



REPORT: Planning Proposal (R16-2) - Proposed Rezoning and Alteration to Minimum Lot Size

Property: Part Lot 2 DP 22685, 32R Benolong Road, Dubbo

Applicant: Geolyse Pty Ltd

Owner: Inmac Pty Ltd

AUTHOR: Manager City Strategy Services

REPORT DATE: 11 October 2016

TRIM REFERENCE: ID16/1692

EXECUTIVE SUMMARY

A Planning Proposal (R16-2), or Local Environmental Plan amendment application, was lodged with Council on 24 August 2016 by consultants, Geolyse Pty Ltd, on behalf of owner, Inmac Pty Ltd. A copy of the Planning Proposal is included here in **Appendix 1**.

The Planning Proposal seeks to rezone part of Lot 2 DP 22685, 32R Benolong Road, Dubbo from RU1 Primary Production to R5 Large Lot Residential under the provisions of the Dubbo Local Environmental Plan (LEP) 2011. The Planning Proposal also seeks to consequently change the minimum allotment size for subdivision of the land from 800 hectares to eight hectares.

The land, the subject of the proposed rezoning, contains two (2) existing dwelling houses which have been used in conjunction with an overall agricultural land holding consisting of 1005.3 hectares. The land holding also contains a further two (2) dwelling houses which are utilised as part of land management activities for the overall land holding.

The section of land which is the subject of the Planning Proposal adjoins land fronting Bulwarra Drive which is zoned R5 Large Lot Residential under the provisions of the LEP. The adjoining lands have a minimum allotment size for subdivision of eight hectares under the provisions of the LEP.

The applicant has provided information that the two existing dwellings on the land are no longer required to facilitate management of the overall land holding. The objective of the Planning Proposal is to allow for the future subdivision of the land into two allotments, each with a dwelling house.

Given the characteristics of the Planning Proposal and the relationship of the subject site with the adjoining lands, it is considered that the proposed rezoning is unlikely to impact agricultural land use activities on adjoining lands within the immediate locality.

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment (DPE) to seek a Gateway Determination.

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 fees for 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 consistent with the Rural Lands Development Strategy which underpins the land use decisions in the LEP.

RECOMMENDATION

- 1. That Council support the Planning Proposal to rezone part of Lot 2 DP 22685, 32R Benolong Road, Dubbo from RU1 Primary Production to R5 Large Lot Residential and for the land to have a minimum allotment size for subdivision of eight (8) hectares.**
- 2. That Council recommend support for a minimum 28 day public exhibition period for the Planning Proposal.**
- 3. That Council resolve to use its delegation under Section 59 of the Environmental Planning and Assessment Act, 1979 to draft the amendment to the Dubbo Local Environmental Plan 2011.**
- 4. That following 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.**

Steven Jennings
Manager City Strategy Services

BACKGROUND

The Planning Proposal was lodged on 24 August 2016 by consultants, Geolyse Pty Ltd on behalf of the land owner. The Planning Proposal seeks to rezone part of Lot 2 DP 22685, 32R Benolong Road, Dubbo from RU1 Primary Production to R5 Large Lot Residential under the provisions of the Dubbo Local Environmental Plan 2011 (LEP). The Planning Proposal also seeks to provide a minimum allotment size of eight hectares for subdivision of the subject land.

The subject land contains two (2) dwelling houses. This includes the main residential dwelling for the balance of the overall agricultural land holding which consists of 1,005.3 hectares. The second dwelling on the land is a smaller scale residence which has been utilised to undertake management of the overall land holding. A search of Council records has shown that both dwellings were constructed prior to the requirement to seek formal development approval from Council.

REPORT

1. Particulars of the Planning Proposal Application

Owner:	Inmac Pty Ltd
Applicant:	Geolyse Pty Ltd
Subject site:	Lot 2 DP 22685, 32R Benolong Road, Dubbo
Land area:	265.3 hectares
Current zoning:	RU1 Primary Production
Proposed LEP amendment:	The rezoning of 16 hectares of the subject land from RU1 Primary Production to R5 Large Lot Residential; and provision of a minimum allotment size for subdivision of the subject land of eight hectares.
Lodgement date:	24 August 2016

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 in Figure 1.

PLANNING PROPOSAL PROCESS

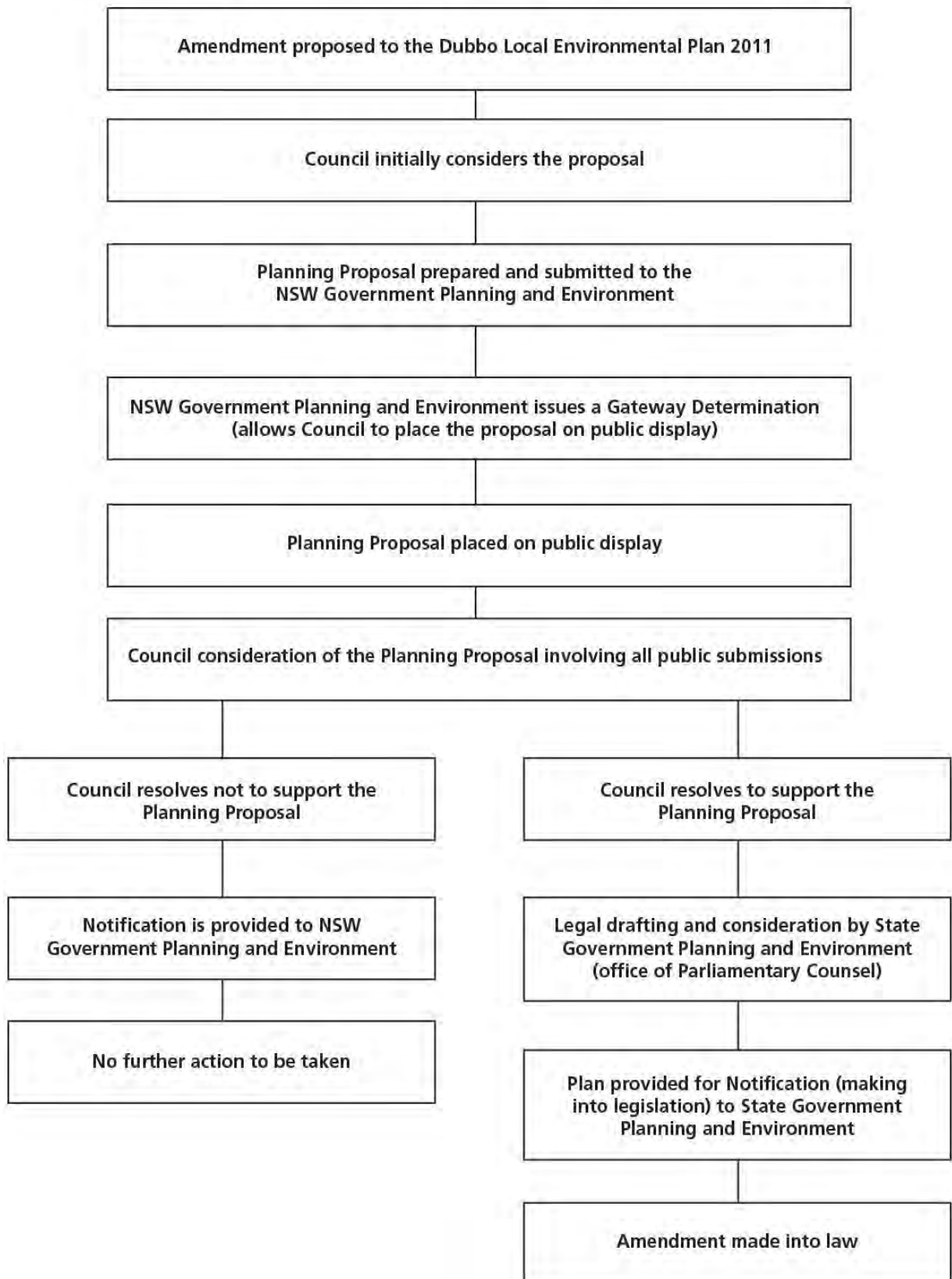


Figure 1. Planning Proposal Process

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 the 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.

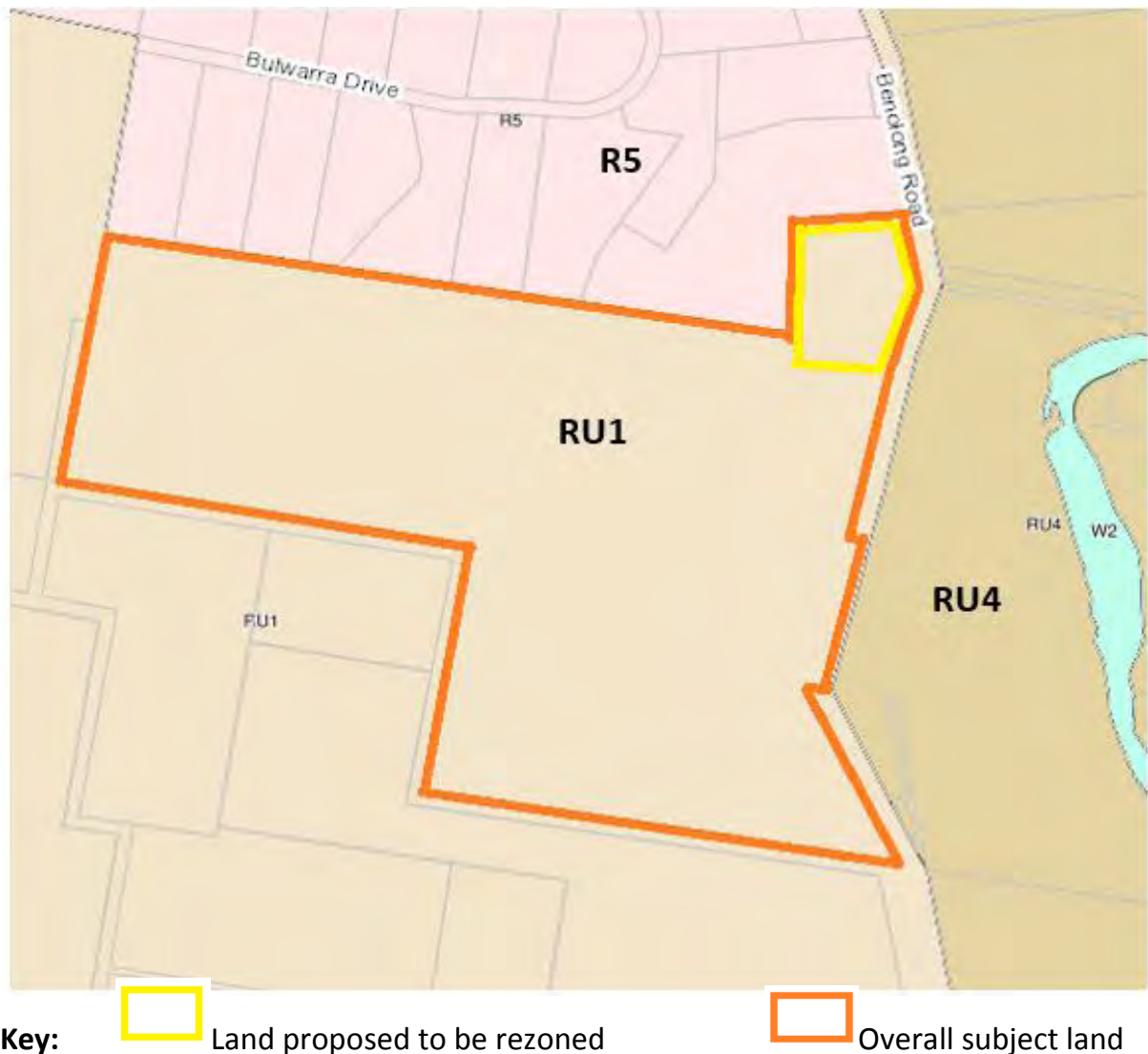
The Gateway Determination reviews and considers Planning Proposals in their initial stages prior to further consideration by Council. After consideration by the Department, Council is provided with a Gateway Determination for the LEP amendment.

