



REPORT: Planning Proposal - (R18-3) - Southlakes Estate, Dubbo

AUTHOR: Senior Strategic Planner
REPORT DATE: 16 October 2018
TRIM REFERENCE: ID18/1188

EXECUTIVE SUMMARY

A Planning Proposal was lodged with Council on 25 June 2018 by Maas Group Family Properties which seeks to amend the Dubbo Local Environmental Plan 2011 (LEP). The Planning Proposal affects land known as Lot 2 DP 880413, located east of the existing Southlakes Estate. The Planning Proposal seeks to facilitate the extension of the existing Southlakes west of the subject site.

The Planning Proposal has sought to rezone the subject land from R5 Large Lot Residential to a mixture of R1 General Residential, R2 Low Density Residential and RU2 Rural Landscape. It also subsequently proposes to amend the minimum lot size of 1.5 hectares to a range of no minimum lot size, 600m², 800m², 2000m² and 100 hectares.

The subject land forms part of the South-East Urban Release Area. The South-East Dubbo Residential Urban Release Area Stage 1 Structure Plan was previously adopted to facilitate the direction of orderly development in the South-East Residential Urban Release Area. The proposed development has considered and is generally consistent with the Stage 1 Structure Plan.

Adjacent to the east of the site are two (2) operational extractive quarries. Additionally, the proposed Southern Distributor will be located adjacent to the southern boundary. Potential issues with respect to cumulative noise impacts on the proposed development have been raised with the Proponent. As a component of any Gateway Determination, Council will undertake consultation with the relevant State Government agencies including the NSW Office of Environment and Heritage and Environment Protection Authority to assess the potential impacts of future development of the subject site.

The Planning Proposal is considered to be generally consistent with the objectives of the Dubbo Urban Areas Development Strategy including the Dubbo Residential Areas Development Strategy.

It is considered that the Planning Proposal be submitted to the Department of Planning and Environment to seek a Gateway Determination. However, given Council is the owner and developer of an adjacent residential development (Keswick Estate), the overall size and complexity of the Planning Proposal, it is considered that Council should not request to use its Delegations under Section 59 of the Environmental Planning and Assessment Act, 1979.

Following receipt of a Gateway Determination, Council will place the draft amendment on public exhibition. The Planning Proposal will be placed on public exhibition for a period of no less than 28 days.

ORGANISATIONAL VALUES

Customer Focused: Council officers have worked with the applicant to address issues with the Planning Proposal in its early stages prior to consideration by Council and submission to the Department of Planning and Environment (DPE).

Integrity: The Planning Proposal has been assessed against the requirements of the Environmental Planning and Assessment Act, 1979 and the NSW Department of Planning and Environment's document: A Guide to Preparing Planning Proposals.

One Team: Numerous Council staff have been involved in the assessment of the Planning Proposal in accordance with relevant legislation and Dubbo Regional Council policy.

FINANCIAL IMPLICATIONS

The applicant provided on lodgement of the Planning Proposal, payment of fees to Council in the amount of \$25,000. These fees are to cover the ad hoc processing and assessment costs of the Planning Proposal application in accordance with Council's adopted Revenue Policy.

POLICY IMPLICATIONS

The Planning Proposal is provided for consideration and endorsement to seek a Gateway Determination. Receipt of a Gateway Determination from the DPE will allow Council to, conditionally, undertake an amendment to the LEP. The proposal is generally consistent with the Dubbo Urban Areas Development Strategy which underpins the land use decisions in the LEP.

RECOMMENDATION

1. That Council endorse the Planning Proposal as provided by the Proponent and included as Appendix 1 to the report of the Senior Strategic Planner dated 16 October 2018.
2. That Council support a minimum 28 day public exhibition period for the Planning Proposal.
3. That Council not use its delegation under Section 59 of the Environmental Planning and Assessment Act, 1979 to draft the amendments to the Dubbo Local Environmental Plan 2011.
4. That following the completion of the public exhibition period, a further report be provided to Council detailing the results of the public exhibition and for further consideration of the Planning Proposal.

Lee Griffith
Senior Strategic Planner

BACKGROUND

The Planning Proposal was lodged on 25 June 2018 by Maas Group Properties. The Planning Proposal seeks to rezone Lot 2 DP 880413 located east of the existing Southlakes Estate (as shown in **Appendix 1**).

The subject land is currently zoned R5 Large Lot Residential with a subsequent minimum lot size of 1.5 hectares. The Planning Proposal seeks to rezone the R5 Large Lot Residential zone to a mixture of R1 General Residential, R2 Low Density Residential and RU2 Rural Landscape.

In addition, the proposal seeks to amend the minimum lot size of 1.5 hectares to a range of no minimum lot size, 600m², 800m², 2000m² and 100 hectares.

This Planning Proposal follows on from the recently gazetted Amendment 12 to the Dubbo Local Environmental Plan, notified on 15 June 2018, which made amendments to zone and minimum lot size provisions within Southlakes Stage 2 located immediately to the west.

REPORT

1. Particulars of the Planning Proposal Application

Owner/Applicant:	Maas Group Properties
Subject site:	Lot 2 DP 8804413, 24R Sheraton Road, Dubbo
Land area:	48.95 hectares
Current zoning:	R5 Large Lot Residential
Proposed LEP Amendment:	The rezoning of land to a mixture of R1 General Residential, R2 Low Density Residential and RU2 Rural Landscape. Subsequently amend the minimum lot size to a mixture of no minimum lot size, 600m ² , 800m ² , 2000m ² and 100 hectares.
Lodgement date:	25 June 2018

2. Amendments to Local Environmental Plans

The Department of Planning and Environment (DPE) introduced a process for the consideration of amendments to Local Environmental Plans in 2009. The process for the consideration of an amendment to a Local Environmental Plan commences with Council's consideration of a Planning Proposal. The Planning Proposal process is shown here in Figure 1.

PLANNING PROPOSAL PROCESS

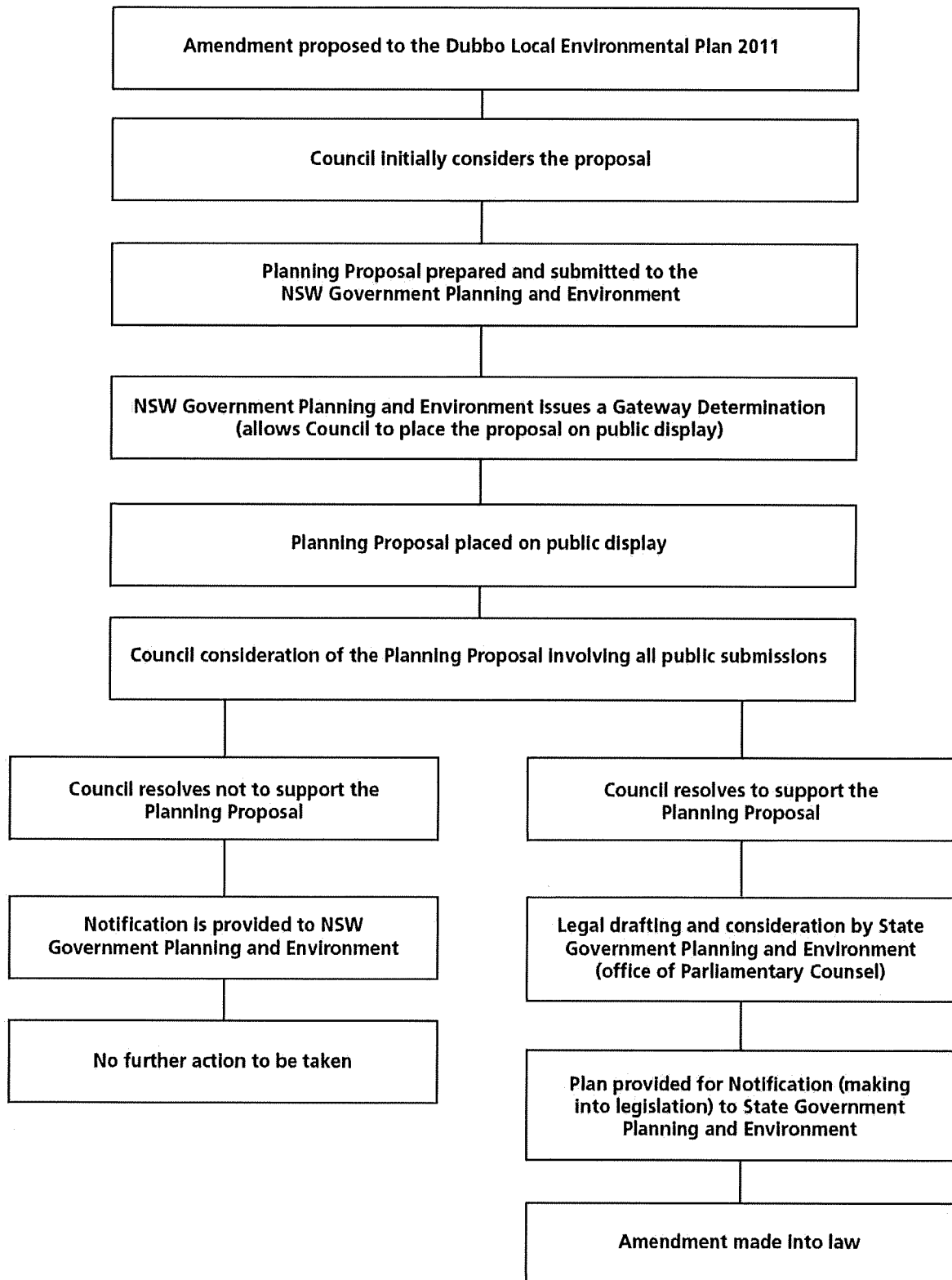


Figure 1. Planning Proposal Process

The role of a Planning Proposal is to explain the intended effects of a proposed Local Environmental Plan amendment and the justification for undertaking the amendment. Council has a role of considering the Planning Proposal. If Council resolves to continue with the Planning Proposal, the amendment is provided to the Department of Planning and Environment to seek a Gateway Determination.

The Gateway Determination reviews and considers Planning Proposals in their initial stages prior to further consideration by Council. After consideration by the Department, Council is provided with a Gateway Determination for the LEP amendment.

The Gateway Determination specifies that the Department will allow the proposed amendment to proceed, any matters that require additional information, the level of public consultation required and State Government Agencies to be consulted. After all the additional matters have been addressed and the required consultation has been carried out, a report is provided to Council for further consideration.

It is noted that the Planning Proposal would be considered by the Department for delegation of powers to make the amendment back to Council following receipt of the Gateway Determination. This could allow the Planning Proposal to be finalised by Council without further consideration by the Department following public exhibition. In this circumstance, Council is required to liaise with Parliamentary Counsel for legal drafting and finalisation of the Plan. In this case however due to the nature of the proposal and its relevance to Amendment 12, it is considered that it would not be appropriate for Council to be delegated this authority.

3. Planning Proposal

The Planning Proposal from Maas Group Properties seeks to rezone and amend the minimum lot size provisions relating to Lot 2 DP 880413, 24R Sheraton Road, Dubbo.

The Planning Proposal was lodged with Council on 25 June 2018 and is attached as **Appendix 1**.

The current land use zoning regime on the subject land is shown in Figure 2. The proposed land use regime is shown in Figure 3.

