

Request for Initial Gateway Determination

Instructions to Users

When forwarding a planning proposal to the Minister under section 56(1), the relevant planning authority must provide the information specified on this form. This form and the required information should be sent to your local Regional Office.

Relevant Planning Authority Details

Name of Relevant Planning Authority: Bathurst Regional Council

Contact Person: Ms Janet Bingham
Manager, Strategic Planning

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Planning Proposal Details - Attachments

No attachments

LAND INVOLVED (If relevant – e.g. Street Address and Lot and Deposited Plan):

This Planning Proposal involves all land within the Bathurst regional LGA.

The Planning Proposal is to amend the adoption date of the Development Control Plan – Complying Development (2005) within the Bathurst Regional (Interim) Local Environmental Plan 2005.

COMPLETE PLANNING PROPOSAL (electronic and hard copy) ☐

All matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land) in accordance with a 'Guide to preparing a planning proposal' are completed prior to forwarding to the Regional Office in the first instance. See attached pro-forma.



D.R.Shaw

Director, Environmental Planning and Building Services

Signed for and on behalf of the Relevant Planning Authority on 17 February 2011

Amendment to Complying Development in the Bathurst Region

Background

On 16 February 2011 Council adopted the new Bathurst Regional (Interim) Development Control Plan 2011.

This Development Control Plan was prepared to:

- Incorporate some recommendations of the Urban and Rural Strategies and Heritage Study which do not rely on a new LEP or rezoning.
- Condense 18 DCP's into one comprehensive DCP. This includes all Council's current Development Control Plans (excluding the Bathurst Regional Council Development Control Plan – Exempt Development (2005) and the **Bathurst Regional Council Development Control Plan – Complying Development (2005)**), and a number of Council codes and policies..
- To update existing planning standards based on a comprehensive review and community consultation undertaken throughout the Strategy and LEP process.

The Bathurst Regional (Interim) Development Control Plan 2011 includes extensive changes to existing development standards affecting all types of development in the Region which do not affect the Bathurst Regional (Interim) Local Environmental Plan (2005) with the exception of one minor inconsistency.

In this regard, **Section 4.4.2** of the new DCP reduced the front building line setback for new buildings (on land outside the Bathurst Heritage Conservation Area) from 8 metres to 6 metres.

The Development Control Plan - Complying Development (2005) (which did not change as a result of the Bathurst Regional (Interim) Development Control Plan 2011) continues to require a front building line setback of 8 metres.

Given this inconsistency, Council subsequently adopted an amended Bathurst Regional Council Development Control Plan – Complying Development on 16 February 2011 to:

- a) reduce the front setback for single dwelling houses from 8 – 12 metres to 6 – 10 metres (ie 2 metres closer to the front boundary) to make the DCP – Complying Development consistent with the BR(I)DCP 2011;
- b) reduce the setback for corner allotments from 10 metres to 8 metres for the combined distance of the two building line setbacks; and
- c) amend the description of development “Dwellings with attached/detached dwellings” to remove the word “detached” from the table on page 5 (ie making it consistent with the heading in Section 18).

This amending DCP was adopted by Council on 16 February 2011.

Clause 20 (3) of the Bathurst Regional (Interim) Local Environmental Plan (2005) states:

Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development respectively by Bathurst Regional Council Development Control Plan – Exempt Development and Bathurst Regional Council Development Control Plan – Complying Development as adopted by the Council on 20 April 2005.

Given the amended Development Control Plan - Complying Development , Clause 20(3) of the Bathurst Regional (Interim) Local Environmental Plan (2005) is required to be amended to state:

Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development respectively by Bathurst Regional Council Development Control Plan – Exempt Development as adopted by the Council on 20 April 2005 and the Bathurst Regional Council Development Control Plan – Complying Development as adopted by the Council on 16 February 2011.

Part 1 - Objectives or Intended Outcomes

To amend Clause 20(3) the Bathurst Regional (Interim) LEP 2005 to change the adoption date of the Bathurst Regional Council Development Control Plan – Complying Development.

