



LEETON SHIRE COUNCIL

Preserving the Past, Enhancing the Future

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GS/KT/EF10/431

21 February 2018

Ms Katrine O'Flaherty
Director Regions, Western Planning Services
Department of Planning and Environment
PO BOX 58
DUBBO NSW 2830

Dear Ms O'Flaherty,

SUBJECT: SUBMISSION OF PLANNING PROPOSAL TO AMEND LEETON LOCAL ENVIRONMENTAL PLAN 2014 (LLEP) – ADDITIONAL PERMITTED USES IN ZONE B3 COMMERCIAL CORE

On 26 July 2017, Council resolved to prepare a planning proposal to amend the LLEP. Council seeks to amend the LLEP to facilitate the permissibility of additional *residential accommodation* uses within Zone B3 Commercial Core. Please find enclosed a copy of the following information:

- The planning proposal prepared in accordance with Section 55 of the *Environmental Planning & Assessment (EP&A) Act 1979* and 'A guide to preparing planning proposals',
- Council report and resolution dated 26 July 2017, and
- 'Information checklist' from the Departments 'A guide to preparing planning proposals'.

It is requested that the Minister allow the General Manager of Leeton Shire Council delegation for the making of this LEP amendment. A response to the 'Evaluation criteria for issuing of an Authorisation' is attached to this letter.

In accordance with section 56 of the EP&A Act, Council seeks that the Minister issue a Gateway Determination in support of the attached planning proposal.

Should you require any further information or have any questions about this matter, please do not hesitate to contact Council's Manager Planning, Building & Health Mr Garry Stoll on 6953 0921.

Yours faithfully,



Jackie Kruger
General Manager

Encl.

Attachment 4 – Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Leeton

Name of draft LEP:

Leeton Local Environmental Plan 2014

Address of Land (if applicable):

N/A

Intent of draft LEP:

To permit additional residential accommodation land uses within Zone B3 Commercial Core

Additional Supporting Points/Information:



Evaluation criteria for the issuing of an Authorisation				
(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	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
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?		X		
Heritage LEPs	Y/N			
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?		X		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		X		
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?		X		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		X		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		X		
Is the planning proposal proposed to rectify an anomaly in a classification?		X		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		X		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		X		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		X		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		X		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		X		
Spot Rezoning	Y/N			
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?		X		
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?		X		
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?		X		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		X		
Does the planning proposal create an exception to a mapped development standard?		X		
Section 73A 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 73(A)(1)(c) of the Act in order for a matter in this category to proceed).		X		
NOTES <ul style="list-style-type: none"> Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise 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 Director-General of the department. 				

ATTACHMENT 1 – INFORMATION CHECKLIST

► STEP 1: REQUIRED FOR ALL PROPOSALS

(under s55(a) – (e) of the EP&A Act)

- | | |
|---|---|
| • Objectives and intended outcome | • Explanation of provisions |
| • Mapping (including current and proposed zones) | • Justification and process for implementation (including compliance assessment against relevant section 117 direction/s) |
| • Community consultation (agencies to be consulted) | |

► STEP 2: MATTERS – CONSIDERED ON A CASE BY CASE BASIS

(Depending on complexity of planning proposal and nature of issues)

PLANNING MATTERS OR ISSUES X	To be considered	N/A	PLANNING MATTERS OR ISSUES	To be considered	N/A
Strategic Planning Context			• Resources (including drinking water, minerals, oysters, agricultural lands, fisheries, mining)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with relevant Regional Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Sea level rise	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with relevant Sub-Regional strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Urban Design Considerations		
• Demonstrated consistency with or support for the outcomes and actions of relevant DG endorsed local strategy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Existing site plan (buildings vegetation, roads, etc)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Demonstrated consistency with Threshold Sustainability Criteria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Building mass/block diagram study (changes in building height and FSR)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site Description/Context			• Lighting impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Aerial photographs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Development yield analysis (potential yield of lots, houses, employment generation)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Site photos/photomontage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Economic Considerations		
Traffic and Transport Considerations			• Economic impact assessment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Local traffic and transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Retail centres hierarchy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• TMAP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Employment land	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Public transport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Social and Cultural Considerations		
• Cycle and pedestrian movement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Heritage impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Considerations			• Aboriginal archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Bushfire hazard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Open space management	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Acid Sulphate Soil	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• European archaeology	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Noise impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Social & cultural impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Flora and/or fauna	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Stakeholder engagement	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Soil stability, erosion, sediment, landslip assessment, and subsidence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Infrastructure Considerations		
• Water quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Infrastructure servicing and potential funding arrangements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Stormwater management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Miscellaneous/Additional Considerations		
• Flooding	<input type="checkbox"/>	<input checked="" type="checkbox"/>	List any additional studies		
• Land/site contamination (SEPP55)	<input type="checkbox"/>	<input checked="" type="checkbox"/>			



Notes

This planning proposal seeks to allow additional residential accommodation uses within Zone B3 Commercial Core. Specific built, environmental, economic and social impacts are addressed within the proposal as appropriate in consideration of the nature of the proposal and its issues.

ENVIRONMENT AND ENGINEERING MATTERS

**ITEM 8.4 AMENDMENT TO LEETON LOCAL ENVIRONMENTAL PLAN
2014**

RECORD NUMBER	17/109
RELATED FILE NUMBER	EF10/431
AUTHOR	Manager Planning, Building and Health

SUMMARY

Currently the Leeton Local Environmental Plan (LEP) 2014 prohibits residential accommodation within the Zone B3 Commercial Core except for shop top housing.

This report discusses a proposed amendment to the LEP that will alter the land use table to permit residential accommodation with Council consent.

BACKGROUND/COMMENT

The Leeton LEP defines three types of development under each zone; those developments that are permitted without Council consent, those that are permitted with Council consent and those that are prohibited.

All types of residential accommodation, except for shop top housing, are prohibited within the Zone B3 Commercial Core, which covers the Central Business District (CBD) retail precinct.

Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings
 - (b) boarding houses
 - (c) dual occupancies
 - (d) dwelling houses
 - (e) group homes
 - (f) hostels
 - (g) multi dwelling housing
 - (h) residential flat buildings
 - (i) rural workers' dwellings
 - (j) secondary dwellings
 - (k) semi-detached dwellings
 - (l) seniors housing
 - (m) shop top housing
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LEETON SHIRE COUNCIL

Ordinary Council Meeting - Wednesday, 26 July 2017

The recently completed CBD Enhancement Project initiated discussion on the potential to permit suitable residential accommodation within the Zone B3 Commercial Core zone in order to potentially reactivate parts of the CBD, such as Dooley Lane (between Pine Avenue and Sycamore Street carpark), the corner of Chelmsford Place and Sycamore Street and the previous Hydro Tavern site.

To permit residential accommodation in the Zone B3 Commercial Core Council could, on the advice of Department of Planning & Environment (DPE), undertake a "housekeeping amendment" to the Leeton LEP and remove the term residential accommodation as a prohibited use so it then defaults to the list of development permitted with Council consent.

Council is advised that should Council resolve to amend the LEP to permit residential accommodation in the Zone B3 Commercial Core, all developments will still be assessed on their merits in accordance with Council's policies.

Under the LEP the current objectives of the Zone B3 Commercial Core are:

- a) to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community;
- b) to encourage appropriate employment opportunities in accessible locations;
- c) to maximise public transport patronage and encourage walking and cycling.

To further clarify the assessment and approval of residential accommodation with commercial areas, it is advised that a number of other Councils also include in their objectives for commercial zones the following provision:

- a) to enable development of land in this zone for residential purposes if adequate amenity will be provided for residents of residential buildings and the land will not be required for commercial or retail use.

RELATIONSHIP TO DELIVERY PROGRAM/OPERATIONAL PLAN

Under the Key Priority Area THEME 1 - "A HEALTH & CARING COMMUNITY" within Council's adopted Delivery/Operational Plan - 5b is to "Expand the range of residential opportunities across the Shire" – Consider introduction of mixed zone (commercial and residential) in Leeton CBD – Report on progress.

FINANCIAL IMPLICATIONS

Nil. Subject to confirmation of the detailed process with the DPE it is proposed that the amendment to the LEP would be undertaken internally by Council staff.

POLICY/LEGAL IMPLICATIONS

To permit residential accommodation within the Zone B3 Commercial Core Council will be required to amend the LEP, which is a legal document, following approval of Department of Planning & Environment.

COMMUNITY ENGAGEMENT

During the Leeton CBD Enhancement project widespread community consultation was undertaken. As part of the planning process to amend the LEP, further community consultation will need to be undertaken on this specific issue.

RECOMMENDATION

THAT Council resolves to:

1. Amend the Land Use Table applying to the Zone B3 Commercial Core under the Leeton Local Environmental Plan 2014 by removing from the list of Prohibited land uses "Residential accommodation".
2. Amend the Objectives of the Zone applying to the Zone B3 Commercial Core under the Leeton Local Environmental Plan 2014 to include the following objective:
 - a) To enable development of land in this zone for residential purposes if adequate amenity will be provided for residents of residential buildings and the land will not be required for commercial or retail use.
3. Prepare a Planning Proposal and submit it to the Department of Planning & Environment for a gateway determination.
4. Request the Department of Planning & Environment to permit Council to exercise its delegations in relation to this matter.
5. Authorise the Mayor and General Manager to sign all necessary documents in relation to the application.

ATTACHMENTS

There are no attachments for this report.

ENVIRONMENT AND ENGINEERING MATTERS

Item 8.4 AMENDMENT TO LEETON LOCAL ENVIRONMENTAL PLAN 2014

17/051

Resolved

THAT Council resolves to:

1. Amend the Land Use Table applying to the Zone B3 Commercial Core under the Leeton Local Environmental Plan 2014 by removing from the list of Prohibited land uses "Residential accommodation".
2. Amend the Objectives of the Zone applying to the Zone B3 Commercial Core under the Leeton Local Environmental Plan 2014 to include the following objective:
 - a) To enable development of land in this zone for residential purposes if adequate amenity will be provided for residents of residential buildings and the land will not be required for commercial or retail use.
3. Prepare a Planning Proposal and submit it to the Department of Planning & Environment for a gateway determination.
4. Request the Department of Planning & Environment to permit Council to exercise its delegations in relation to this matter.
5. Authorise the Mayor and General Manager to sign all necessary documents in relation to the application.

(Moved Cr Kidd, seconded Cr Ciccia)

Item 8.5 DRAFT PLAYGROUND STRATEGY REPORT 2017-2032

17/052

Resolved

THAT Council resolves to:

1. Place the draft "Playground Strategy 2017-2032" on public exhibition for no less than twenty-eight (28) days seeking public comment.
2. Require a further report be presented to Council following the exhibition period for Council to consider public submissions prior to the adoption of the "Playground Strategy 2017-2032".

(Moved Cr Kidd, seconded Cr Smith)