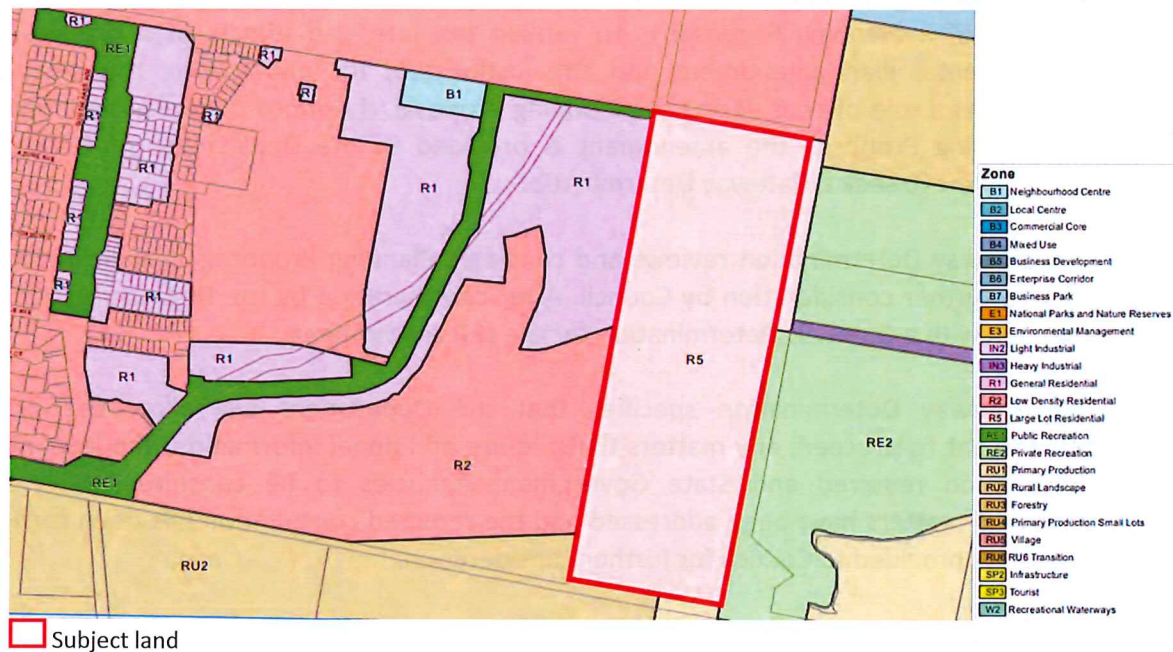


Figure 2: Current Land Use Zoning Regime, Dubbo Local Environmental Plan 2011

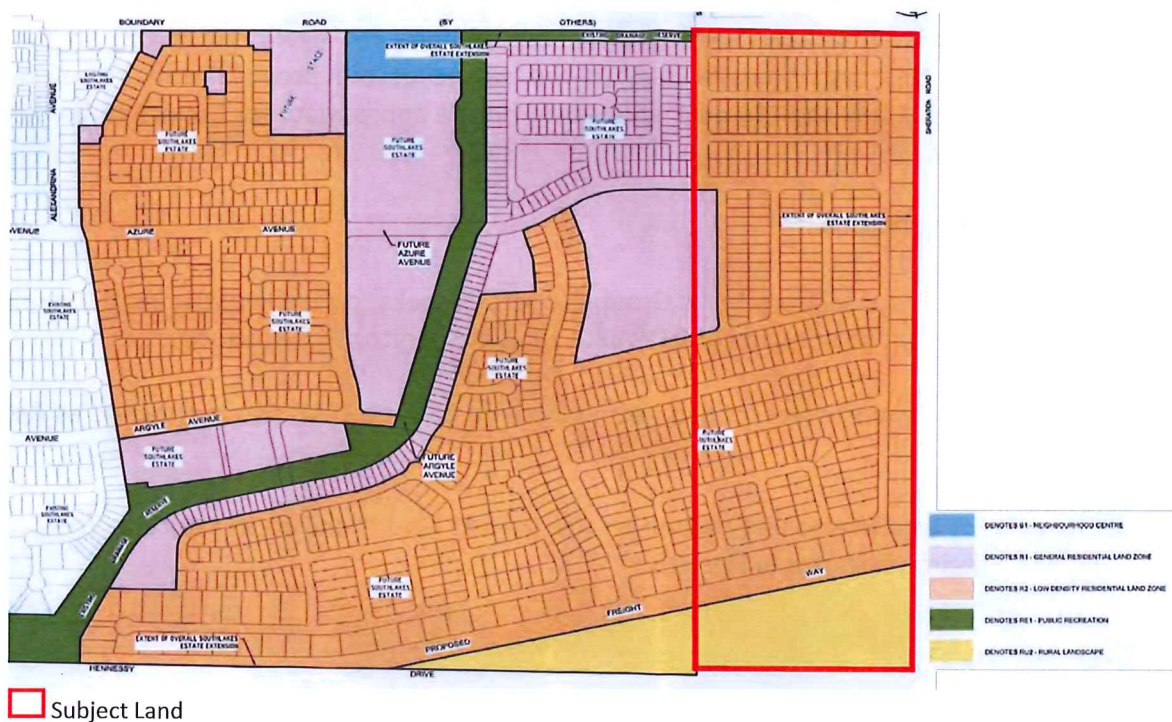


Figure 3. Proposed Land Use Zoning Regime

The Proponent, as a component of the Planning Proposal is also seeking to amend the minimum allotment sizes for subdivision of the land. The current minimum allotment sizes for subdivision of the land are shown in Figure 4. The proposed minimum allotment sizes for subdivision of the land are shown in Figure 5.



Figure 4: Current Land Minimum Allotment Size for Subdivision, Dubbo Local Environmental Plan 2011

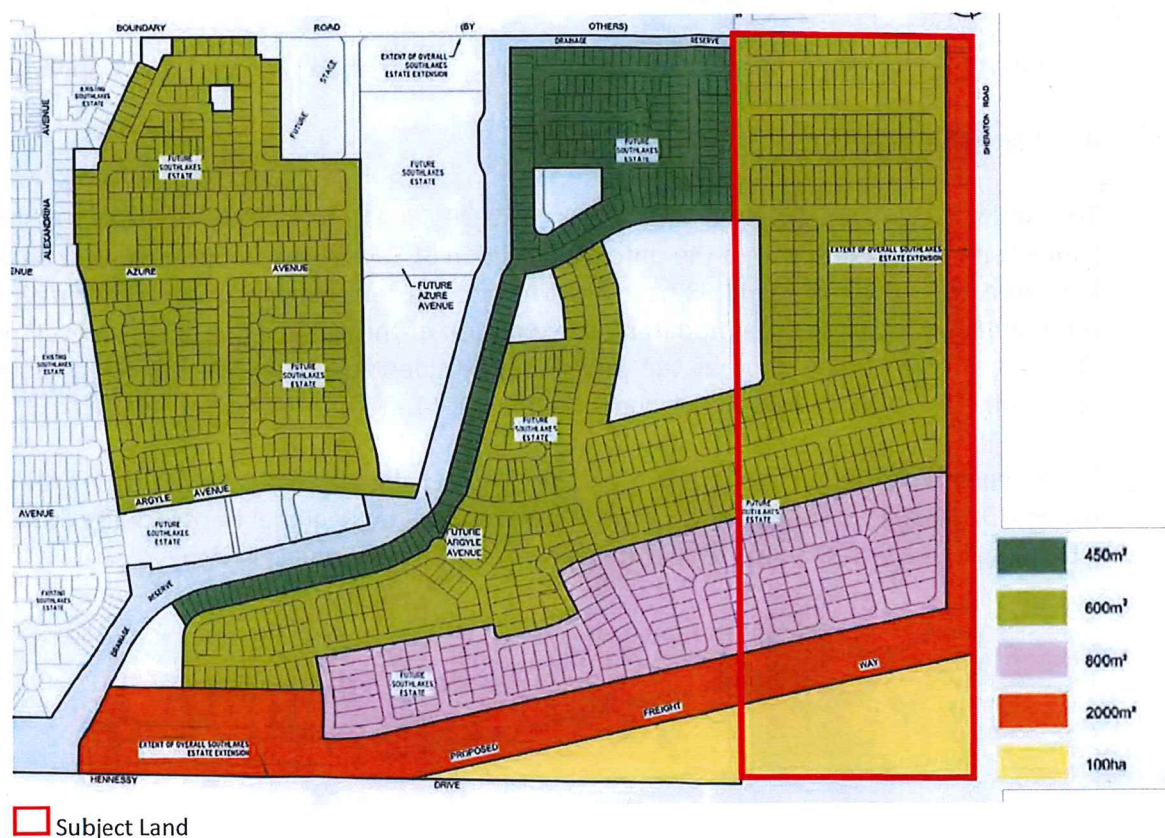


Figure 5: Proposed Land Minimum Allotment Size for Subdivision

The Proponent has provided the following information explaining the anticipated development typologies on the land:

"It is anticipated that the Planning Proposal would facilitate a combination of single and two storey development within the Dubbo Region.

The following type of housing to be provided within the R1 zoned land would be:

- 1. Traditional medium density (multi dwelling housing) development generally in the form of attached 2 - bedroom single storey dwellings approximately 4 to 6 dwellings.*
- 2. Small lot housing (attached and detached dwellings), generally where divided by through roads and drainage corridors and in the form of attached and detached dwellings with minimal private curtilage upon local through roads.*
- 3. Integrated house and land development (Multi dwelling housing, attached dwellings, semi-detached dwellings, and dwellings) with private roads, open space and community facilities.*

It is envisaged that the R2 zoned areas would be developed with a mix of traditional house and land development with larger lot living located along the southern fringe.

It is envisaged that the RU2 zoned land would be continuance of the existing grazing land across the flood plain."

A copy of the Planning Proposal and accompanying information is provided as **Appendix 1**.

4. Site Characteristics

The land subject of the Planning Proposal is Lot 2 DP 880413, 24R Sheraton Road, Dubbo. The subject site is located south of the unformed section of South-East Dubbo and have an overall land area of approximately 48.98 hectares. The site is a continuation of recently gazetted LEP Amendment 12 which accommodates the expansion of the existing Southlakes development. The subject land forms part of the South-East Residential Urban Release Area under the provisions of the Dubbo Local Environmental Plan 2011.

To the east of the subject land, there are two (2) operational extractive industries (quarries). Lot 211 DP 1220433, 20L Sheraton Road, Dubbo owned by Regional Hardrock Pty Ltd and Lot 1 DP 623367 owned by Holcim Pty Ltd. The overall site is shown in Figure 6.



Subject Land
Figure 6. Subject Land

5. Planning Considerations

This section of the report provides an analysis against the planning considerations Council is required to consider in the Planning Proposal process. The information below does not provide an analysis of all planning considerations associated with the Planning Proposal.

The purpose of this section is to explain any significant matters for consideration in the Planning Proposal process.

(i) Central West and Orana Regional Plan 2036

The Central West and Orana Regional Plan was released by the Minister for Planning on 14 June 2017. The Plan has the following vision for the Central West and Orana Region:

"The most diverse regional economy in NSW with a vibrant network of centres leveraging the opportunities of being at the heart of NSW."

The Plan has the following goals:

- Goal 1 – The most diverse regional economy in NSW
- Goal 2 – A stronger, healthier environment and diverse heritage
- Goal 3 – Quality freight, transport and infrastructure networks
- Goal 4 – Dynamic, vibrant and healthy communities

The Planning Proposal assists in achieving the following Actions:

25.4 Promote incentives to encourage greater housing affordability including a greater mix of housing in new release areas.

The Planning Proposal will facilitate a diverse range of low to medium density residential development within Dubbo's South-East Urban Release Area. The proposed development will provide a mixture of housing types and choices.

26.5 Locate new housing for seniors close to existing services and facilities, and on land free from hazards.

The Planning Proposal will provide additional opportunity for seniors housing development through appropriate zoning and reduced minimum lot sizing in hazard free areas across the subject land.

29.2 Enhance the quality of neighbourhoods by integrating recreational walking and cycling networks

The Planning Proposal intends to facilitate the development of pedestrian friendly links to public recreation areas and throughout proposed future residential development.

The Planning Proposal is considered to be broadly consistent with the Central West and Orana Region Plan 2036.

(i) Dubbo Residential Areas Development Strategy

The Dubbo Urban Areas Development Strategy (including the Dubbo Residential Areas Development Strategy) was first adopted by the former Dubbo City Council in 1996 and was endorsed by the Department of Planning and Environment in 2011. The Strategy forms the basis for the land use zonings and planning controls provided in the Dubbo Local Environmental Plan 2011.

The land subject to the Planning Proposal is situated in the Central District – South-East Sub-District. The Strategy provides the following future objectives for land use activities in the precinct:

- "1. Ensuring continued production from quarries.*
- 2. Facilitating establishment of compatible industrial activities.*
- 3. Protection of the transport corridor.*
- 4. Providing the buffer area to protect agricultural enterprises."*

The Planning Proposal is considered to be generally consistent with the objectives of this Strategy. The Strategy envisaged this precinct to be the hard-edge for residential development in the South-East. No further residential development of this nature is expected to occur further east of this hard-edge.

(ii) Section 9.1 Directions

A number of Section 9.1 Directions (formerly 117) are applicable to the Planning Proposal as described in the following table.

Direction	Requirement	Consistency
1.2 Rural Zones	The Direction is applicable when a Planning Proposal is prepared that will affect land within an existing or proposed rural zone.	The Planning Proposal seeks to rezone an area of the subject land from R5 Large Lot Residential to RU2 Rural Landscape. The Planning Proposal is considered to be consistent with the Direction.
1.3 Mining, Petroleum Production and Extractive Industries	The Direction is applicable when a Planning Proposal is prepared that would restrict or be incompatible with mining.	The Planning Proposal is considered to be inconsistent with the Direction however, the inconsistency is of minor significance as the subject area is within an existing residential area where mining is not compatible with residential development.
1.5 Rural Lands	The Direction is applicable when a Planning Proposal is prepared that will affect land within an existing or proposed rural or environmental protection zone or that changes the minimum lot size on land within a rural or environmental protection zone	The Planning Proposal seeks to rezone an area of the subject land from R5 Large Lot Residential to RU2 and subsequently amend the minimum lot size for that portion of land from 1.5 hectares to 100 hectares. The Planning Proposal is considered to be consistent with the Direction.
2.1 Environment Protection Zone	The Direction is applicable when a Planning Proposal is prepared.	The Planning Proposal does not intend to reduce or remove any provisions that would otherwise facilitate the protection and conservation of environmentally sensitive areas. The Planning Proposal is considered to be consistent with the Direction.

2.3 Heritage Conservation	The Direction is applicable when a Planning Proposal is prepared.	The Direction requires a Planning Proposal to contain provisions that facilitate the conservation of items, areas, objects and places of environmental and indigenous heritage significance. The Planning Proposal is considered to be consistent with the Direction.
3.1 Residential Zones	The Direction is applicable when a Planning Proposal is prepared that will affect an existing or proposed residential zone.	The Direction requires a Planning Proposal to include requirements that will make use of existing infrastructure, broaden housing choice and types, be of good design and reduce land consumption. The Planning Proposal is considered to be consistent with the Direction.
3.3 Home Occupations	The Direction is applicable when a Planning Proposal is prepared that includes residential accommodation	The Direction requires a Planning Proposal to include provisions allowing home occupations to be carried out. The Dubbo LEP 2011 allows home occupations to be carried out without approval.
3.4 Integrated Land Use and Transport	The Direction is applicable when a Planning Proposal is prepared relating to urban land.	The Direction requires a Planning Proposal to ensure zones to be used for urban purposes allow for access to employment, opportunities for alternative transport methods, public transport and to reduce the requirements for domestic vehicles. The Planning Proposal is consistent with the Direction.
4.3 Flood Prone Land	The Direction is applicable when a Planning Proposal is prepared that creates, removes or alters a zone or a provision that affects flood prone land.	The Direction is inconsistent with the Direction however, the inconsistency is of minor significance as the Planning Proposal has rezoned a large portion of the flood affected land to the south of the

		subject site to RU2 Rural Landscape. In addition, the Dubbo LEP contains provisions to ensure that residential dwellings must be constructed above the flood planning level.
5.10 Implementation of Regional Plans	The Direction is applicable when a Planning Proposal is prepared.	The Planning Proposal is considered to be broadly consistent with the overall intent of the Central West and Orana Regional Plan 2036.
6.1 Approval and Referral Requirements	The Direction is applicable when a Planning Proposal is prepared.	The Direction requires a Planning Proposal to not include or minimise any requirements for concurrence from any other applicable public authority. The Planning Proposal does not include any provisions that require concurrence.
6.3 Site Specific Provisions	The Direction is applicable when a Planning Proposal is prepared that allows specific development to be carried out.	<p>The Direction requires a Planning Proposal to not provide any additional specific development standards or requirements to those already provided on the land. A Planning Proposal must also not include any drawings showing details of the development.</p> <p>The Planning Proposal is considered to be consistent with the Direction.</p>

(iii) State Environmental Planning Policies

A number of State Environmental Planning Policies (SEPPs) apply to the Planning Proposal. It is considered that the Planning Proposal is consistent with the following State Environmental Planning Policies:

- SEPP No. 1 – Development Standards
- SEPP No. 21 – Caravan Parks
- SEPP No. 36 – Manufactured Home Estates
- SEPP No. 55 – Remediation of Land

- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 – Design Quality of Residential Flat Development
- SEPP (Affordable Rental Housing) 2009
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Educational Establishments and Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Rural Lands) 2008

(iv) Southern Distributor Road

The Dubbo Transportation Strategy to 2045 includes a proposal to construct a southern ring road or distributor road as a component of a larger road network for the future management of city traffic.

The Southern Distributor will effectively link Macquarie Street through the existing alignment of part of Hennessy Road through to the Mitchell Highway to the east. The road corridor for the Southern Distributor was determined as part of the adoption and gazettal of the Southlakes Planning Proposal to the west. The adopted alignment is intended to continue through the subject land as shown in Figure 7 below. The alignment further east of the subject land is currently being planned prior to consideration by Council and ultimately detailed stakeholder consultation with affected landowners and other parties throughout the precinct.

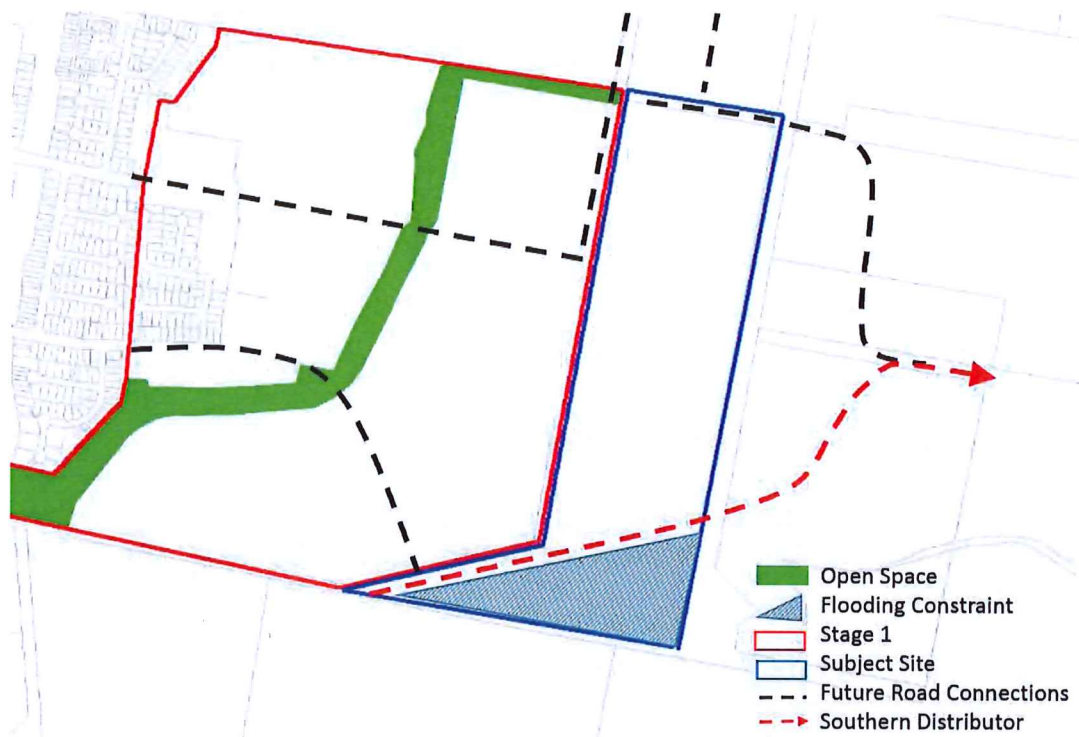


Figure 7. Indicative location of the Southern Distributor, Structure Plan for the South-East Residential Urban Release Area

The Southern Distributor road should provide limited access points for vehicles and limited opportunities for dwellings to front the road. High level planning for the Southern Distributor road will centre on ensuring an 80 km hour speed environment can be maintained.

Development within the vicinity of the indicative corridor for the Southern Distributor road including any potential for development south of the Corridor will be required to be carefully considered in conjunction with overall infrastructure and servicing constraints.

(v) Infrastructure

The proponent, as a component of the Planning Proposal, provided a Servicing Strategy for the land and the projected development outcome. The Servicing Strategy encompasses the subject land as well as the 'Hillview' land to the west, being the Stage 2 Southlakes extension providing a holistic approach to servicing requirements for the balance of the residential estate.

Council's Infrastructure and Operations Division have undertaken an assessment of the subject Planning Proposal and have not raised any substantial infrastructure impacts which would prevent the Planning Proposal from seeking Gateway Determination.

(vi) Biodiversity

The subject site is predominantly cleared and generally disturbed as a result of agricultural practices including grazing and cultivation. An Endangered Ecological Community (EEC), known as Inland Grey Box Woodland, was identified south of Eulomogo Creek.

An Ecological Assessment has been prepared OzArk Environmental and Heritage Management which concludes that there is unlikely to be any significant impacts on any of the listed threatened species, fauna populations or communities.

Council as a component of any Gateway Determination for the Planning Proposal, will undertake consultation with the NSW Office of Environment and Heritage, particularly with respect to any potential impacts on the EEC.

(vii) Flooding

The subject land is impacted by the proximity of the Eulomogo Creek 100 year ARI (average recurrent interval) flood event. A Flood Impact Assessment Report was prepared by Cardno Pty Ltd as part of the Planning Proposal. The previous Planning Proposal for Southlakes supported the filling of the Eulomogo Creek cowl to maximise residential development opportunities, which will be proposed to extend over the subject land. The Flood Impact Assessment Report made the following comment with respect to flooding on the subject site:

"the proposed filling locally increases the 100 yr ARI flood levels. The majority of the impact is located within Hillview Estate but the impacts do extend onto the adjoining property. These impacts on the adjoining property are considered to be minor given the current rural use."

Consultation with the Office of Environment and Heritage would be undertaken during the public exhibition period to determine the potential impacts of any future development of the subject site.

(viii) Acoustic Impacts

The subject land is located adjacent to two (2) existing noise generating developments being extractive industries (quarries) located immediately to the East, as well as the future Southern Distributor to be located adjacent to the southern boundary.

Potential cumulative noise impacts on the subject site have been raised with the proponent who provided an Acoustic Technical Review prepared by Muller Acoustic Consulting as part of the Planning Proposal. The Acoustic Technical Review has provided a cumulative assessment of the Noise and Vibration Impact Assessment prepared by Muller Acoustic Consulting as part of the approval for the adjoining extractive industry (quarry) on 20L Sheraton Road, and the Road Noise Traffic Assessment prepared by Muller Acoustic as part of the Southern Distributor.

Council, as a component of any Gateway Determination will undertake consultation with the Office of Environment and Heritage and Environment Protection Authority to determine the potential impacts of any future development of the subject site noting the existing developments within the locality.

(ix) Groundwater Vulnerability/Salinity

The subject site is mapped as containing moderately high levels of ground water vulnerability pursuant to the provisions of Clause 7.5 of the Dubbo LEP. Included as part of the Planning Proposal was a Groundwater and Salinity Study which was undertaken to determine potential impacts on the sites salinity and groundwater levels as a result of further development.

The report concludes that the Planning Proposal will not significantly impact on groundwater quality or quantity noting that further investigations will be required at the development application stage for the subdivision of the land to enable quantification of any ongoing impacts and the provision of appropriate mitigation measures.

(x) Aboriginal Archaeology

The Planning Proposal included a due diligence Archaeological Assessment prepared by OzArk Environmental and Heritage Management to assess the impacts of the proposed development. The study recorded two (2) previously discovered AHIMS sites, one (1) new recorded Aboriginal site and an area of Potential Archaeological Sensitivity within the Study area. Whilst the proposed development is unlikely to significantly impact these items when

subject to the report's recommendations, further assessment of potential impacts will be required at the development application stage for the subdivision of the land.

Council as a component of the Gateway Determination will undertake consultation with the Office of Environment and Heritage in respect of any impacts on Aboriginal Heritage associated with the Planning Proposal.

SUMMARY

A Planning Proposal was lodged with Council on 25 June 2018 by Maas Group Family Properties which seeks to amend the Dubbo Local Environmental Plan 2011 (LEP). The Planning Proposal affects land known as Lot 2 DP 880413, located east of the existing Southlakes Estate. The Planning Proposal seeks to facilitate the extension of the existing Southlakes west of the subject site.

The Planning Proposal has sought to rezone the subject land from R5 Large Lot Residential to a mixture of R1 General Residential, R2 Low Density Residential and RU2 Rural Landscape and subsequently amend the minimum lot size of 1.5 hectares to a range of no minimum lot size, 600m², 800m², 2000m² and 100 hectares.

The subject land forms part of the South-East Urban Release Area. The Planning Proposal is generally consistent with the provisions of the South-East Dubbo Residential Urban Release Area Stage 1 Structure Plan, previously adopted to facilitate the direction of orderly development in the South-East Residential Urban Release Area.

Adjacent to the site are two (2) operational extractive quarries, located to the east. Additionally, the proposed Southern Distributor will be located adjacent to the southern boundary. Potential issues with respect to cumulative noise impacts on the proposed development have been raised with the Proponent. As a component of any Gateway Determination, Council will undertake consultation with the relevant State Government agencies including the NSW Office of Environment and Heritage and Environment Protection Authority to assess the potential impacts of future development of the subject site.

The Planning Proposal is considered to be generally consistent with the objectives of the Dubbo Urban Areas Development Strategy including the Dubbo Residential Areas Development Strategy.

It is considered that the Planning Proposal be submitted to the Department of Planning and Environment to seek a Gateway Determination. However, given Council is the owner and developer of an adjacent residential development (Keswick Estate), the overall size and complexity of the Planning Proposal, it is considered that Council should not request to use its Delegations under Section 59 of the Environmental Planning and Assessment Act, 1979.

Following receipt of a Gateway Determination, Council will place the draft amendment on public exhibition. The Planning Proposal will be placed on public exhibition for a period of no less than 28 days.

Appendices:

1  Southlakes Planning Proposal