



Mr Danny Green
General Manager
Forbes Shire Council
PO Box 333
FORBES NSW 2871

17/06466

Attention: Mr Paul Bennett, Director Environmental Services and Planning

Dear Mr Green,

Planning proposal (PP_2017_FORBE_001_00) to amend Forbes Local Environmental Plan 2013 to rezone land from IN1 General Industrial to R1 General Residential at 1A Brooke Street, Forbes

I am writing in response to your Council's letter dated 26 April 2017 and further information provided requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act, 1979* in respect of the planning proposal to rezone land from IN1 General Industrial to R1 General Residential at 1A Brooke Street, Forbes.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination. **(Attachment 1).**

In consideration of the potential land use conflict between the proposed residential use of the land and the adjoining and adjacent industrial land and rail corridor, a condition is included in the Gateway determination requiring Council to draft suitable development control considerations for inclusion in the Forbes Development Control Plan regarding development near rail corridors, particularly to address noise and vibration.

Council is commended for the strategic work undertaken in the preparation of the endorsed Forbes Growth Management Strategy (Strategy) that informed the appropriate zoning of land under the Forbes Local Environmental Plan 2013. It is noted that the subject land was not identified for residential purposes within this Strategy. Further proposals to rezone land should align with the recommendations of the Strategy and have clear strategic merit.

The Minister delegated plan making powers to Councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have

considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan. **(Attachment 2)**

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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.counsel@pco.nsw.gov.au) 10 weeks prior to the projected publication date.

All related files for LEP Amendment, including PDF Maps, Map Cover Sheet, Planning Proposal document and GIS Data, if available, must be submitted to the Department via the Planning Portal Website at <https://www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data>. To submit the data, Council is required to create an account and log in using these details.

A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

In accordance with "A guide for the preparation of local environmental plans" attachment 5 – Delegated plan making reporting template **(Attachment 3)** is enclosed for Council's information. Table 2 of the attachment is to be completed and included in Council's section 59 submission and forwarded to the westernregion@planning.nsw.gov.au when requesting the planning proposal be finalised.

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 *Environmental Planning & Assessment Act, 1979* 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 Amanda Carnegie of the Departments Western Region office to assist you. Ms Carnegie can be contacted on (02) 6841 2180.

Yours sincerely,



Katrine O'Flaherty
Director Regions, Western
Planning Services

13/7/2017.

Encl:
Attachment 1 – Gateway determination
Attachment 2 – Written Authorisation to Exercise Delegation
Attachment 3 – Delegated Plan Making Reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2017_FORBE_001_00): to rezone land from IN1 General Industrial to R1 General Residential at 1A Brooke Street, Forbes.

I, the Director Regions, Western at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act, 1979* that an amendment to the Forbes Local Environmental Plan (LEP) 2013 to rezone land from IN1 General Industrial to R1 General Residential at 1A Brooke Street, Forbes should proceed subject to the following conditions:

1. Prior to community consultation, draft Development Control Plan (DCP) content is to be prepared and submitted the Department of Planning and Environment for approval to provide suitable development controls for development near rail corridors, particularly in relation to noise and vibration. A copy of the draft content is to be publicly exhibited with the planning proposal. Council should seek to amend the Forbes DCP to include the content prior to the Plan being made.
2. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* 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)*.
3. Consultation is required with the Australian Rail Track Corporation under section 56(2)(d) of the *Environmental Planning & Assessment Act 1979*. Australian Rail Track Corporation 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.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the *Environmental Planning and Assessment Act, 1979*. 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).
5. Prior to submission of the planning proposal under section 59 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 13th day of July 2017



Katrine O'Flaherty
Director Regions, Western
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Forbes Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_FORBES_001_00	Planning proposal to rezone land from IN1 General Industrial to R1 General Residential at 1A Brooke Street, Forbes

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 13th July 2017

Katrine O'Flaherty
Director Regions, Western
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for **Table 2**
- If the planning proposal is exhibited more than once, the RPA should add additional rows to Table 2 to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2017_FORBE_001_00
Date sent to Department under s56	28 June 2017
Date considered at LEP review Panel	Determined by Ministers Delegate and not considered by the Panel
Gateway determination date	12 July 2017

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council resolved to adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DPE requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and Details	

Additional relevant information