



EXTRAORDINARY MEETING OF  
BATHURST REGIONAL COUNCIL

9 December 2013

His Worship the Mayor & Councillors

**Notice of Extraordinary Meeting of Bathurst Regional Council - Monday, 16 December 2013**

I have to advise that an **Extraordinary Meeting** of Bathurst Regional Council will be held in the Council Chambers on Monday, 16 December 2013 commencing at 6.00 pm to consider the Draft Bathurst Regional Local Environmental Plan 2014 and Draft Bathurst Regional Development Control Plan 2014 for adoption by Council.

A handwritten signature in blue ink, appearing to read "D J Sherley".

D J Sherley  
**GENERAL MANAGER**

## **BUSINESS AGENDA**

### **EXTRAORDINARY MEETING OF BATHURST REGIONAL COUNCIL**

**TO BE HELD ON MONDAY, 16 DECEMBER 2013**

**1. 6:00 PM - MEETING COMMENCES**

**2. APOLOGIES**

**3. DECLARATION OF INTEREST**

To assist the Councillors and committee members in their correct consideration of business before them at the meeting, please give consideration to Section 451 of the Local Government Act, in relation to Declaration of Interest at meetings.

**4. RECEIVE AND DEAL WITH DIRECTORS' REPORTS**

\* DIRECTOR ENVIRONMENTAL PLANNING & BUILDING SERVICES' REPORT

**5. MEETING CLOSE**

## MINUTE

### 1 MEETING COMMENCES

**Present:** Councillors Rush (Chair), Bourke, Hanger, Jennings, North, Westman.

**MINUTE**

**2**     **APOLOGIES**  
          **MOVED: Cr I North SECONDED: Cr J Jennings**

**RESOLVED:** That the apologies from Crs Aubin, Coote and Morse be accepted and leave of absence granted.

**MINUTE**

**3     DECLARATION OF INTEREST 11.00002**  
**MOVED: Cr I North SECONDED: Cr B Bourke**

**RESOLVED:** That

- (a) the Special Disclosures of Interest forms from Councillors Rush, Bourke, Hanger, Jennings, Morse, North and Westman be tabled.
- (b) The Special Disclosures of Interest forms be made available for public inspection.

**DIRECTOR ENVIRONMENTAL PLANNING & BUILDING SERVICES' REPORT AND  
MINUTES**

EXTRAORDINARY MEETING OF BATHURST REGIONAL COUNCIL

16 DECEMBER 2013

## **1 DRAFT BATHURST REGIONAL LOCAL ENVIRONMENTAL PLAN 2014 AND DRAFT BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014 (20.00143 & 41.00089)**

**Recommendation:** That Council:

- (a) forward Bathurst Regional Local Environmental Plan 2014, including those amendments to the plan as outlined in this report, to the Department of Planning and Infrastructure pursuant to the Environmental Planning and Assessment Act for gazettal by the Minister for Planning, and
- (b) adopt the Bathurst Regional Development Control Plan 2014, including those amendments to the plan as outlined in this report, and note that the DCP will not come into effect until the Bathurst Regional Local Environmental Plan 2014 is gazetted, and
- (c) upon gazettal of the Bathurst Regional Local Environmental Plan 2014, repeal the following Development Control Plans:
  - Bathurst Regional Council DCP – Complying Development;
  - Bathurst Regional Council DCP – Exempt Development; and
  - Bathurst Regional (Interim) DCP 2011, and
- (d) adopt the Bathurst Regional Council Tree Preservation and Management Policy, and note that the Policy will not come into effect until the Bathurst Regional Local Environmental Plan 2014 is gazetted, and
- (e) note that upon gazettal of the Bathurst Regional Local Environmental Plan 2014, the following Plans will be repealed:
  - Bathurst Regional (Interim) Local Environmental Plan 2005; and
  - Bathurst Local Environmental Plan 1997 – Classification and Reclassification of Public Land, and
- (f) give public notice of Council's decision in accordance with the requirements of the Environmental Planning and Assessment Act, and
- (g) notify those who made submissions of the decision of Council, and
- (h) call a division.

**Report:** Public Exhibition

The draft Bathurst Regional Local Environmental Plan (LEP) 2014 and draft Bathurst Regional Development Control Plan (DCP) 2014 were placed on public exhibition from 5 August 2013 to 16 September 2013. Note that the draft Plans were exhibited as being the 'draft Bathurst Regional LEP and DCP 2013'. The Department of Planning and Infrastructure have advised that they should now be entitled 'Bathurst Regional LEP and DCP 2014' to reflect the likely gazettal date of the LEP next year.

During the public exhibition period Council held 10 information sessions to provide an overview of how the draft new planning control changes may affect the Bathurst Regional community. Council's planning staff were available at these sessions to answer queries in relation to the proposed changes. These information sessions were widely publicised in the local newspaper and on the radio. Approximately 1000 letters were sent out to individuals and interest groups notifying them of the exhibition period and inviting them to attend the

information sessions. Council staff also manned a static display in the Bathurst City Centre and the Stocklands Mall and were available to answer any queries from the public.

Details of the sessions held and the number of participants are detailed below.

<b>Date</b>	<b>Location</b>	<b>Attendance</b>
8 August 2013	Peel Hall	17 people
9 - 16 August 2013	Bathurst City Centre	85 people
12 August 2013	Bathurst Regional Council Chambers	6 people
15 August 2013	Yetholme Hall	13 people
20 August 2013	Wattle Flat Public School	15 people
26 August 2013	Sofala Hall	10 people
27 August 2013	Rockley School of Arts Hall	9 people
28 August 2013	Bathurst Regional Council Chambers	21 people
29 August 2013	Trunkey Creek Hall	12 people
30 August to 6 September 2013	Stockland Centre	50 people
3 September 2013	Hill End Public School	12 people
5 September 2013	Bathurst 2036 Heritage Action Network	32 people
<b>Total</b>		<b>283 people</b>

Copies of the draft LEP and DCP, as well as fact sheets on the key changes proposed to specific locations, land types and considerations, were available from Council's Environmental, Planning & Building Services Department and electronically on Councils website at [www.bathurst.nsw.gov.au](http://www.bathurst.nsw.gov.au). The table below shows the statistics for the Council website during the exhibition period.

	<b>Pageviews</b> The number of times that the webpage was viewed.	<b>Unique Pageviews</b> The number of individuals who viewed the webpage.	<b>Average time on page</b> The time spent on each page before moving to another page.
The draft Plans front page	931	493	1 min 23 sec
The draft LEP	166	152	5 min 01 sec
The draft LEP maps	701	259	46 sec
The draft DCP	73	69	4 min 38 sec
The draft DCP maps	110	97	4 min 37 sec
Supporting documents	61	40	1 min 16 sec
Display venues	2	2	9 sec
Community information sessions	16	15	1 min 10 sec
Public exhibition and making a submission	33	32	2 min 01 sec

Council received a total of 92 submissions from the public and 13 submissions from Government Departments during the public exhibition period. Members of the public who made a submission were invited to a discussion forum held on 9 October 2013. The report to the discussion forum included the public submissions received to that date. Late submissions received from the public and submissions received from the Government agencies are included at attachment 7 and attachment 8 below.

#### Assessment of issues raised in submissions and recommended changes to the Draft Plans



Following the discussion forum, Council staff have considered the submissions received and the issues raised. Recommendations to alter the draft Plans have been made where considered appropriate. The following list of attachments summarise the assessment process undertaken and the recommendations for changes to the draft plans.

**Attachment 1** to this report summarises the public submissions received, the recommended planning response and where appropriate, how the Plans have been altered.

**Attachment 2** to this report summarises the submissions received from Government Departments, the recommended planning response and where appropriate, how the Plans have been altered.

**Attachment 3** to this report provides a detailed response to the Bathurst 2036 Heritage Action Network's submission to the draft Plans. The table illustrates the recommended planning response to their submission and, where appropriate, how the Plans have been altered.

**Attachment 4** to this report provides a detailed response to the National Trust – Bathurst Branch's submission to the draft Plans. The table illustrates the recommended planning response to their submission and, where appropriate, how the Plans have been altered.

**Attachment 5** to this report provides a detailed response to the Office of Environment and Heritage – Hill End Office's submission to the draft Plans. The table illustrates the recommended planning response to their submission and, where appropriate, how the Plans have been altered.

**Attachment 6** to this report provides a detailed response in relation to the Clairvaux Lane area and the reasons why the land must be excluded from the R1 General Residential zone at this time.

**Attachment 7** to this report includes copies of the four submissions which were received from the public following the discussion forum held 9 October 2013 which have not previously been reported to Council. The issues raised in these submissions are addressed in attachment 1 above.

**Attachment 8** to this report includes copies of the submissions which were received from the Government agencies and have not previously been reported to Council. The issues raised in these submissions are addressed in attachment 2 above.

**Attachment 9** to this report is the draft Bathurst Regional Local Environmental Plan 2014 recommended to Council to be forwarded to the Department of Planning and Infrastructure for gazettal. The draft Plan incorporates the amendments outlined in this report. Attachment 9 includes the written LEP only. The LEP map sheets (approximately 200 x A3 map sheets) are available from Council's Environmental Planning and Building Services Department.

**Attachment 10** to this report is the draft Bathurst Regional Development Control Plan 2014 recommended to Council to be adopted by Council. The draft Plan incorporates the amendments outlined in this report.

**Attachment 11** to this report is the draft Bathurst Regional Tree Preservation and Management Policy recommended to be adopted by Council (see comments below in relation to this matter).

A large number of the submissions requested changes to the draft Plans which are recommended to be supported by Council. In many circumstances those submissions are supported by recommendation/s from Council's landuse strategies, environmental studies, or the heritage study.

Key changes recommended to be supported from those submissions include:

- Alteration to the configuration of open space within the Kelso expansion area.
- Additional permitted uses on some rural properties to enable smaller lot clustered subdivisions, and at the former St Vincent's Hospital site to enable child care centres and seniors housing.
- Altering the zone of certain lands from Recreation to Environmental Conservation.
- Extending the Heritage Conservation areas for Hill End and Rockley.
- Reviewing the building standards for Wattle Flat under chapter 7 of the DCP.
- Amended notification of Development Applications procedures for the Village of Hill End.
- Various changes to the LEP and DCP in relation to heritage matters.
- Various zoning changes consistent with Council's landuse strategies.

There have also been a number of submissions which are recommended not to be supported by Council. In many circumstances (with the exception of Clairvaux Lane area and Heritage subdivisions) the request made in the submission is not supported by Council's landuse strategies or the heritage study. If Council wishes to support those submissions, the landuse strategies should first be reviewed. These submissions or issues would best be addressed through a future landuse strategy review. It is anticipated that the landuse strategies will be reviewed when the Government's new Planning legislation is introduced.

The matter relating to Clairvaux Lane is directly linked to the ability to provide adequate infrastructure to the area. **Attachment 6** provides detailed information about this issue.

The matter relating to permitting rural heritage items to subdivide in order to raise funds to restore or maintain the heritage item was recommended by Council's Heritage study. Council has investigated a number of different options, including bonds, delaying the release of the subdivision certificate and covenants, but was unable to appropriately link the sale of the vacant land (with the ability to erect a dwelling) to the restoration or maintenance of the Heritage Item. It should be noted that there are a number of alternative funding methods available to the owners of Heritage Items listed on the State Heritage Register to fund major restoration works. There are a number of recent examples of local property owners successfully receiving significant grant funding to restore their properties from the NSW Government.

Council staff have also undertaken an extensive review of the draft Plans since their exhibition. A variety of minor changes have been made to the draft Plans that do not alter the intent of the Plans provisions as originally exhibited.

On the advice of Council's Environmental staff a number of Council owned properties have been zoned E2 Environmental Conservation as opposed to a recreation or rural zoning as exhibited. This is consistent with the recommendations of Council's Biodiversity Study.

Council's Recreation Section has drafted a new Tree Preservation and Management Policy for the Bathurst Region. This was initiated given the changes in the draft LEP/DCP as exhibited which will see approvals/permits required for tree removals in Heritage Conservation Areas (11 localities) and Heritage Items only.

It should be noted that Council received no adverse comments from the public to the

proposed changes to tree removal approvals/permits as exhibited in the draft LEP/DCP. The community has supported the change to require tree approvals/permits only in relation to heritage conservation areas and heritage items.

It is proposed that the new Policy will be linked to the Development Control Plan in Section 13.2 of the DCP. A copy of the draft Tree Preservation and Management Policy is provided at **attachment 11**.

The Policy establishes Council's procedures and processes for dealing with applications for the removal of trees. The majority of the policy reflects current practice and better explains the requirements of Council.

The key differences between the draft Policy and the provisions of the draft LEP/DCP as exhibited or current practices are:

- Exempt tree species – the policy defines exempt trees as those tree species not highly regarded in the Bathurst Regional Council area (e.g. willows), noxious weeds and dead trees. The policy enables removal of these trees in heritage conservation areas following notification to Council only. No approval/permit is required to be issued by Council. All other tree species require approval/permit for removal where located in heritage conservation areas and heritage items.
- Tree height - the Policy adopts a tree height of 9 metres as a means to ensure that all mature trees that are likely to impact on the landscape are captured by the Policy. A tree height of 4 metres was exhibited in the draft LEP/DCP and is applicable under the current tree preservation order. This has proved inefficient as trees that do not extend to/above the height of buildings are generally not those that impact significantly on the landscape, particularly in heritage conservation areas and heritage items, nor are they usually mature trees. A 9 metre height limit is the adopted building height under the new LEP for residential buildings in the heritage conservation areas. It is considered appropriate to apply the same height to trees for which approval/notification of their removal is to be obtained.

Adoption of the draft Tree Preservation and Management Policy is therefore also recommended by this report.

### Conclusion

Whilst this report recommends a number of changes to the draft Plans, these changes are generally of a minor nature and do not alter the original intent of the draft Plans as exhibited. Re-exhibition of the draft Plans is therefore not warranted.

Changes to the draft Plans have been recommended where they are consistent with Council's landuse strategies. Changes have not been recommended where they are considered to be inconsistent with these landuse strategies.

The preparation of the new planning controls for the Bathurst Regional local government area has been an exhaustive task commencing with the preparation of Council's landuse strategies in 2005. The timeframe for completion has been considerably delayed as a result of:

- (a) The NSW Government's Inquiry into Rural Lands held in 2007.
- (b) The delay in the Department of Planning and Infrastructure's endorsement of the Rural Strategy.
- (c) Ongoing negotiations with the Department of Planning and Infrastructure to secure appropriate planning outcomes for the region, particularly with respect to Mount

Panorama and exempt and complying development.

Council staff are now satisfied that the NSW Government's Standard Instrument LEP can be implemented in the Bathurst Region as recommended by this report. It is likely that the process of a major review of these new plans will commence in the near future when the NSW Government introduces its new planning legislation.

It is therefore recommended that Council adopt the Plans and forward the draft Bathurst Regional Local Environmental Plan 2014 to the Department of Planning and Infrastructure for making. Note that the draft LEP will be reviewed by the Parliamentary Counsel and legal changes made to it based on their advice. Those changes will not alter the intent of the LEP as attached to this report. It is expected that the draft LEP will be made by the Minister in early 2014. At that time the draft DCP and new Tree Preservation Policy will come into effect.

**Financial Implications:** The draft new planning controls have been prepared within existing budgets and from grant funding provided by the NSW Department of Planning and Infrastructure.

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 3: To protect a vibrant CBD and support and grow retail diversity. Strategy 3.1, 3.2, 3.3, 3.4, 3.6
- Objective 9: To protect and enhance the region's landscapes, views, vistas, open spaces and the Macquarie River. Strategy 9.1, 9.2, 9.3, 9.4, 9.5, 9.6
- Objective 11: To protect the region's unique heritage and history. To protect a unique identity. Strategy 11.2, 11.8
- Objective 17: To encourage living, vibrant and growing villages and rural settlements. Strategy 17.1, 17.2
- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets. Strategy 28.1, 28.2, 28.5

## MINUTE

### **4 Item 1 DRAFT BATHURST REGIONAL LOCAL ENVIRONMENTAL PLAN 2014 AND DRAFT BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014 (20.00143 & 41.00089)**

**MOVED: Cr I North SECONDED: Cr B Bourke**

**RESOLVED:** That Council:

- (a) forward Bathurst Regional Local Environmental Plan 2014, including those amendments to the plan as outlined in this report and the following additional amendment:
- (i) an additional Schedule 1 use be applied to Lot 462 DP718644 - 215 Rocket Street to permit the use of the land as storage premises,
- to the Department of Planning and Infrastructure pursuant to the Environmental Planning and Assessment Act for gazettal by the Minister for Planning, and
- (b) adopt the Bathurst Regional Development Control Plan 2014, including those amendments to the plan as outlined in this report, and note that the DCP will not come into effect until the Bathurst Regional Local Environmental Plan 2014 is gazetted, and
- (c) upon gazettal of the Bathurst Regional Local Environmental Plan 2014, repeal the following Development Control Plans:
- Bathurst Regional Council DCP – Complying Development;
  - Bathurst Regional Council DCP – Exempt Development; and
  - Bathurst Regional (Interim) DCP 2011, and
- (d) adopt the Bathurst Regional Council Tree Preservation and Management Policy, and note that the Policy will not come into effect until the Bathurst Regional Local Environmental Plan 2014 is gazetted, and
- (e) note that upon gazettal of the Bathurst Regional Local Environmental Plan 2014, the following Plans will be repealed:
- Bathurst Regional (Interim) Local Environmental Plan 2005; and
  - Bathurst Local Environmental Plan 1997 – Classification and Reclassification of Public Land, and
- (f) give public notice of Council's decision in accordance with the requirements of the Environmental Planning and Assessment Act, and
- (g) notify those who made submissions of the decision of Council, and
- (h) call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

**The result of the division was:**

In favour of the motion - Cr B Bourke, Cr G Hanger, Cr I North, Cr G Westman, Cr J Jennings, Cr G Rush,

Against the motion - Nil

Absent - Cr W Aubin, Cr M Morse, Cr M Coote,

Abstain - Nil

Yours faithfully

A handwritten signature in black ink, appearing to read 'D R Shaw'. The signature is written in a cursive style with a large loop at the end.

D R Shaw

**DIRECTOR**

**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**

**MINUTE**

**5     MEETING CLOSE**

The Meeting closed at 6.04 pm.

**CHAIRMAN:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **(5 February 2014)**