 17 January 2020 in respect of the planning proposal to permit with consent, subdivision of and erection of two dwelling houses on Lots 3 and 4 DP 618865, at No's 23 and 25 Lower Wambat Street, Forbes.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I note this is the second Gateway determination issued to permit further subdivision and erection of dwelling houses in the south Forbes area, through an amendment to Schedule 1, Additional Permitted Uses of the Forbes Local Environmental Plan 2013 (LEP). Council are encouraged to strategically review further residential uses of south Forbes area, with consideration of the local flood risk and update the LEP as part of the planned LEP review this year. Please arrange a meeting with the Department of Planning, Industry and Environment, Western Region team to discuss this work.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions (1.5 Rural Lands and 6.3 Site Specific Provisions) are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of the relevant section 9.1 Direction 4.3 Flood Prone Land. Please note conditions 1 and 2 of the attached Gateway determination to complete agency consultation prior to public consultation. Consultation with these agencies is required to help resolve the inconsistency with Direction 4.3 Flood Prone land. Once agency

submissions are received, Council should provide the Department with a copy of the agency responses, demonstrate consistency with the Direction and request to proceed to community consultation.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway determination for Council to be authorised as the local plan-making authority.

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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.counsel@pco.nsw.gov.au) 10 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department, Western Region (westernregion@planning.nsw.gov.au) for administrative purposes.

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 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Nikki Pridgeon, from the Department of Planning, Industry and Environment, Western Region office, to assist you. Ms Pridgeon can be contacted on 5852 6800.

Yours sincerely



31.1.20

Damien Pfeiffer
Director, Western Region
Local and Regional Planning

Encl: Gateway determination
Authorised plan-making reporting template



Gateway Determination

Planning proposal (Department Ref: PP_2019_FORBE_001_00): to amend Schedule 1 - Additional Permitted Use, for subdivision and dwelling houses on Lots 3 and 4 DP 618865. No's 23 and 25 Lower Wambat Street, Forbes.

I, the Director, Western Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Forbes Local Environmental Plan (LEP) 2013 to *permit with consent subdivision into four lots and erection of two additional dwelling houses at Lots 3 and 4 DP618865, No's 23 and 25 Lower Wambat Street, Forbes* should proceed subject to the following conditions:

1. Prior to community consultation, consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act to comply with the requirements of relevant section 9.1 Direction - 4.3 Flood Prone Land:

- NSW State Emergency Service.
- Department of Planning, Industry and Environment – Biodiversity Conservation Division.

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.

2. Prior to community consultation, Council is to provide the Department of Planning, Industry and Environment – Western Region, a copy of each agency response and justification to demonstrate consistency with section 9.1 Direction – 4.3 Flood Prone Land. Should the inconsistency be justified Council is to request approval to proceed to community consultation.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. Prior to the submission of the planning proposal under section 3.36 of the Act, an Additional Permitted Use map must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 31st day of January 2020.



Damien Pfeiffer
Director, Western Region
Local and Regional Planning
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

Attachment 5 – Authorised plan-making reporting template

Reporting template for authorised LEP amendments

Notes:

- The planning proposal number will be provided by the Department of Planning, Industry and Environment following receipt of the planning proposal.
- The Department will fill in the details of Tables 1 and 3.
- The local plan-making authority is to fill in the details of Table 2.
- If the planning proposal is exhibited more than once, the local plan-making authority should add rows to **Table 2** to include this information.
- The local plan-making authority must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date.
- The plan should be signed using the following format:
[Name]
[Title]
[Council name]
Delegate of [Council name], the local plan-making authority [date]
- A copy of this completed report must be provided to the Department with the local plan-making authority's request to have the LEP notified.

Table 1: To be completed by the Department

Stage	Date/Details
Planning proposal number	PP_2019_FORBE_001_00
Date sent to DPIE under section 3.34(1)	02 May 2019
Gateway determination date	31 January 2020

Table 2: To be completed by the local plan-making authority

Stage	Date/Details	Notified regional office
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date draft LEP requested from PCO		
Date draft LEP received from PCO		
Date PCO Opinion requested		
Date PCO Opinion received		
Date GIS data or maps provided/requested		
Date ePlanning confirmed mapping is suitable and sent to PCO		
Date LEP finalised		
Date sent to DPIE requesting notification		

Table 3: To be completed by the Department

Stage	Date/Details
Notification date and details	

Additional relevant information: