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Our ref: PP_2013_DUBBO_003_00 (14/01536)
Your ref: File 11/63 ED13/581656 SJ/MC

Mr Mark Riley
General Manager
Dubbo City Council
PO Box 81
DUBBO NSW 2830

Dear Mr Riley,

Planning proposal to amend Dubbo Local Environmental Plan 2011

I am writing in response to your Council's letter dated 16 December 2013 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 make a number of amendments to the Dubbo Local Environmental Plan 2011 including amendments to the land use table, rezoning of certain land, additional permitted uses, Schedule 5, Clause 5.4, Clause 7.13(a), and correcting mapping errors.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to variations as outlined in the conditions in the attached Gateway determination.

It is noted that Council proposes to rezone rural land at Rosedale Road for urban purposes. The provision of additional residential land is supported, however a significant portion of the subject site has not been identified for this purpose in Council's Urban Areas Development Strategy and the land is identified as 'airport flight path'. Council should consider reviewing its residential policy, particularly for land in proximity to the airport and amend the Strategy to reflect the outcomes of the review.

I have also agreed the planning proposal's inconsistency with S117 Direction 2.3 Heritage Conservation is justified. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the reduction of land for public purposes because the site is unsuitable for public purposes and has not been identified in Council's strategic plans as being required for open space purposes. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

Council is reminded of its obligations for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the department's practice note *PN09-003, Classification and reclassification of public land through a local environmental plan*.

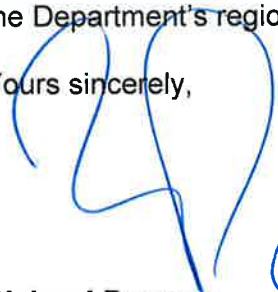
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation because Council has not confirmed that the Governor's approval is not required for the reclassification of land. Reclassification proposals where the Governor's approval is required cannot be delegated back to council.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

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 54(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, I have arranged for Ms Jenna McNabb of the Department's regional office to assist you. Ms McNabb can be contacted on (02) 6841 2180.

Yours sincerely,



Richard Pearson
Deputy Director General
Growth Planning & Delivery

17/2/14

Encl:
Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2013_DUBBO_003_00): to make various amendments to the Dubbo Local Environmental Plan 2011.

I, the Deputy Director General, Growth Planning and Delivery at the 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 Dubbo Local Environmental Plan (LEP) 2011 to:

- a) amend the Land Use Table to include various land uses for various zones;
- b) include uses as permissible with development consent within the B5 Business development and B7 Business Park zones;
- c) amend Schedule 5 Environmental Heritage to correct property descriptions, remove two heritage items and insert one additional heritage item;
- d) include a dwelling as an additional permitted use on land at Narromine Road, Dubbo;
- e) include agriculture produce industry as an additional permitted use on land at Brisbane and Erskine Street, Dubbo;
- f) correct labelling error on the Land Reservation Acquisition Map;
- g) remove land at Boothenba Road, Dubbo from the Urban Release Area Map;
- h) rezone land and amend minimum lot size at various areas in Dubbo LGA;
- i) reclassify land at Thompson Street, Dubbo as 'Operational' and rezone the land to R2 Low Density Residential and include minimum lot size of 600 m²;
- j) modify Clause 5.4 to increase the floor area for neighbourhood shops to 150 m²; and
- k) amend Clause 7.13(a) regarding restricted premises in the IN3 Heavy industrial zone,

should proceed subject to the following conditions and variations:

1. Council is to update the planning proposal to include Land Zoning, Lot Size, Land Reservation Acquisition, Heritage and Urban Release Area Maps, which are at an appropriate scale and clearly identify the subject lands prior to the finalisation of the LEP amendment.
2. Prior to undertaking public exhibition, Council is to amend the planning proposal to demonstrate the proposal's consistency or justify any inconsistency with Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands.
3. 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 must be made publicly available for a minimum of **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 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).

4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Essential Energy
- NSW Rural Fire Service
- NSW Office of Water
- Office of Environment and Heritage
- Central West Catchment Management Authority
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries - Catchment and Lands

Each public authority 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.

5. A public hearing is not required to be held into the matter under section 56(2)(e) of the EP&A Act. However, a public hearing is required to be held into the matter in accordance with the department's practice note PN09-003, as the planning proposal involves a reclassification of land from community to operational.
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

17

day of

February

2014.



Richard Pearson
Deputy Director General
Growth Planning & Delivery
Department of Planning & Infrastructure

Delegate of the Minister for Planning & Infrastructure