



**REPORT: Planning Proposal (R14-1) -
Recreation Facility (Indoor) - Lot 100 DP
1168671, 1 Torvean Avenue, Dubbo**

AUTHOR: Manager City Strategy Services
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TRIM REFERENCE: ID14/91

EXECUTIVE SUMMARY

A Planning Proposal (R14-1), or Local Environmental Plan amendment application, has been lodged with Council seeking the inclusion of an additional permitted use of Recreation Facility (Indoor) on Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo within the Dubbo Local Environmental Plan 2011. The proposal will form the seventh proposed amendment to the Dubbo Local Environmental Plan 2011 (LEP).

The Planning Proposal was lodged with Council on 15 January 2014 by consultants, The Town Planning Group NSW on behalf of the owner, Shopping Centres Australasia Property Group Pty Limited. A copy of the Planning Proposal is provided here in **Appendix 1**.

The Planning Proposal seeks the inclusion of an additional permitted use within the Delroy Park Shopping Centre complex to permit the development of a gymnasium within the site. The subject allotment is zoned B1 Neighbourhood Centre pursuant to the Dubbo LEP. Under the provisions of the LEP, the use of the site for a Recreation Facility (Indoor) is currently prohibited.

It is considered that the use of the land for the purpose of a Recreation Facility (Indoor) is consistent with the objectives of the zone. It is recommended that the Planning Proposal be submitted to the Department of Planning and Infrastructure to seek a Gateway Determination.

STRATEGIC ALIGNMENT

The Dubbo 2036 Community Strategic Plan is a vision for the development of the City out to the year 2036. The Plan includes five principal themes and a number of strategies and outcomes. This report is aligned to the principal theme 'Our Place,' which lists a number of key built and natural environment issues that will underpin the future development of the City.

FINANCIAL IMPLICATIONS

The applicant, Town Planning Group Pty Limited, provided on lodgement of the Planning Proposal, a 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.

POLICY IMPLICATIONS

The Planning Proposal is provided for consideration and endorsement to seek a Gateway Determination. Receipt of a Gateway Determination will allow for Council to, conditionally, undertake an amendment to the Dubbo LEP 2011.

RECOMMENDATION

- 1. That Council endorses the Planning Proposal and seeks to amend the Dubbo Local Environmental Plan 2011 to include the land use Recreation Facility (Indoor) as an additional permissible use on Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo in Schedule 1 of the Dubbo LEP 2011.**
- 2. That Council undertakes a minimum 14 day public exhibition period for the Planning Proposal.**
- 3. That Council resolves to use its delegation under Section 59 of the Environmental Planning and Assessment Act, 1979, to draft the amendment to the Dubbo LEP 2011.**

Tony Aikins
Manager City Strategy Services

BACKGROUND

The allotment subject to the Planning Proposal, Lot 100 DP 1168671, is located in west Dubbo and is the site of the Delroy Park Shopping Centre complex which was constructed in 2010.

The inclusion of the use, Recreation Facility (Indoor), within the B1 Neighbourhood Centre zone, would allow the development of a gymnasium within the Delroy Park Shopping Centre complex subject to development consent.

REPORT

1. Particulars of the Planning Proposal Application

Owner:	Shopping Centres Australasia Property Group Pty Ltd
Applicant:	The Town Planning Group Pty Limited
Site:	Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo
Current zoning:	B1 Neighbourhood Centre
Proposed LEP amendment:	Additional Permitted Use – Recreation Facility (Indoor)
Lodgement date:	15 January 2014

2. Amendments to Local Environmental Plan

The Department of Planning and Infrastructure has 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 (LEP) commences with Council's consideration of a Planning Proposal. The Planning Proposal process is outlined in Figure 1 below.