Part 2 - Explanation of Provisions

The purpose of this Planning Proposal is to amend Clause 20 (3) of the Bathurst Regional (Interim) Local Environmental Plan (2005) which currently states:

*Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development respectively by Bathurst Regional Council Development Control Plan – Exempt Development and Bathurst Regional Council Development Control Plan – Complying Development **as adopted by the Council on 20 April 2005.***

To state instead:

*Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development respectively by Bathurst Regional Council Development Control Plan – Exempt Development as adopted by the Council on 20 April 2005 and the Bathurst Regional Council Development Control Plan – Complying Development **as adopted by the Council on 16 February 2011.***

Part 3 - Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. This planning proposal is a result of the need for a minor correction to the LEP to change the adoption date of the Development Control Plan – Complying Development. The DCP – Complying Development has been adopted by Council on 16 February 2011 and changes the front building line setback for new dwellings and exhibition homes so as to be consistent with new standards adopted by Council in the Bathurst Regional (Interim) DCP 2011.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of achieving the intended outcome. In the absence of an LEP amendment the LEP will not reflect the correct adoption date of the Development Control Plan - Complying Development, and the amended / new DCP – Complying Development will not have any effect.

3. Is there a net community benefit?

There is a significant community benefit. The inclusion of the new building line setbacks in the DCP – Complying Development will ensure the majority of Applications for new dwellings in the City of Bathurst are continued to be dealt with as complying development rather than a Development Application and Construction Certificate.

This will ensure a shorter approval time for applications and reduced fees for applicants. It is imperative that this Planning Proposal proceed as quickly as possible to ensure the benefits of the CDC process remain available to the community.

Section B - Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

No regional or sub-regional strategy applies to the Bathurst Region.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is of a minor nature, ie amending the adoption date of the DCP – Complying Development, to ensure this DCP remains consistent with Council's new comprehensive DCP, the Bathurst Region (Interim) DCP 2011.

6. Is the planning proposal consistent with applicable state environmental planning policies?

Yes, Council's DCP – Complying Development can continue to operate in parallel to the SEPP (Exempt and Complying Development Codes) 2008.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Council has undertaken a review to ensure the planning proposal is consistent with all relevant Section 117 Ministerial Directions issued by the Minister for Planning to relevant planning authorities under section 117(2) of the Environmental Planning and Assessment Act 1979.

No Ministerial Directions (s. 117 directions) are applicable to the preparation of this planning proposal because of its minor nature (ie amending an adoption date).

Section C - Environmental, social and economic impact.

- 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

No. The Planning Proposal is of a minor nature (ie amending an adoption date).

- 9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

No. The Planning Proposal is of a minor nature (ie amending an adoption date).

- 10. How has the planning proposal adequately addressed any social and economic effects?**

Yes. The Planning Proposal supports the recent adoption of a new comprehensive DCP for the Bathurst Regional LGA which changed the building line setback standard for new dwellings.

Section D - State and Commonwealth interests.

- 11. Is there adequate public infrastructure for the planning proposal?**

Not applicable. The Planning Proposal is of a minor nature (ie amending an adoption date).

- 12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?**

Not applicable. The Planning Proposal is of a minor nature (ie amending an adoption date).

Section E – Reclassification of Public Land.

This section is not applicable as no land is to be reclassified as a result of the planning proposal.

Part 4 - Community Consultation

This is a Low Impact Planning Proposal and is of a minor nature. Council anticipates consultation with the community would not be required in this instance.

It should be noted that the concept of reducing the front building line from 8 metres to 6 meters and to reduce the setback for corner allotments from 10 metres to 8 metres for the combined distance of the two building line setbacks has already been exhibited on 2 separate occasions as part of the Bathurst Regional (Interim) DCP 2011 exhibition (2 October 2010 to 15 November 2010) and the DCP – Complying Development exhibition (22 November 2010 to 20 December 2010). Thus this Planning Proposal has already been effectively exhibited for a period of approximately 10 weeks.

During both public exhibition periods, no objections were raised in relation to the reduction of the front building setbacks. It should be noted that Council did receive support the for the proposal.

For the above reasons, Council recommends that a further public exhibition period is **not** warranted.