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.

3. Planning Proposal

As already discussed, Council is in receipt of a Planning Proposal that seeks to rezone part of Lot 2 DP 22685 32R Benolong Road, Dubbo from RU1 Primary Production to R5 Large Lot Residential under the provisions of the Dubbo Local Environmental Plan 2011. The Planning Proposal also seeks to provide a minimum allotment size of eight hectares for subdivision of the land. The location and land use zoning of the subject site is shown in Figure 2.



Key:  Land proposed to be rezoned

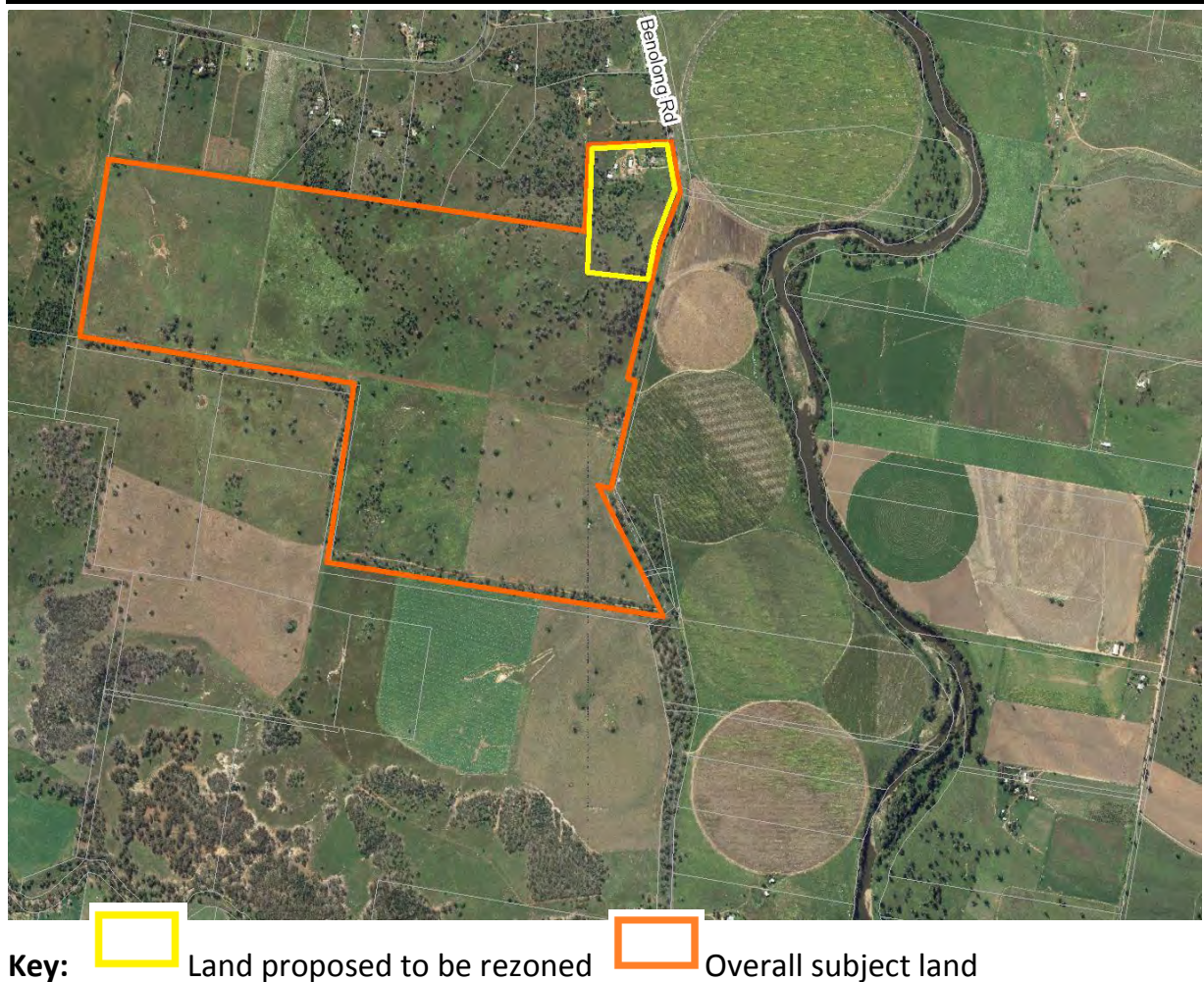
 Overall subject land

Figure 2. Current Zoning Map

The Planning Proposal would provide the proponent the opportunity to lodge a development application with Council for subdivision of the subject land into two allotments if the proposed amendments to the Dubbo LEP 2011 are made.

4. Site Characteristics

The land the subject of the Planning Proposal includes part of Lot 2 DP 22685, 32R Benlong Road, Dubbo, as shown in Figure 3. The overall land is 265.3 hectares in area; the land the subject of the Planning Proposal consists of 16 hectares.



Key:  Land proposed to be rezoned  Overall subject land

Figure 3. Subject land

The land fronts Benolong Road and is situated approximately 15 kilometres from the Dubbo Central Business District (CBD). The overall land area is currently utilised for grazing. However, the land the subject of the Planning Proposal currently contains two dwelling houses which are presently utilised for the purpose of managing the overall land holding of 1005.3 hectares.

The subject site is bound by land zoned R5 Large Lot Residential to the north, RU4 Primary Production Small Lots to the east and RU1 Primary Production to the south and west.

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) Dubbo Rural Areas Development Strategy

The Dubbo Rural Areas Development Strategy (including the Dubbo Macquarie District Development Strategy) forms the basis for the land use zonings and planning controls provided in the Dubbo LEP.

The land the subject of the Planning Proposal is situated in the Macquarie District. The Strategy provides the following development objectives:

- Agriculture – A more secure future for agriculture in Dubbo and expansion of its economic value;
- Transport – Safe and efficient transport links between Dubbo and other major centres, with capacity for future expansion;
- Tourism – Expand Dubbo’s rural-based tourism industry;
- Recreation – Use the recreational potential of the rural area;
- Settlement – Direct rural settlement pressures into the rural villages and selected areas of existing fragmentation; and
- Villages – Protect village communities as effective alternatives to urban living.

The subject site adjoins and integrates with land zoned R5 Large Lot Residential to the north and west. The minimum allotment size for the subdivision of land in this area is eight hectares. Land to the east of the subject site is zoned RU4 Primary Production Small Lots and is predominately used for irrigated cropping. This agricultural land is separated from the subject site by Benolong Road.

The land contains two (2) dwelling houses which are utilised to manage the overall land holding of 1,005 hectares. This includes a main dwelling and a second dwelling that has been used to assist in management of the land. Both dwellings appear to have been constructed prior to the requirement for formal development approval from Council. The proponent has provided information that both dwellings are no longer required to manage the overall land holding as the land holding contains another two (2) dwellings which are also utilised in conjunction with management of the land.

Based on the characteristics of the subject site and the agricultural land use activities undertaken on adjoining lands, it is considered that the Planning Proposal is consistent with the provisions of the Strategy and is unlikely to impact agricultural activities undertaken on adjoining or adjacent lands.

(ii) Section 117 Directions

A number of Section 117 Directions are applicable to the Planning Proposal, as described in Table 1.

Direction	Requirement	Consistency
1.2 Rural zones	This Direction applies to the Planning Proposal as the Proposal will affect land	The Proposal is inconsistent with the Direction. The inconsistency is considered to

Direction	Requirement	Consistency
	within an existing or proposed rural zone which includes the alteration of an existing rural zone boundary.	be of minor significance as the proposed area for rezoning already contains two (2) existing dwellings.
		This has resulted in this section of the land having a character consistent with the R5 Large Lot Residential development to the north west.
1.3 Mining, petroleum production and extractive industries	This Direction applies to a Planning Proposal that would restrict or be incompatible with mining.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the land affected by the Planning Proposal already contains two (2) existing dwellings which would restrict realisation of mining on the land.
1.5 Rural lands	This Direction applies to a Planning Proposal that will affect land within an existing or proposed rural zone or changes the existing minimum lot size on the land within a rural zone.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the proposed area for rezoning contains two (2) existing properties and is consistent with the R5 Large Lot Residential development to the north- west. It is considered that the Planning Proposal is consistent with the Rural Planning Principles contained within State Environmental Planning Policy (Rural Lands) 2008.

Direction	Requirement	Consistency
2.1 Environmental protection zones	This Direction is applicable when any Planning Proposal is prepared. The Direction is applicable to the Planning Proposal as some areas of the subject site are mapped by the Dubbo LEP 2011 Natural Resource and Biodiversity Map as featuring moderate to high biodiversity characteristics.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the proposed area contains minimal vegetation.
3.1 Residential zones	This Direction applies to any Planning Proposal that will affect land within a proposed residential zone.	The Planning Proposal is consistent with the Direction as it broadens the choice of building types and locations available in the housing market and makes efficient use of existing infrastructure and services.
3.3 Home occupations	This Direction applies when any Planning Proposal is prepared. The Direction is applicable as the Planning Proposal seeks to rezone the subject area to R5 Large Lot Residential.	The Planning Proposal is consistent with the Direction as the rezoning of the subject site to R5 Large Lot Residential would continue to support the objective of the Direction and allow 'Home occupations' to be permitted without consent under the Dubbo Local Environmental Plan 2011.
3.4 Integrating land use and transport	This Direction applies to the Planning Proposal as the Planning Proposal seeks to rezone the subject area to R5 Large Lot Residential which will alter the land use for residential purposes.	The Planning Proposal is inconsistent with the Direction. This inconsistency is considered to be of minor significance as the Planning Proposal does not contain provisions for additional dwellings on the subject site which would place increased demand on the existing transport network.

Direction	Requirement	Consistency
		It should also be noted that the Planning Proposal is unlikely to result in any further development on the land.
6.1 Approval and referral requirements	This Direction is applicable when any 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 and is consistent with this Direction.
6.3 Site specific provisions	The Direction applies to any Planning Proposal that has been prepared that will allow a particular development to be carried out. This Direction is applicable to the Planning Proposal as the proposal will permit the subdivision of the rezoned land with development consent. The objective of the Direction is to discourage unnecessarily restrictive site specific planning controls.	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. The Planning Proposal is consistent with the Direction.

Table 1. Section 117 Directions applicable to a Planning Proposal

(iii) State Environmental Planning Policies

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

- SEPP No 64 – Advertising and Signage;
- SEPP (Exempt and Complying Development Codes) 2008;
- SEPP (Infrastructure) 2007;
- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Rural Lands) 2008; and

- SEPP No 55 – Remediation of Land.

The following provides information in respect of the Proposal's compliance with SEPP No. 55 – Remediation of Land and SEPP (Rural Lands) 2008.

State Environmental Planning Policy No. 55 – Remediation of Land

Council's Environment and Health officers have undertaken assessment of the Proposal's compliance with the requirements of the SEPP and have provided the following information:

"The proposed site is currently not listed on Council's register of potentially contaminated land. The land is located in an agricultural dryland location adjacent to a large irrigation area to the east (Macquarie River). The land forms part of a large farming company that incorporates both dryland and irrigation farming. The location of the proposed rezoning incorporates two dwellings and a large number of machinery sheds associated with the existing farming enterprise.

The site does not store and use agricultural chemicals and products associated with the irrigation business. The site also has aboveground fuel storage tanks which are also used for the agricultural business. The proposed rezoning will not alter the current use of the site for agricultural practices and should future development include the subdivision of this land into smaller lots then this would be the appropriate time to address any potential contamination 'hot spots.' In accordance with SEPP 55, the proposed rezoning will not be increasing the level of soil exposure or harm to occupants of the site.

It is recommended that at the subdivision stage focused soil testing should be conducted in the location of the former fuelling area, chemical store and wash area."

As the current use of the subject land is not proposed to change as a result of the Planning Proposal, it is considered that no further information is required in respect of contamination. However, it should be noted that any development application lodged with Council for subdivision of the land and/or any extension of residential development on the land would require further consideration in respect of the potential contamination of land.

State Environmental Planning Policy (Rural Lands) 2008

The SEPP aims to guide the sustainable use of rural lands through the provision of specific rural planning principles. The SEPP requires a Planning Proposal to be consistent with the following rural planning principles:

- The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;
- Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State;
- Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development;

- In planning for rural lands, to balance the social, economic and environmental interests of the community;
- The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;
- The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;
- The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing; and
- Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The Planning Proposal is considered to be consistent with the rural planning principles. The Proposal will allow for the possible subdivision of two existing dwellings on the land. However, the existing dwellings are located so as to not impede the use of the balance of the subject land for agricultural purposes and to maintain the larger holding as RU1, consistent with the LEP.

(iv) Dubbo Local Environmental Plan 2011

The subject land comprises 265.3 hectares and is currently zoned RU1 Primary Production and has a minimum allotment size for subdivision of 800 hectares. The Planning Proposal seeks to amend the Dubbo LEP by rezoning 16 hectares of the subject land to R5 Large Lot Residential with a minimum allotment size of eight hectares.

The objectives of the R5 Large Lot Residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality;
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future;
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities; and
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

As previously discussed, the proponent is seeking to subdivide the 16 hectare section of the land into two of eight hectare lots which will each contain one existing dwelling house.

It is considered that the proposed rezoning of the land to R5 Large Lot Residential is appropriate given that the land contains two existing dwellings and that the land to the north and north-west is zoned R5 Large Lot Residential with a minimum allotment size for subdivision of eight hectares.

(v) Flora and Fauna

The subject site is mapped as containing high and moderately high biodiversity pursuant to the provisions of the Dubbo LEP.

It is considered that the Planning Proposal is unlikely to present any significant impacts to flora and fauna on the site or within the immediate locality.

(vi) Traffic

The Planning Proposal is unlikely to present any significant increase in residential development on the land. It is also considered that the Planning Proposal is unlikely to provide any additional traffic impacts in the immediate locality.

(vii) Infrastructure

The subject site contains two existing dwellings that would continue to be serviced by existing onsite water services and sewerage disposal systems and connection to the electricity network. It is considered that the Planning Proposal is unlikely to provide any additional infrastructure requirements in the immediate locality.

(viii) Groundwater Vulnerability

The subject site is mapped as having moderately high and high groundwater vulnerability pursuant to the provisions of Clause 7.5 of the Dubbo LEP.

The Planning Proposal seeks to create provisions under the Dubbo LEP for a future subdivision that will result in one existing dwelling on each allotment. It is considered that the Planning Proposal would not impact groundwater on the site or within the immediate locality.

(ix) Aboriginal Archaeology

A search of the Aboriginal Heritage Information System (AHIMS) has revealed that no Aboriginal sites have been recorded in or near the subject site nor have any Aboriginal places been declared in or near the subject site.

SUMMARY

Council is in receipt of a Planning Proposal that seeks to rezone of Part Lot 2 DP 22685, 32R Benolong Road, Dubbo from RU1 Primary Production (800 hectare minimum allotment size) to R5 Large Lot Residential (eight hectare minimum allotment size) under the provisions of the Dubbo Local Environmental Plan 2011.

The subject land contains two existing dwelling houses which have been used in conjunction with an overall agricultural land holding consisting of 1005.3 hectares. The overall land

holding also contains a further two dwelling houses which are utilised as part of land management activities for the overall land holding.

The section of the land which is the subject of the Planning Proposal adjoins land fronting Bulwarra Drive which is zoned R5 Large Lot Residential under the provisions of the Dubbo LEP. The adjoining lands have a minimum allotment size for subdivision of eight hectares under the provisions of the Dubbo LEP.

It is considered that the Planning Proposal is consistent with the provisions of the Dubbo Rural Areas Development Strategy and is unlikely to restrict agricultural land use activities in the immediate locality given the characteristics of existing development on the land.

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment to seek a Gateway Determination.

Appendices:

- 1** Planning Proposal - Proposed Rezoning and Amendment to Minimum Lot Size - Benolong Road Dubbo