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Our ref: PP_2011_BLACK_003_00 (11/11404)
Your ref: RZ-10-2153

Mr Ron Moore
General Manager
Blacktown City Council
PO Box 63
BLACKTOWN NSW 2148

Dear Mr Moore,

Re: Planning Proposal to amend Clause 41A of the Blacktown Local Environmental Plan 1988 to permit the development of a service station incorporating a convenience store at 291-293 Rooty Hill Road, Plumpton

I am writing in response to your Council's letter dated 20 June 2011 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 Blacktown Local Environmental Plan 1988 to amend Clause 41A of the Blacktown Local Environmental Plan (LEP) 1988 to permit the development of a service station incorporating a convenience store at 291-293 Rooty Hill Road, Plumpton.

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

The Department does not favour the use of an enabling clause to achieve the intent of Council's planning proposal in this instance. It is noted that the proposed end use of the site (ie a service station with an associated convenience store) is a commercial land use. Consequently, the Department believes the site should be zoned appropriately and the community given an opportunity to comment on the proposed change in use. Council is therefore to proceed with the planning proposal as a rezoning proposal rather than an amendment to Clause 41 of its current LEP. Council should therefore identify an appropriate commercial based zone from its existing Business zones for exhibition purposes.

It appears that the intent of the planning proposal is not to provide for an 'additional use' on the site but to facilitate a commercial based land use activity in a residential zone. Notwithstanding Council's concerns about the potential for out of centre development to result from rezoning this site to an appropriate business zone, there is insufficient information provided in the planning proposal to justify why Council is of the opinion that a business zone on this particular site facilitating a small scale commercial use (ie a service station with convenience store on an approximately 2000sqm site) is not appropriate and how it would cause detrimental impacts to the established Plumpton Market Place and overall retail centres hierarchy for the city.

The Department considers it premature to provide 'in principle' support for the proposed site use by proceeding with an amendment to Clause 41 of the Blacktown LEP 1988 without providing the surrounding community with an opportunity to comment on the appropriateness of a commercial use on a site that is currently zoned for residential purposes. However, to ensure that there are no unnecessary delays with considering the specific development proposal Council currently has for the site, Council is encouraged to consider exhibiting the revised rezoning planning proposal and a development application for the site concurrently.

Council will be required to assess the revised rezoning planning proposal against all relevant s117 Directions and demonstrate the proposal's consistency with the relevant Directions. Where the proposal is inconsistent, Council must also provide justification for this inconsistency in accordance with the requirements of each s117 Direction. The revised planning proposal must also be assessed for consistency against all relevant SEPPs and the broader strategic planning framework established in the Metropolitan Strategy.

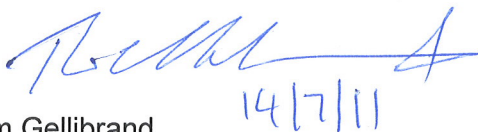
Council is also requested to provide additional information in the revised planning proposal in relation to the net community benefit of the rezoning and including the proposal's compatibility with and potential impacts on surrounding development, how these potential impacts will be mitigated.

The amended LEP is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to provide a revised planning planning to the Department's Regional Planning team within four (4) weeks of the date of this determination. Council is not to proceed with community consultation under s57 of the Act until the Regional Director, Sydney Region West has agreed with the form of the revised planning proposal. 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 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 Gilead Chen of the Regional Office of the Department on 02 9873 8500.

Yours sincerely,



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_BLACK_003_00): to amend Clause 41A of the Blacktown Local Environmental Plan 1988 to permit the development of a service station incorporating a convenience store at 291-293 Rooty Hill Road, Plumpton.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) that an amendment to the Blacktown Local Environmental Plan 1988 to amend Clause 41A of the Blacktown Local Environmental Plan 1988 to permit the development of a service station incorporating a convenience store at 291-293 Rooty Hill Road, Plumpton should proceed subject to the variations required by the following conditions:

1. An amendment to Clause 41 of the Blacktown Local Environmental Plan 1988 to permit the development of a service station incorporating a convenience store is not supported in this instance.
2. Council is to proceed with the planning proposal by rezoning the subject site to an appropriate Business Zone under the provisions of Blacktown Local Environmental Plan 1988.
3. Council is to undertake an assessment of the revised planning proposal against all relevant s117 Directions, SEPPs, and the broader strategic planning framework and provide this assessment and justification for any inconsistencies with the revised planning proposal.
4. Council is to undertake an assessment of the net community benefit of the rezoning planning proposal demonstrating a need for this use in this location and provide this assessment and justification for any inconsistencies with the revised planning proposal.
5. Council is to submit the revised planning proposal to the Regional Director, Sydney Region West for review and approval prior to commencing with community consultation under s57 of the EP&A Act.
6. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:
 - (a) once the Regional Director, Sydney Region West is satisfied with the content of the revised planning proposal, the planning proposal 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)*.
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - NSW Roads and Traffic Authority

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.

8. 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).
9. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 14th day of July 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure