

Amendment to Dubbo LEP 2011 - to rezone land and reduce minimum lot size at Benolong Road Dubbo

Proposal Title :	Amendment to Dubbo LEP 2011 - to rezone land and reduce minimum lot size at Benolong Road Dubbo		
Proposal Summary :	The planning proposal seeks to rezone 16ha of land from zone RU1 Primary Production to zone R5 Large Lot Residential and reduce the minimum lot size from 800ha to 8ha at part Lot 2 DP 22685, 32R Benolong Road, Dubbo. The proposal will provide an opportunity to subdivide land that contains 2 existing dwellings to form two new 8ha lots with an existing dwelling on each lot.		
PP Number :	PP_2016_DREGI_001_00	Dop File No :	16/14280-1

Proposal Details

Date Planning Proposal Received :	03-Nov-2016	LGA covered :	Dubbo Regional
Region :	Western	RPA :	Dubbo Regional Council
State Electorate :	DUBBO	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	32R Benolong Road		
Suburb :	Dubbo	City :	Dubbo
		Postcode :	2830
Land Parcel :	Lot 2 DP 22685		

DoP Planning Officer Contact Details

Contact Name :	Deniz Kilic
Contact Number :	0268412180
Contact Email :	Deniz.Kilic@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Steven Jennings
Contact Number :	0268014000
Contact Email :	Steven.Jennings@dubbo.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Wayne Garnsey
Contact Number :	0268412180
Contact Email :	Wayne.Garnsey@planning.nsw.gov.au

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	16.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	2
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	No known contact with registered lobbyists.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	No known meetings or communications with registered lobbyists.		

Supporting notes

Internal Supporting Notes :	The planning proposal seeks to rezone a 16ha portion of Lot 2 DP 22685, known as 32R Benolong Road, Dubbo, from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 800ha to 8ha. The subject lot is 270ha, of which a 16ha portion is subject of the planning proposal (subject site). The subject lot is 15km from Dubbo CBD and currently used for grazing purposes. There are 2 existing dwellings on the subject site which are used for the purposes of managing the overall land holding of 1005ha. The existing dwellings are located on portion of land subject of the planning proposal. The proposal will provide an opportunity to subdivide the subject site into two 8ha allotments with an existing dwelling on each resultant lot. The remainder of the subject lot will remain zoned RU1 Primary Production and retain the existing MLS of 800ha. The subject site is bound by land zoned R5 Large Lot Residential to the north, land zoned RU4 Primary Production Small Lots to the east and RU1 Primary Production to the south and west. Council has assessed the proposal to be consistent with the provisions of the Dubbo Rural Areas Development Strategy and deems any potential impacts on adjoining and adjacent rural lands to be unlikely. The proposal is considered appropriate in this case as the subject site contains 2 existing dwellings and the adjacent land to the north and north-west is zoned R5 Large Lot Residential with a MLS of 8ha. The proposal would create an opportunity to subdivide the subject lot into two 8ha allotments with a dwelling on each resultant lot. The remainder (approx. 254ha) will remain zoned RU1 Primary Production with MLS 800ha and continue to be used for agricultural purposes as part of a larger holding. The proposal is recommended to proceed to Gateway determination with conditions.
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Council has requested to exercise delegations in this case and given the proposal is of local and minor significance, this is considered suitable in this case.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **An adequate statement of objectives is provided, that is:**

" The intention of this planning proposal (PP) is to provide large lot residential housing in a rural setting alongside minimising the conflict between land uses."

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **An explanation of provisions is provided, explaining how the objectives of the planning proposal will be achieved. That is, by amending the following maps in the Dubbo LEP 2011, to rezone part of the subject lot to R5 Large Lot Residential and identify a minimum lot size of 8ha:**

- Land Zoning Map - Sheet LZN_008**
- Minimum Lot Size Map - Sheet LSZ_008**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 55—Remediation of Land**
- SEPP No 64—Advertising and Signage**
- SEPP (Building Sustainability Index: BASIX) 2004**
- SEPP (Exempt and Complying Development Codes) 2008**
- SEPP (Infrastructure) 2007**
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007**
- SEPP (Rural Lands) 2008**
- Orana REP No. 1 - Siding Spring**

e) List any other matters that need to be considered :

Consideration of Section 117 Directions:

1.2 RURAL ZONES: This Direction applies to the planning proposal as it will affect land within an existing rural zone. The proposal is considered to be inconsistent with this direction as it proposes to rezone land from a rural zone to a residential zone.

RECOMMENDATION: The Secretary's delegate can be satisfied that the inconsistency is of minor significance, as the subject site proposed to be rezoned is 16ha and contains 2

existing dwellings. It is proposed an existing dwelling will be on each resulting lot upon future subdivision of the site into two 8ha lots. The site is also adjacent to land zoned R5 Large Lot Residential.

1.3 MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES: This Direction applies as the planning proposal would have the effect of prohibiting the mining of coal or other minerals, production of petroleum, or obtaining of extractive materials.

The proposal is considered to be inconsistent with this direction as it proposes to rezone land from a rural zone (RU1 Primary Production) to a residential zone (R5 Large Lot Residential) which prohibits mining activities.

RECOMMENDATION: The Secretary's delegate can be satisfied that the inconsistency is of minor significance, as the subject site of the proposed rezoning is 16ha, adjacent to an established large lot residential zone.

1.5 RURAL LANDS: This Direction applies to the planning proposal as it will affect land within an existing rural zone and proposes to change the existing minimum lot size on land within a rural zone. The proposal is considered to be consistent with this direction as it addresses the Rural Planning Principles list in SEPP (Rural Lands) 2008. The proposal is expected to make provisions for limited rural lifestyle opportunities in an appropriate location, directly adjacent to existing clusters of land zoned R5 Large Lot Residential.

2.1 ENVIRONMENT PROTECTION ZONES: This Direction applies to the planning proposal as it will affect land identified as environmentally sensitive (biodiversity) in the 'Natural Resources Biodiversity Map' under the Dubbo LEP 2011. The proposal is considered to be inconsistent with this direction as it does not include provisions that facilitate the protection and conservation of environmentally sensitive areas.

RECOMMENDATION: The Secretary's delegate can be satisfied that the inconsistency is of minor significance, as the subject site has been cleared of vegetation for agricultural and residential purposes.

3.1 RESIDENTIAL ZONES: This Direction applies to the planning proposal as it will affect land within a proposed residential zone (R5 Large Lot Residential). The proposal is considered to be consistent with this direction.

3.3 HOME OCCUPATIONS: This Direction applies to the planning proposal as it will affect land or provisions relating to the permissibility of home occupations in dwelling houses. The proposal is considered to be consistent with this direction.

6.1 APPROVAL AND REFERRAL REQUIREMENTS: This Direction applies to all planning proposals. The proposal is considered to be consistent with this direction.

6.3 SITE SPECIFIC PROVISIONS: This Direction applies to all planning proposals. The proposal is considered to be consistent with this direction, as the land will utilise existing zone provisions.

Consideration of State Environmental Planning Policies (SEPP):

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SEPP (Rural Lands) 2008: The proposal is considered to be consistent with the Rural Planning Principles list in SEPP (Rural Lands) 2008. The proposal is expected to make provisions for limited rural lifestyle opportunities in an appropriate location, directly adjacent to existing clusters of land zoned R5 Large Lot Residential.

SEPP No. 55 - Remediation of Land: Clause 6 of SEPP 55 requires the matter of contamination and remediation to be considered when rezoning land. The subject site with 2 existing dwellings has been used for mainly residential purposes and in supporting the operations of a large agricultural holding. Council has considered the historical use of the site and deems that any further information relating to contamination can be assessed further at the development application (subdivision) stage. As such, no further work is required in relation to SEPP 55 in this case.

The planning proposal is considered to be consistent with the following relevant State Environmental Planning Policies (SEPPs), as identified in the planning proposal document and Council's assessment report:

- SEPP No. 64 - Advertising and Signage,
- SEPP (Exempt and Complying Development Codes) 2008,
- SEPP (Infrastructure) 2007,
- SEPP (BASIX) 2004.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : A draft Land Zoning Map and draft Minimum Lot Size (MLS) Map has been included in the planning proposal, clearly identifying the proposed zone (R5 Large Lot Residential) and MLS of 8ha.

The mapping is considered adequate for community consultation purposes. Final LEP maps will be required with the section 59 submission.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal identifies a 14 day community consultation period to be appropriate in this case as it is considered to fit within the attributes of 'Low Impact Proposals' under the new Guide ('A Guide to Preparing Local Environmental Plans', August 2016).

While a 28 day community consultation period is preferred and encouraged in the interest of good planning practice, in this case, the proposal satisfies the attributes of a 'low' impact planning proposal, as it is:

- consistent with surrounding land use zones,
- consistent with an endorsed Strategy,
- presents no known servicing issues,
- not a principal LEP, and
- does not reclassify public land.

Nonetheless, Dubbo Regional Council has resolved on 24 October 2016 for the proposal to undergo community consultation for a minimum of 28 day period

The proposal is therefore recommended to undergo a 28 day public exhibition period, in the manner outlined in the Guide, including newspaper notification, Council's website, and in writing to affected and adjoining landowners, which is acceptable.

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Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Dubbo LEP 2011 was notified on 11 November 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal is the only mechanism of achieving the intended outcomes. That is, to rezone land to R5 Large Lot Residential and reduce the MLS to 8ha, in order to facilitate a future subdivision of two 8ha lots, each with an existing dwelling.**

Consistency with strategic planning framework : **Council states that "the proposal is consistent with the Rural Lands Development Strategy" in its Report dated 11 October 2016. The Strategy was adopted by Council in 1996 and a review of the Strategy was adopted in 2003. The Department endorsed Council's Rural Strategy and Review on 3 February 2012. The proposal is considered to be minor and a justifiable variation to the Strategy.**

Environmental social economic impacts : **The proposal is expected to have negligible environmental, social and economic impacts on the locality. The proposal will facilitate future subdivision in order to create two 8ha lots zoned R5 Large Lot Residential, adjacent to an existing cluster of R5 zoned land. The remaining balance of the lot (254ha out of 270ha) will remain zoned RU1 Primary Production to be used for agricultural purposes.**

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Cover Letter.pdf	Proposal Covering Letter	Yes
Council Minutes 24 October 2016 page 3.pdf	Proposal	Yes
Council Report - Planning Proposal R16-2.pdf	Proposal	Yes
Current Lot Size Map	Map	Yes
2600_COM_LSZ_008_080_20110805.pdf		
Current Zoning Map	Map	Yes
2600_COM_LZN_008_080_20110803.pdf		
Location Map Raymond Hill.pdf	Map	Yes
Planning Proposal - Lot 2 DP 22685 32R Benolong Road Dubbo.pdf	Proposal	Yes
Project Timeline.pdf	Proposal	Yes
Proposed Lot Size Map	Proposal	Yes
2600_COM_LSZ_008_020_20161025.pdf		
Proposed Zoning Map	Map	Yes
2600_COM_LZN_008_020_20161025.pdf		
Request for Initial Gateway Determination - Benolong Road.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.3 Home Occupations
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information :

It is recommended the Minister's delegate determines and supports the planning proposal, subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act as follows:

(a) The planning proposal is required to be made publicly available on exhibition for 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

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(b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs.

No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

2. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

3. Prior to submission of the planning proposal under section 59 of the EP&A Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

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

Supporting Reasons :

The proposal is considered appropriate in this case as the subject site contains 2 existing dwellings and the adjacent land to the north and north-west is zoned R5 Large Lot Residential with a MLS of 8ha. The proposal would create an opportunity to subdivide the subject lot into two 8ha allotments with a dwelling on each resultant lot. The remainder (approx. 254ha) will remain zoned RU1 Primary Production with MLS 800ha and continue to be used for agricultural purposes as part of a larger holding.

The proposal is recommended to proceed to Gateway determination with conditions.

Council has requested to exercise delegations in this case and given the proposal is of local and minor significance, this is considered suitable in this case.

Signature:



Printed Name:

Deniz Kilic

Date:

24/11/2016

Endorsed
Wgamsay
TLWR
29/11/2016