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Our ref: PP\_2012\_MIDWR\_001\_00 (11/22412)  
Your ref: (ED) A0420084

Mr Warwick Bennett  
General Manager  
Mid-Western Regional Council  
PO Box 156  
MUDGEES NSW 2850

Dear Mr Bennett,

**Re: Planning Proposal to define and insert a local clause for 'temporary workers accommodation' associated with mines and major infrastructure works**

I am writing in response to your Council's letter dated 15 December 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 either the Mid-Western Regional Local Environmental Plan 2008 or the draft Mid-Western Regional Local Environmental Plan 2011 to insert a local clause that contains a new definition and locational criteria for temporary workers accommodation for mine and major infrastructure works.

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

The Department acknowledges Council's intention to provide alternative accommodation options for workers related to the mining industry, which can offer both immediate and short term solutions to the mounting housing problem. However, the Department considers the clause and definition drafted by Council may allow for interpretation that would not achieve Council's intent, in particular the reference to 'temporary basis' and 'large scale infrastructure projects'. The Department has considered Council's proposal and the draft clause and definition and provided Council with a clause and definition that will achieve Council's intended outcome. Therefore, Council is to amend the planning proposal to include the clause and definition included in the Gateway determination prior to the commencement of community consultation. Council is to provide the Department's Regional Office with a copy of the revised planning proposal before public exhibition.

It is noted that Council has not addressed relevant S117 Directions, in particular 6.3 Site Specific provisions. Council is to amend the planning proposal to consider the requirements of this Local Planning Direction and provide further justification as to why the proposed clause and definition is the most appropriate solution to achieve Council's intended outcome.

In addition, Council is to undertake consultation with the NSW Department of Primary Industries – Minerals and Petroleum, Mine Subsidence Board and NSW Rural Fire Service to determine consistency with S117 Directions – 1.3 Mining, Petroleum Production and Extractive Industries, 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection. This consultation should occur prior to the public exhibition and the planning proposal should be amended (if necessary) prior to exhibition to reflect the outcomes of the consultation.

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 within four (4) weeks from the week following this

determination. 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 Wayne Garnsey of the Regional Office of the Department on 02 6841 2180.

Yours sincerely,



3/2/12

**Tom Gellibrand**  
**Deputy Director General**  
**Plan Making & Urban Renewal**

## Gateway Determination

*Planning Proposal (Department Ref: PP\_2012\_MIDWR\_001\_00): to define and insert a local clause for 'temporary workers accommodation' associated with mines and major infrastructure works*

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 EP&A Act that an amendment to either the Mid-Western Regional Local Environmental Plan 2008 or the draft Mid-Western Regional Local Environmental Plan 2011 to insert a local clause that contains a new definition and locational criteria for temporary workers accommodation for mine and major infrastructure works should proceed subject to the following conditions:

1. Council is to amend the planning proposal to include the following clause and definition and provide the Department with the revised planning proposal prior to the commencement of community consultation:

*"For the purposes of the clause "workers accommodation" is defined as:*

*A building or place that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purposes of mining or extractive industries.*

*The objectives of the clause are:*

- *To ensure that workers accommodation:*
    - *Is located within 5km of a mine;*
    - *Does not result in land use conflict with other existing or reasonably anticipated future use of land such as tourism and agriculture; and*
    - *Minimises the impact on local roads and infrastructure.*
  - *Before granting development consent to development for the purposes of workers accommodation, the consent authority must be satisfied that:*
    - *There is a demonstrated link between a mine or extractive industry and the need for the accommodation for its workers;*
    - *The development is located within 5km of the site of the main site office of a mine or extractive industry; and*
    - *Arrangements have been made for the supply of water and sewerage infrastructure services."*
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 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 following public authorities under section 56(2)(d) of the EP&A Act:
    - Central West Catchment Management Authority
    - Hunter – Central Rivers Catchment Management Authority

- Essential Energy
- Office of Environment and Heritage
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries – Minerals and Petroleum
- Fire and Rescue NSW

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.

4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, the NSW Department of Primary Industries – Minerals and Petroleum and the Mine Subsidence Board prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries and S117 Direction 4.2 Mine Subsidence and Unstable Land.
5. Council is to amend the planning proposal to consider the requirements of S117 Direction 6.3 Site Specific Provisions and provide further justification as to why the proposed clause and definition is the most appropriate solution to achieve Council's intended outcome.
6. 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).
7. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 3<sup>rd</sup> day of February 2012.



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