



8 April 2019

Mr D Pfeiffer  
General Manager, Western Region  
NSW Department of Planning and Environment  
PO Box 58  
DUBBO NSW 2830

Dear Mr Pfeiffer

**Draft Bathurst Regional LEP 2014 – Health Services Amendment**

Council provides the following additional information to support the Health Services Planning Proposal.

**1. *Alternatives to altering the Land Use Table***

In determining Council's preferred option for the Planning Proposal, being the alteration to the RE2 Private Recreation Land Use Table, a number of different options were tested and discounted. They will be addressed separately below:

- a) A residential zone was discounted as the site is within 400m of the Bathurst Sewer Treatment Plant. Council has had in place a Policy that no additional land would be zoned for residential purposes within 400m of the Bathurst Sewer Treatment Plant.
- b) A business zone was discounted as the rezoning of the land was not supported by Council's Bathurst CBD & Bulky Goods Business Development Strategy. Council has maintained a strong CBD by adhering to its long-standing Policy not to permit retail development outside the CBD, except for Neighbourhood Centres.
- c) The use of the SP2 zone was discounted as the land is privately owned and would have been too restrictive for the use of the site.
- d) An Additional Permitted Use (APU) for the site was considered, as demonstrated by Anthony Daintith's proposal. Council ultimately discounted this as an option given the wider possible benefits achieved to other properties by way of the proposed change to the RE2 Land Use Table.

**2. *Flood prone land***

Of the six sites involved in this Planning Proposal, four are protected by flood levees and two remain flood affected. With respect to the flood protected land, the buildings on the site are sited outside the 1% AEP flood level. Council is satisfied that these sites are able to be developed appropriately. With respect to the two other sites that remain flood affected, they are subject to Council's flood controls in both the LEP and the DCP.

Council is satisfied that the inclusion of the landuse within the RE2 zone will not detrimentally affect the flood prone land.

### **3. Section 9.1 Directions**

#### *Direction 3.7 Reduction in non-hosted short term rental accommodation period*

Direction 3.7 is not applicable.

**Council is satisfied that the planning proposal is consistent with the requirements of the direction.**

#### *Direction 5.10 Implementation of Regional Plans*

The Central West and Orana Regional Plan applies to the Bathurst Region. The Planning Proposal aims to amend the RE2 zone Land Use Table to include health service facilities as a permissible land use.

The proposed changes are considered to be consistent with Council's local Land Use Strategies and are not inconsistent with the overall intent of the Regional Plan. Of particular note the Planning Proposal is consistent with Direction 5.1 and 5.3 of the Central West and Orana Regional Plan.

**Council is satisfied that the planning proposal is consistent with the requirements of the direction, is consistent with the overall intent of the Regional Plan (Clause 5(b)) and should be supported.**

#### *Direction 5.11 Development of Aboriginal Land Council land*

Direction 5.11 is not applicable.

**Council is satisfied that the planning proposal is consistent with the requirements of the direction.**

### **4. Delegated Plan Making Function Assessment**

Please find **attached** the completed form as requested.

If you have any queries please contact Mr Nicholas Murphy of Council's Environmental, Planning & Building Services Department on 02 6333 6514.

Yours faithfully



J E Bingham  
**MANAGER STRATEGIC PLANNING**

## Evaluation criteria for authorising Council to be the local plan-making authority

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council Response		Department assessment
	Y/N	Not Relevant	
Is the planning proposal consistent with the Standard Instrument Order, 2006?	YES		
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	YES		
Are appropriate maps included to identify the location of the site and the intent of the amendment?		✓	
Does the planning proposal contain details related to proposed consultation?	YES		
Does the planning proposal give effect to an endorsed regional or sub-regional planning strategy or a local strategy including the LSPS endorsed by the Planning Secretary?	YES		
Does the planning proposal adequately address any consistency with all relevant s. 9.1 Planning Directions?	YES		
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	YES		
<b>Minor Mapping Error Amendments</b>			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		✓	
<b>Heritage LEPs</b>			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		✓	
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		✓	
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		✓	



Reclassifications			
Is there an associated spot rezoning with the reclassification?		✓	
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		✓	
Is the planning proposal proposed to rectify an anomaly in a classification?		✓	
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		✓	
Has Council confirmed whether there are any trusts, estates, interests, dedications, conditions, restrictions or covenants on the public land and included a copy of the title with the planning proposal?		✓	
Has council confirmed that there will be no change or extinguishment of interests and that the proposal does not require the Governor's approval?		✓	
Has the council identified that it will exhibit the planning proposal in accordance with the Department's Practice Note regarding classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		✓	
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		✓	
Spot Rezonings			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		✓	
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?		✓	
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?		✓	
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		✓	
Does the planning proposal create an exception to a mapped development standard?		✓	

## Section 3.22 matters

Does the proposed instrument

- a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;
- b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or
- c) deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?

(Note – the Minister (or Delegate) will need to form an Opinion under section 3.22(1)(c) of the Act in order for a matter in this category to proceed).



### Notes

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the council will be authorised to make the plan, as a matter of local planning significance
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Planning Secretary of the Department.

Matters that will be routinely delegated to a Council under administration are confirmed on the Department's website [www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/](http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/)