

Mr Mark Riley
General Manager
Dubbo City Council
PO Box 81
Dubbo NSW 2830

16/01349

Attention: Steven Jennings, Strategic Planning Services Supervisor

Dear Mr Riley

**DUBBO CITY COUNCIL - PLANNING PROPOSAL (PP_2016_DUBBO_001_00) AMEND
DUBBO LOCAL ENVIRONMENTAL PLAN 2011 SECONDARY DWELLING PROVISIONS -
CLAUSE 5.4(9)(b)**

I am writing in response to your Council's letter dated 22 December 2015, received 5 January 2016, requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The planning proposal seeks to amend the secondary dwelling provisions as contained in clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 by increasing the maximum floor area from 40% to 65% of the total floor area of the principal dwelling.

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

The Minister delegated plan making powers to Councils in October 2012. It is noted that Council has requested not to exercise plan making delegations and has requested that the Department of Planning and Environment perform these functions. I have considered the nature of Council's planning proposal and decided that it is appropriate that Council exercise plan making functions in this instance. An authorisation for Council to exercise plan making delegations is provided as **Attachment 2**.

The amended Local Environmental Plan is to be finalised within nine (9) 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. A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

The State Government is committed to reducing the time taken to complete Local Environmental Plans 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 the determination are not met.

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 forward to westernregion@planning.nsw.gov.au when requesting the planning proposal to be notified.

Should you have any further enquiries about this matter, I have arranged for Tim Collins from the Western Region office to assist you. Mr Collins can be contacted on (02) 6841 2180.

Yours sincerely

 13/01/2016
Wayne Garnsey
Acting General Manager, Western Region
Planning Services

Enclosures: 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_2016_DUBBO_001_00): to amend the secondary dwelling provisions - clause 5.4(9)(b)

I, the Acting General Manager, Western Region 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 (EP&A Act) 1979 that an amendment to the Dubbo Local Environmental Plan 2011 (LEP) to increase the maximum floor area of secondary dwellings to 65% of the principal dwelling should proceed subject to the following conditions:

1. Community Consultation is required under sections 56(2)(c) and 57 of the EP&A Act 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)*.
2. Consultation is required with the following State Agencies under section 56 (2)(d) of the EP&A Act and/or to comply with the requirements of relevant section 117 Directions:
 - (a) Department of Primary Industries - Agriculture,
 - (b) NSW Rural Fire Services, and
 - (c) Office of Environment and Heritage.

Each public authority 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.

3. 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).
4. The timeframe for completing the LEP is to be **nine (9) months** from the week following the date of the Gateway determination.

Dated

13th

day of

January

2016.


Wayne Garnsey

Acting General Manager, Western Region
Planning Services

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Dubbo 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_2016_DUBBO_001_00	To amend clause 5.4(9)(b) controls relating to Miscellaneous Permissible Uses – Secondary Dwellings which intends to change the maximum permissible floor area from 40% to 65% of the total floor area of the principal dwelling.

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

Dated *13 January* 2016


Wayne Garnsey
Acting General Manager, Western Region
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 2016 DUBBO 001_00
Date Sent to Department under s56	22 December 2015
Date considered at LEP Review Panel	considered by the Acting General Manager, Western Region and not considered by Panel
Gateway determination date	12 January 2016

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 DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: