

Planning Services

Gateway Determination Report

LGA	Dubbo Regional
RPA	Dubbo Regional Council
NAME	Rezone land at Southlakes (Hillview Estate) Dubbo
NUMBER	PP_2017_DREGI_001_00
LEP TO BE AMENDED	Dubbo Local Environmental Plan 2011
ADDRESS	Boundary Road, Dubbo
DESCRIPTION	Lot 399 DP 1199356, Lot 12 DP 1207280, and Lot 503 DP 1152321
RECEIVED	3 July 2017
FILE NO.	17/09023
QA NUMBER	qA414400
POLITICAL DONATIONS	There are no known donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

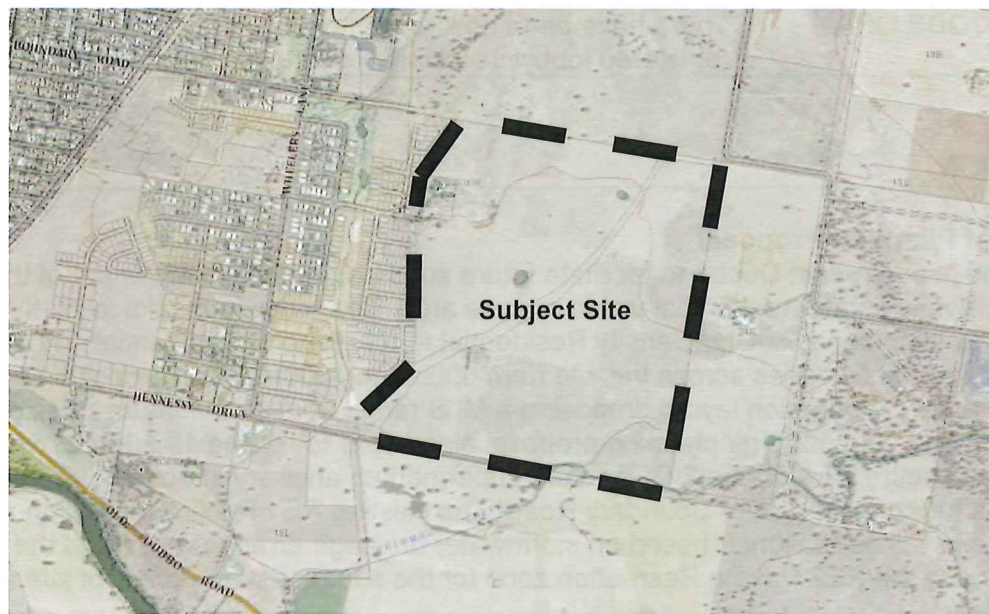
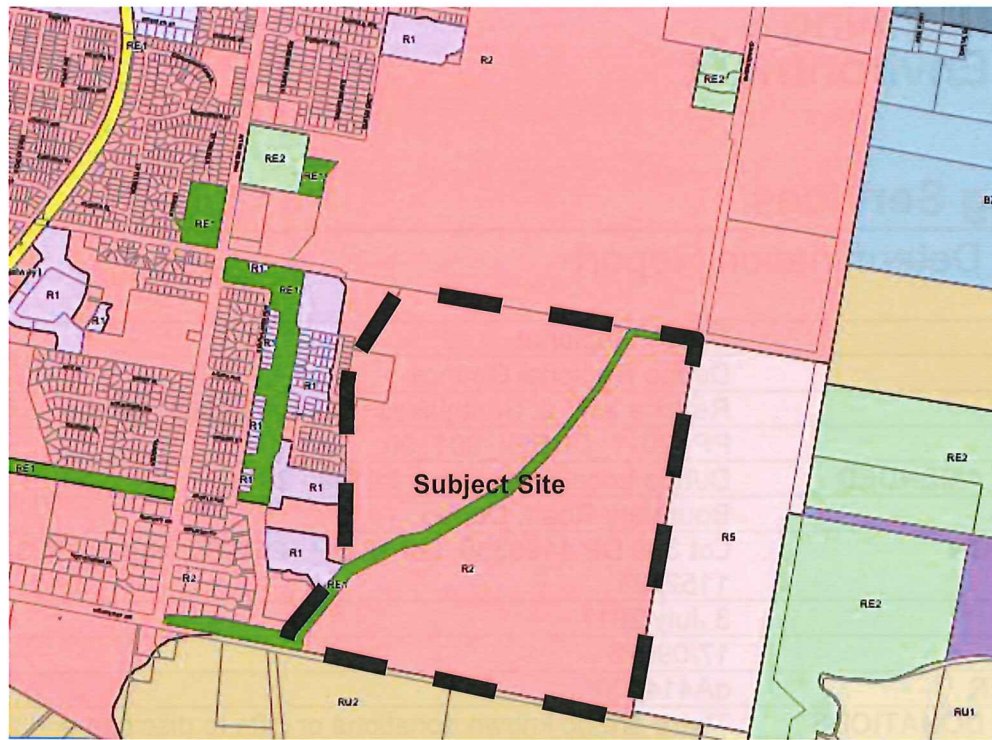
INTRODUCTION

Description of Planning Proposal

To rezone land in south-east Dubbo to facilitate future subdivision and development of the Southlakes (Hillview Estate) residential urban release area. The proposal seeks to partly rezone land from the existing zone R2 Low Density Residential to R1 General Residential. The existing Minimum Lot Size (MLS) varies across the site from 600m² to 4000m², and proposal seeks to vary this based on a new subdivision layout proposing a MLS range from no minimum lot size to 450m², 600m², 800m² and 2000m². The planning proposal also seeks to rezone 19,500m² of land to B1 Neighbourhood Centre for a 5000m² GFA future supermarket, ancillary shops and recreation facility (indoor) on the future extension of Boundary Road. The existing RE1 Public Recreation zoning that traverses the site will be realigned based on stormwater drainage arrangements and the proposal seeks to introduce the RE2 Private Recreation zone for the south-eastern corner of site adjoining Eulomogo Creek.

Site Description

The subject site consists of 3 lots with total area 138.8ha, identified as Lot 399 DP 1199356, Lot 12 DP 1207280 and Lot 503 DP1152321, bound by the unformed section of Boundary Road to the north, Henessy Road and its future extension to the south and the existing Southlakes Estate adjoining to the west. The site has been historically used for grazing purposes with few existing structures including one (1) dwelling and ancillary agricultural buildings.



Surrounding Area

The subject site is bound by existing residential release areas with Southlakes Estate to the west (Magnolia Grove Estate and Macquarie View Estate further to the west) and Keswick Estate to the north. The eastern boundary of the site adjoins land zoned R5 Large Lot Residential that has not been developed. An existing gravel quarry operates nearby on the eastern fringes of Dubbo with a proposal to expand operations closer to urban areas on Sheraton Road. The subject site is approximately 2.5 km from Orana Mall and 2km from a bulky goods precinct and Blueridge Business Park. Other nearby facilities include the Freemasons Aged Care facility on the Mitchell Highway, schools and an indoor sports centre on Sheraton Road.

Summary of Recommendation

Proceed with Conditions – the subject site is already identified as an urban residential release area (LEP Map URA_008B) and supported by an endorsed local landuse strategy, with further support by a peer-reviewed Economic Impact Assessment.

PROPOSAL

Objectives or Intended Outcomes

The objectives and intended outcomes of the proposal are clear. The proposal seeks to rezone the land and alter the range of minimum lot size (MLS) to facilitate residential subdivision and development with a greater choice of housing types and densities. The proposal will also facilitate the development of a future neighbourhood centre (5000m² GFA) with supermarket, ancillary small retail uses and a gym to serve the future Hillview Estate urban release area.

Explanation of Provisions

The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to:

- Amend the Land Zoning Map (LZN_008B) and Lot Size Map (LSZ_008B) under Dubbo LEP 2011 to achieve the proposed subdivision layout, and
- Amend *clause 7.12 Shops in Zone B1 Neighbourhood Centre* under *Part 7 Additional local provisions* of the Dubbo LEP 2011 with the intent to make the 5000m² GFA retail development which exceeds gross floor area (GFA) 1,000m² to be permissible with consent, and
- Amend *Schedule 1 Additional Permitted Uses* to make development for the purposes of a *recreation facility (indoor)* permissible within the proposed B1 Neighbourhood Centre zone. This would make a gym or similar type of development permissible within the zone.

Mapping

The proposal will require the amendment of Land Zoning Map LZN_008B, Lot Size Map (LSZ_008B), and Additional Permitted Uses Map (APU_008B) to achieve the objectives and intended outcomes of the planning proposal.

Indicative mapping has been provided, however this needs to be revised to clearly indicate the effects of the proposed zones and minimum lot sizes for community and agency consultation.

NEED FOR THE PLANNING PROPOSAL

A planning proposal is the only mechanism to achieve the intended outcome. The proposal is not the direct result of any strategic study or report, however the site is already identified as an urban release area and zoned for residential purposes (R2 Low Density Residential). The proposal seeks to introduce the R1 General Residential zone and a range of minimum lot sizes (from no MLS to 450m², 600m², 800m² and 2000m²) creating greater housing choice and offer opportunities for medium density development for the Dubbo housing market. The proposed R1 General Residential zone and various MLSs would make a greater range of residential land uses permissible with consent, such as multi dwelling housing, residential flat buildings, semi-detached dwellings, seniors housing and shop top housing.

The proposed B1 Neighbourhood Centre zone would create an opportunity for a future supermarket and ancillary shops, allowing future residents of Hillview Estate and surrounding urban release areas to access amenities and services locally. The information provided by the proponent and Council indicates the proposed neighbourhood centre will not adversely impact on Dubbo's commercial hierarchy anchored by the primacy of the Dubbo CBD and secondary Orana Mall.

The proposed additional permitted use for a 'recreation facility (indoor)' under Schedule 1 of the Dubbo LEP 2011 would make development for the purposes of a gym permissible with consent at the future neighbourhood centre. Currently, the B1 Neighbourhood Centre zone prohibits this landuse.

STRATEGIC ASSESSMENT

State

Not applicable. There is no State strategic planning framework applicable to the proposal.

Regional / District

The Central West and Orana Regional Plan (CWO RP) applies to the proposal. Council considers the proposal to be broadly consistent with the draft CWO RP. The final CWO RP has since been released on 14 June 2017 and requires consideration prior to community consultation.

The following Directions and Actions from the CWO RP are specifically relevant to the planning proposal:

- Direction 10: Promote business and industrial activities in employment lands.
 - Action 10.6: Accommodate future commercial and retail activity in existing commercial centres, unless there is a demonstrated need or social and economic benefits to locating this activity elsewhere.
 - Action 10.7: Require proposals for new retail development to demonstrate how they: respond to retail demand; respond to innovations in the retail sector; maximise public transport and community infrastructure commensurate with the scale of the proposal; and enhance the quality of public areas.
- Direction 25: Increase housing diversity and choice - All Actions.

In considering Action 10.6 and 10.7 under the CWO RP, the proposal is supported by an Economic Impact Assessment (EIA) to demonstrate the need and economic benefits of locating future commercial and retail activity in a proposed B1 Neighbourhood Centre zone at Boundary Road. The EIA identifies a market gap of supermarket floorspace within the future trade area encompassing the proposed Hillview Estate and surrounding residential release areas. The EIA supports a future neighbourhood centre with 5000-6000m² of retail floorspace to serve a projected main trade area population in south-east Dubbo of 10,400 people by 2031. The EIA found that impacts on existing neighbourhood and local centres is expected to be minor to moderate, at 3% to 8.5%, with no prospect of threatening the viability these centres. Specific impacts on the Dubbo CBD is expected to be minor, at about 3% based on impact modelling in 2014/2015.

In considering Direction 25 and all its Actions under the CWO RP, the proposal seeks to increase housing choice near services and jobs within an existing urban release area. The proposed R1 General Residential zone and the range of minimum lot sizes provides for greater choice in accommodating medium density housing and a greater mix of housing typologies across the site.

The planning proposal should clearly demonstrate consistency with the final CWO RP 2036 prior to proceeding to community consultation.

Local

The planning proposal is supported by a series of endorsed local landuse strategies and a site-specific Structure Plan (not endorsed by the Department). The following documents provide high level strategic justification for the proposed residential and commercial landuses in the planning proposal:

- Dubbo Residential Areas Development Strategy 1996 and Review 2013

The Dubbo Residential Areas Development Strategy forms part of the Dubbo Urban Areas Development Strategy, as adopted by Council in December 1996 and endorsed by the Department on 3 February 2012. The Strategy forms the landuse planning framework for existing residential areas and future urban residential release areas under the Dubbo LEP 2011. This Strategy was reviewed in August 2013, known as the "Hill PDA Review".

The subject site is clearly identified within the Southeast Dubbo Urban Release Area, a broader area encompassing surrounding lands with a total site area of 247ha and potential yield of 1080 lots. The planning proposal is deemed consistent with the Strategy and Review, as the site is clearly identified for residential urban release.

- Residential Release Strategy – South-East Dubbo Urban Release Area 2011

The Residential Release Strategy is a two-part document designed to provide a greater level of detail and certainty as to the timing and level of residential development in west and south-east Dubbo. The Strategy was adopted by Council on 28 March 2011 and endorsed by the Department on 3 February 2012.

The Strategy clearly identifies the subject site for future urban land release, referring to a broader area as the “south-eastern sub-district”. The Strategy describes the envisaged lot size pattern ranging from 600m² to 6000m² within the R2 Low Density Residential Density zone and MLS 1.5ha to 2ha within the R5 Large Lot Residential zoned areas. A potential yield of 1059 lots within this sub-district is identified, which includes lands surrounding the subject site.

The planning proposal is broadly consistent with this Strategy. The planning proposal includes a proposed subdivision layout introducing the R1 General Residential Zone and a different lot size pattern to that identified in the Strategy. Any inconsistencies are deemed to be of minor significance, as the proposal includes a refined subdivision layout based on supporting environmental assessment documents.

- South-East Dubbo Residential Urban Release Area Stage 1 Structure Plan

The Structure Plan is a site-specific document that outlines the envisaged residential density and indicative land use zoning across the subject site. The Structure Plan was adopted by Council on 25 May 2016 and provides further precinct-level detail that is consistent with preceding endorsed landuse strategy documents. The planning proposal has been assessed based on principles in the Structure Plan, including concepts of concentric zoning, lot size configuration and street connectivity. These concepts are well regarded as sound planning practice in greenfield subdivision design.

The Structure Plan clearly identifies an indicative zoning and lot size pattern for the subject site. This includes proposed landuse zones R1 General Residential and R2 Low Density Residential, open spaces zoned RE1 Public Recreation and 1.5ha of land identified for a future B1 Neighbourhood Centre zone. The south-eastern fringe of the subject site remains unresolved according to the Structure Plan, subject to the outcome of the future Southern Distributor Road alignment.

The planning proposal is broadly consistent with the Structure Plan, however Council has identified some inconsistencies regarding the proposed lot size pattern. The planning proposal also seeks to amend the indicative alignment of the future Southern Distributor Road, an extension of the existing Hennessy Road. Council has resolved to undertake a concurrent amendment to the Structure Plan to ensure consistency with the planning proposal and reflect the revised indicative location of the Southern Distributor Road. This approach is supported and the amended Structure Plan should be placed on public exhibition with the planning proposal, as resolved by Council on 26 June 2017.

The section of land south of the future indicative Southern Distributor Road which is proposed to be zoned RE2 Private Recreation is not supported. This land will effectively be isolated from the residential release area once the Southern Distributor Road is constructed. This section of land (approx. 7ha) should be zoned RU2 Rural Landscape with MLS 100ha, consistent with adjoining land.

The amended Structure Plan should clearly identify the proposed zoning and lot size pattern, including the B1 Neighbourhood Centre zone (1.95ha of land with maximum 5000m² of retail GFA), realign the RE1 Public Recreation zones and identify the RU2 Rural Landscape zone for the south-eastern edge of the site.

- Dubbo Commercial Areas Development Strategy

- *Summary of commercial Strategy*

The Dubbo Commercial Areas Development Strategy forms part of the Dubbo Urban Areas Development Strategy, adopted in December 1996 and amended in April 1997 to incorporate the Orana Mall components. The Strategy forms the basis for the business areas and planning controls under the Dubbo LEP 2011 and has been endorsed by the Department on 3 February 2012. It is noted that in March 2011 Council resolved to prepare a comprehensive commercial Strategy to revise the existing 1996/1997 Strategy, to consider studies of Dubbo's commercial areas since then. Council's report dated 19 June 2017 has indicated that an "Employment Lands Strategy" is currently under preparation.

The 1996/1997 commercial Strategy identifies a future potential neighbourhood centre within the Keswick Estate urban release area, which is north of the subject site. A neighbourhood centre has not eventuated within the Keswick Estate since this time. A Neighbourhood Centre zone is not identified for the subject site of the planning proposal within the 1996/1997 commercial Strategy.

- *Proposed B1 Neighbourhood Centre zone and Economic Impact Assessment*

The planning proposal seeks to rezone 19,500m² of land from the existing R2 Low Density Residential zone to the B1 Neighbourhood Centre zone. The proposal also seeks an additional permitted use under Schedule 1 of the Dubbo LEP to permit a 'recreational facility (indoor)' for the purposes of a gym within the proposed neighbourhood centre. The proposed B1 zone adjoins the future eastern extension of Boundary Road.

The planning proposal is supported by an Economic Impact Assessment (EIA) prepared by MacroPlanDimasi. The EIA demonstrates the need and economic benefits of locating future commercial and retail activity in the proposed B1 Neighbourhood Centre zone at Boundary Road. The EIA identifies a market gap of supermarket floorspace within the future main trade area encompassing the proposed Hillview Estate and surrounding residential release areas. The EIA supports a future neighbourhood centre with 5000-6000m² of retail floorspace to serve a projected main trade area population in south-east Dubbo of 10,400 people by 2031. Any impacts on existing neighbourhood centres at Tamworth Street and Boundary Road in South Dubbo is expected to be minor at 3-6% of trading volume. Impacts on local centres (Orana Mall) is expected to be moderate, at 8.3%. The EIA found there is no prospect of threatening the viability these centres according to EIA. Specific impacts on the Dubbo CBD is expected to be minor at about 3% based on impact modelling.

The EIA further supports its conclusions by referring to previous commercial studies of Dubbo, namely the Dubbo Commercial Floorspace Inventory Analysis (CFIA) 2014 (by Hill PDA Consulting). The CFIA report precedes the planning proposal and indicates that Dubbo can support another supermarket. Since the addition of Aldi in the Dubbo CBD in 2014, there is still a projected market gap of 3600-4800m² of supermarket floorspace by 2026, according to the EIA.

It is noted that the EIA impact modelling and market gap analysis of supermarket floorspace does not consider the recent closure of Barnardi's IGA supermarket at Orana Mall in May 2016. Extrapolating from the data in the EIA, the market gap of supermarket floorspace in the subject site's main trade area would be even greater than the projected 3600-4800 m² by 2026 and over 5000m² by 2031. This is further grounds in support of the proposed B1 Neighbourhood Centre at Hillview Estate.

- *Third party review of EIA*

Council has sought a third-party review of the EIA (by Hill PDA Consulting) to consider the overall impact of the proposed B1 Neighbourhood Centre zone on existing centres, including Dubbo CBD and the commercial hierarchy of the city. Council also sought to investigate the appropriate size and commencement date of the proposed neighbourhood centre as part of the third-party review.

The Hill PDA third party review concludes that based on the demand analysis in the EIA and the forecast population growth in southeast Dubbo, there is justification for a full-line supermarket at the subject site. A floorspace of 3500m² is recommended for the future supermarket, a further 1000m² for complementary retail floorspace and a further 500m² for non-retail uses (i.e. total 5000m² floorspace). However, the review recommends a later commencement date of 2025-26 for the supermarket rather than 2019-2020, based on population projections assumed in the EIA.

- *Recommendations and Justifications*

The evidence base for a B1 Neighbourhood Centre at the subject site is deemed adequate, supported by the peer reviewed EIA as well as commercial studies of Dubbo LGA preceding the planning proposal, namely the CFIA 2014 report. Council has resolved to support the proposed B1 Neighbourhood Centre subject to a suitable provision in the Dubbo LEP 2011 that limits the total retail floorspace at any centre to 5000m². The report to Council dated 19 June 2017 recommends that a supermarket be the permissible form of development within the 3500m² anchor tenancy at the future neighbourhood centre.

It is recommended that *Clause 7.12 Shops in Zone B1 Neighbourhood Centre* of the Dubbo LEP 2012 be amended to achieve the intended outcomes of the planning proposal, Council's resolution and the assessment outcomes of this Gateway determination report. Clause 7.12 could be amended so that, subject to Legal Services review and Parliamentary Counsel's Opinion, the total gross floor area of a retail premises on land zoned B1 Neighbourhood Centre not exceed 5000m² and, any development for the purposes of a retail premises with gross floor area exceeding 3500m² in one single tenancy be for the primary purpose of selling groceries, foodstuffs, personal care products and the like. Such a clause could facilitate the intended outcomes outlined in Council's report dated 19 June 2017 and resolution dated 26 June 2017.

Given the 1996/1997 endorsed commercial Strategy does not clearly identify a B1 Neighbourhood Centre at the subject site, it is recommended that Council review the commercial Strategy or finalise its comprehensive commercial Strategy. The review / comprehensive commercial Strategy would clearly identify the proposed B1 Neighbourhood Centre zone at Hillview Estate and remove any reference to a potential neighbourhood centre at the adjoining Keswick Estate. The EIA and Council's third party review of the EIA provides adequate information to support this review work, as well as considering all commercial studies of Dubbo since 1996. These studies include the Dubbo Retail Demand Review 2009 (by Hill PDA Consulting) and Addendum 2011; and the Dubbo Commercial Floorspace Inventory Analysis 2014. A review / comprehensive commercial Strategy would align these commercial studies of Dubbo since 1996 and provide a strategic landuse framework for business lands within one cohesive document.

It is noted that Council is currently preparing an Employment Lands Strategy, a comprehensive commercial strategy. Therefore, it is recommended Council be encouraged to finalise this commercial Strategy work. This should be expressed in the letter to Council accompanying the Gateway determination.

It is further noted that Council has resolved to undertake a concurrent amendment to the Structure Plan to ensure consistency with the planning proposal and reflect the revised indicative location of the Southern Distributor Road. This approach is supported and the amended Structure Plan should be placed on public exhibition with the planning proposal, as resolved by Council on 26 June 2017.

Section 117(2) Ministerial Directions

- **Direction 1.1 – Business and Industrial Zones**
This Direction is applicable as the planning proposal seeks to rezone land from R1 General Residential to B1 Neighbourhood Centre. The proposal is not justified by an endorsed strategy, as the subject site is not clearly identified for future business uses in Council's endorsed landuse strategy. The subject site is clearly identified for future business uses in

Council's Structure Plan, however this document is not an endorsed landuse strategy. The proposal includes a study (Economic Impact Assessment) in support of the proposal and a third-party review of this study. The third-party review is broadly supportive of the proposal, subject to the proposed neighbourhood centre at the site proceeding in 2025-2026, rather than in 2019-2020.

The proposal is deemed inconsistent with this Direction at this time. It is recommended the proposal demonstrate consistency with this Direction following community consultation and convey the outcome of this consultation at Section 59 reporting.

- **Direction 1.3 Mining, Petroleum Production and Extractive Industries**
This Direction is applicable as the proposal will prohibit mining and extractive industries at the subject site. Given the site is already zoned for residential purposes and is identified as an urban release area, the Director Regions, Western can be satisfied that any inconsistency with this Direction is deemed to be of minor significance. No further work is required to justify this inconsistency.
- **Direction 2.1 – Environment Protection Zones**
This Direction is applicable as the planning proposal seeks to rezone land that is partly identified as an environmentally sensitive area. The southern fringe of the site is identified in LEP mapping to be groundwater vulnerable (high) and containing riparian vegetation (Eulomogo Creek). The site is not identified on LEP mapping for natural resources (biodiversity). The proposal demonstrates consistency with this Direction as it is justified by studies in support of the planning proposal. A Groundwater and Salinity Study, Ecological Assessment and Aboriginal Archaeological Assessment supports the planning proposal. The land is already zoned for residential purposes and adverse impacts are not expected as the proposal does not seek to reduce the environmental protection standards that apply to the land. No further work is required in relation to this Direction. In addition, consultation will be required with OEH and DPI Water.

It is noted that the planning proposal incorrectly refers to the neighbouring Keswick Estate urban release area in its consideration of this Direction.

- **Direction 2.3 – Heritage Conservation**
This Direction is applicable for all planning proposals. While the subject site itself does not contain any heritage items listed under Schedule 5 of the Dubbo LEP 2011, a local heritage item adjoins the southern boundary of the site at Hennessy Drive. The local item is known as "Old Dubbo Homestead" at 29 Old Dubbo Road (Lot 31, DP 738069, Item I185). The planning proposal is consistent with this Direction in relation to the local heritage item.

The planning proposal includes an Aboriginal Archaeological Assessment to assess any potential impacts on known and unknown Aboriginal sites. The report identifies a known recorded Aboriginal site (K-OS-4, #36-1-0189) and makes recommendations for its ongoing management through protection or relocation. The planning proposal is required to demonstrate consistency with this Direction by consulting with the NSW Office of Environment and Heritage (OEH) and Dubbo Local Aboriginal Land Council (LALC).

- **Direction 3.1 – Residential Zones**
This Direction is applicable as the proposal seeks to rezone land that is currently zoned R2 Low Density Residential. The planning proposal is consistent with this Direction as the proposed introduction of the R1 General Residential zone will further support the objectives of this Direction. No further work is required in relation to this Direction.
- **Direction 3.4 – Integrating Land Use and Transport**
This Direction is applicable as the proposal seeks to alter provisions relating to urban land. The proposed Southern Distributor Road is not yet identified on the Land Reservation Acquisition Map. The proposal supports the objectives and is consistent with this Direction, with no further work required.

- **Direction 4.3 – Flood Prone Land**

This Direction is applicable as the southern fringes of the subject site is identified as flood prone in LEP mapping. The flood prone lands are proposed to be zoned RE1 Public Recreation and RE2 Private Recreation. The proposal seeks to fill flood affected land to the south of the indicative location of the future Southern Distributor Road, subject to consultation with the Department of Primary Industries (DPI) – Water. The Director Region, Western consulted with Council and the proponent and sought agreement to amend the proposed RE2 Private Recreation zone to propose RU2 Rural Landscape. The Planning Proposal is required to be amended prior to community consultation, as a condition of the Gateway determination.

The proposal includes advice from flood consultants Cardno, advising that the proposed filling of flood prone land would result in a minor increase in 100 year ARI flood levels. This is supported by a supplementary flood study based on the Keswick Drainage Review. The Planning Proposal is required to demonstrate consistency with this Direction by consulting with OEH and DPI Water and report the outcome of this consultation at Section 59.

- **Direction 5.10 – Implementation of Regional Plans**

This Direction is applicable as the Central West & Orana Regional Plan (CWO RP) 2036 applies to the subject site. The proposal is broadly consistent with the Goals and Directions of the CWO RP and specifically Actions relating to business and housing lands. Refer to *Strategic Assessments - Regional* for detailed assessment in this Gateway determination report. The proposal does not expressly demonstrate consistency with the final CWO RP and this should be required prior to community consultation.

- **Direction 6.2 – Reserving Land for Public Purposes**

This Direction is applicable to all planning proposals. The Direction requires a planning proposal to not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Department of Planning & Environment. The proposal seeks to reconfigure the existing RE1 Public Recreation zone that traverses the site. This reconfiguration will result in additional land zoned RE1.

The proposal also seeks to rezone land south of the future Southern Distributor Road to RE2 Private Recreation. This is not supported as the intent for this land is deemed inconsistent with the objectives of the RE2 zone. Given the prospect of the future road, the flood affectation and riparian qualities of this land, it is recommended and agreed to by Council and the proponent that the proposal be amended to rezone this land to RU2 Rural Landscape. This land would effectively be isolated from the rest of the residential release area once the future Southern Distributor Road is constructed.

The proposal is deemed inconsistent with this Direction at this time. The proposal is required to be amended to demonstrate consistency with this Direction.

- **Direction 6.3 – Site Specific Provisions**

This Direction is applicable as the proposal seeks to introduce development standards or requirements in relation to land zoned B1 Neighbourhood Centre under clause 7.12 of the Dubbo LEP 2011. The Director Regions, Western can be satisfied that any inconsistency with this Direction of minor significance, as the proposed amendments to clause 7.12 will facilitate development as intended, subject to additional local provisions. These provisions are warranted in this case, to maintain the commercial hierarchy of Dubbo. No further work is required in relation to this Direction.

State Environmental Planning Policies

The planning proposal is consistent with the following State Environmental Planning Policies as described in the planning proposal document:

- SEPP 21 – Caravan Parks
- SEPP 36 – Manufactured Home Estates

- SEPP 44 – Koala Habitat Protection - An Economical Assessment Report has been prepared in support of the planning proposal. No significant impact is expected.
- SEPP 55 – Remediation of Land – A Preliminary Contamination Investigation has been prepared and supports the planning proposal.
- SEPP 64 – Advertising and Signage
- SEPP 65 – Design Quality of Residential Flat Buildings
- SEPP (Affordable Rental Housing) 2009
- SEPP (BASIX) 2004
- SEPP (Housing for seniors or People with a Disability) 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure)
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SITE SPECIFIC ASSESSMENT

Social

The planning proposal is expected to have positive social impacts, as the future urban release area is near existing services and amenities. The proposed future neighbourhood centre is likely to further enhance access to local services within walkable catchment.

Environmental

The proposal is supported by a Groundwater and Salinity Study, Ecological Assessment and Aboriginal Archaeological Assessment. Any outstanding environmental matters can be resolved through consultation with agencies and through detailed assessment and conditions of development consent at DA stage.

Council is required to consult with OEH to ensure consistency with Direction 2.3 Heritage Conservation and with DPI-Water on the matter of proposed filling works of flood prone land near Eulomogo Creek.

The proposal seeks to increase the amount land zoned RE1 Public Recreation across the site by reconfiguring the existing RE1 zoned land.

The proposal also seeks to rezone land south of the future Southern Distributor Road to RE2 Private Recreation. This zone is not supported as the intent for this land is inconsistent with the objectives of the RE2 zone. This land would effectively be isolated from the rest of the residential release area once the Southern Distributor Road is constructed. Council and the proponent have agreed that this land should be zoned RU2 Rural Landscape with MLS 100ha, consistent with the adjacent land.

Economic

The proposal will result in positive economic benefits for the landowner, through the subdivision of the site and the eventual sale of the additional allotments. The proposed B1 Neighbourhood Centre zone at the subject site is assessed in detail under *Strategic Assessment* above and expected to have a positive impact on the future urban release area and provide greater shopping choice for future residents of south-east Dubbo.

Infrastructure

The proposal does not include the provision for state infrastructure. It is noted that the certification and satisfactory arrangements for designated State infrastructure for the subject land was issued by the Secretary's delegate on 14 February 2012. No further work is required in this regard.

CONSULTATION

Community

The planning proposal nominates a community consultation period for a minimum of 28 days. This is considered to be satisfactory.

Agencies

It is recommended that the following agencies be consulted:

- Roads and Maritime Services
- Department of Primary Industries – Water
- Office of Environment and Heritage (OEH)
- OEH - National Parks and Wildlife Service

It is recommended the Dubbo Local Aboriginal Land Council be consulted as the subject site contains a known Aboriginal site.

TIMEFRAME

It is recommended that the planning proposal be finalised within 12 months of the date of the Gateway determination.

DELEGATION

Council has requested not to exercise plan making delegations in this case, as Council is the landowner and developer of the adjacent Keswick Estate. Given the local nature of the planning proposal, it is considered appropriate for Council not to be authorised to exercise plan making delegations in this case.

CONCLUSION

The planning proposal is recommended to proceed with conditions.

The proposal will effectively increase density of existing residential land and facilitate 5000m² of commercial GFA at the future Hillview Estate urban release area. The site is already zoned for residential purposes, and the proposal rationalises the zoning and lot size pattern based on a subdivision layout supported by detailed investigations. The proposed B1 Neighbourhood Centre zone is justified, given the peer reviewed Economic Impact Assessment identifying a market gap in supermarket floorspace in Dubbo.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. **Require** minor revisions to planning proposal prior to consultation to ensure there is a single endorsed planning proposal with clear mapping; and
2. **Agree** that any inconsistencies with Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries; and Direction 6.3 – Site Specific Provisions is minor and justified; and
3. **Agree** that the proposal is inconsistent with Section 117 Direction 6.2 Reserving Land for Public Purposes and require the planning proposal to be amended prior to consultation; and
4. **Require** the planning proposal to demonstrate consistency with Section 117 Direction 1.1 Business and Industrial Zones through consultation and address this at Section 59 reporting; and
5. **Require** consultation with OEH, DPI Water, RMS and NPWS (Dubbo LALC) to resolve inconsistencies with Section 117 Direction 2.3 Heritage Conservation, 4.3 Flood Prone Land; and

6. **Agree** to amendments to Clause 7.12 of the Dubbo LEP 2011 to achieve the intent for the future neighbourhood centre.

It is recommended that the delegate of the delegate of the Secretary, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community and agency consultation, the planning proposal is required to be revised as follows:
 - (a) There should be a single version of the final planning proposal and supporting studies to avoid any confusion and ensure the planning proposal is clear for public exhibition purposes.
 - (b) Remove any reference to "original planning proposal dated October 2016" in the planning proposal document, supporting studies and appendices.
 - (c) Remove any reference to "Lot 2 DP 880413, Sheraton Road, Dubbo" in the planning proposal document, supporting studies and appendices, as this land has not been considered in Council's resolution dated 26 June 2017.
 - (d) Revise mapping so that the proposed intent is clear and accurate.
 - (e) Revise the planning proposal and all mapping so that land situated to the south of the indicative location of the Southern Distributor Road be zoned RU2 Rural Landscape with minimum lot size 100ha. The proposed RE2 Private Recreation zone for that section of land is not supported.
 - (f) Demonstrate consistency with the final Central West and Orana Regional Plan 2036.

The revised planning proposal is required to be submitted to the Department for endorsement, prior to proceeding to community and agency consultation.

2. The proposed amendments to *Clause 7.12 Shops in Zone B1 Neighbourhood Centre* of the Dubbo LEP 2011 should achieve the intended outcome so that the total gross floor area of a retail premises on any land zoned B1 Neighbourhood Centre is not exceed 5000m2, as resolved by Council on 26 June 2017.
3. Community consultation is required under Sections 56(2)(c) and 57 of the 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 local environmental plans* (Department of Planning and Environment 2016).
4. Consultation is required with the following public authorities and / organisations under Section 56(2)(d) of the Act and/or to comply with the requirements of relevant Section 117 Directions:
 - Office of Environment & Heritage (OEH) (Direction 2.3 – Heritage Conservation; Direction 4.3 Flood Prone Land)
 - Department of Primary Industries – Water (Direction 4.3 Flood Prone Land)
 - Roads and Maritime Services
 - OEH - National Parks and Wildlife Service
 - Dubbo Local Aboriginal Lands Council

Each public authority/organisation 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.

5. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the 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).
6. Prior to the submission of the planning proposal under Section 59 of the Act, the final LEP maps must be prepared and be compliant with the Department's "Standard Technical Requirements for Spatial Datasets and Maps" 2015.
7. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Wayne 15/8/17

Wayne Garnsey
Team Leader, Western

Katrine O'Flaherty

Katrine O'Flaherty
Director Regions, Western
Planning Services

15/8/17

Deniz 15-8-17

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