PLANNING PROPOSAL PROCESS

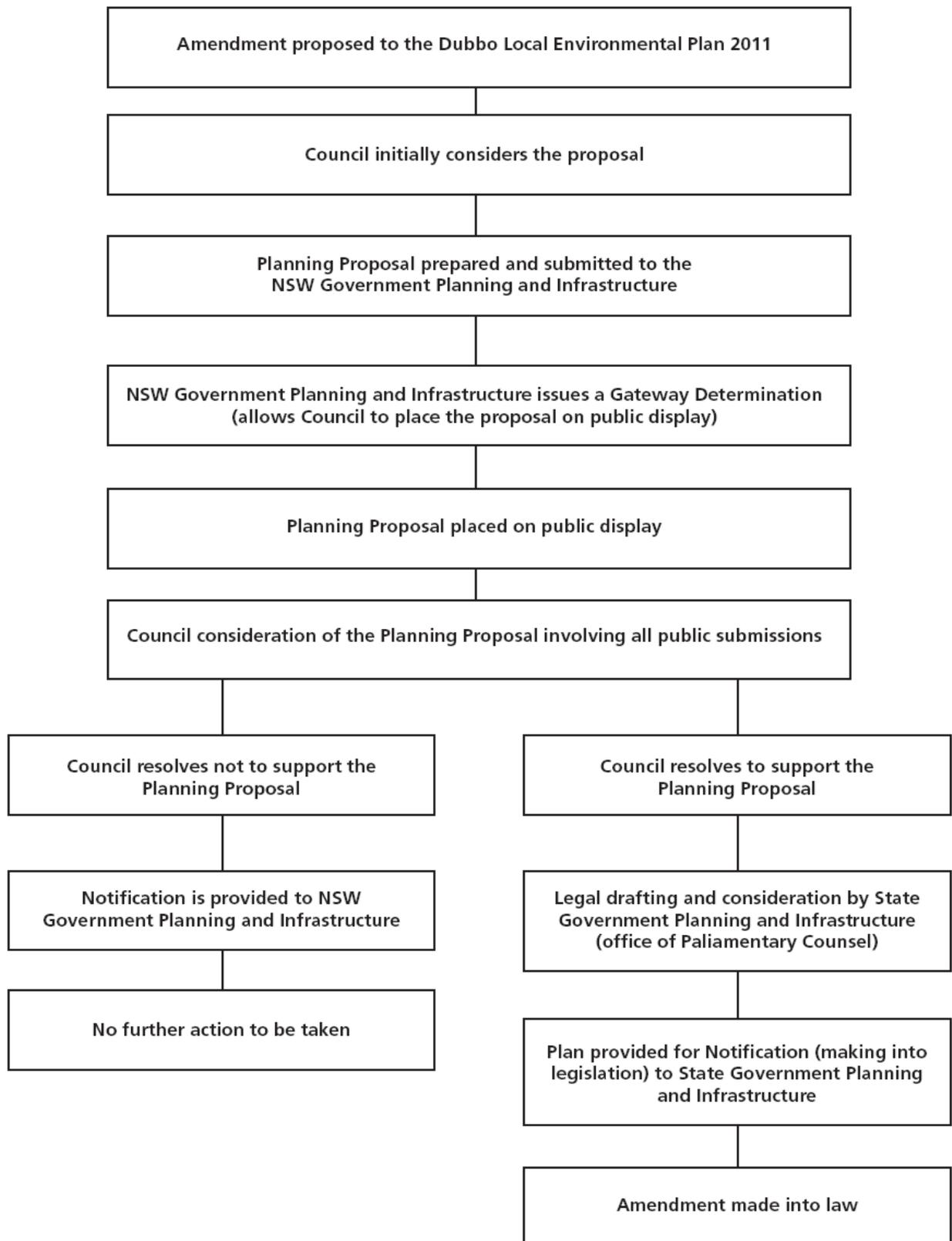


Figure 1 – Planning Proposal Process

The role of a Planning Proposal is to explain the intended effects of a proposed LEP 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 LEP amendment is provided to the Department to seek a Gateway Determination.

The Gateway is a recent addition to the plan making process, which ultimately 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, specify any matters that require additional information, the level of public consultation required and State Government agencies to be consulted. After all additional matters have been addressed and the required consultation has been carried out, a report will be provided to Council for further consideration.

It is noted that the Planning Proposal will 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 are required to liaise with Parliamentary Counsel for legal drafting and finalisation of the Plan.

3. Planning Proposal

Council is in receipt of a Planning Proposal on behalf of Shopping Centres Australasia Property Group Pty Limited to amend the Dubbo LEP 2011 to permit the use of the land at Lot 100 DP 1168671 for a Recreation Facility (indoor).

The site subject to the Planning Proposal is known as the Delroy Park Shopping Centre complex. The proponent has sought the amendment to facilitate the development of a gymnasium within the existing shopping centre complex.

Recreation Facility (Indoor), which is not currently a permitted use in the B1 zone is defined as a building or place used predominantly for indoor recreation, whether or not operated for the purpose of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or other building of place of alike character for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or registered club.

The subject land is currently zoned B1 Neighbourhood Centre pursuant to the Dubbo Local Environmental Plan 2011. The objectives of the B1 Neighbourhood Centre zone are as follows:

- * To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

- * To ensure the growth of each neighbourhood centre is consistent with the commercial hierarchy of the City of Dubbo.

Notwithstanding the issue of permissibility, the use Recreation Facility (Indoor) is considered to be consistent with the objectives of the zone, providing a small scale business use that serves the needs of people who live or work in the surrounding locality. It is considered that the use of the subject land for a Recreation Facility (Indoor) will not impact on the commercial hierarchy of the City.

It is considered that Recreation Facilities (Indoor) is consistent with the range of uses currently permissible on the land, as follows:

“Land uses currently permissible with consent in the zone include Amusement centres, Boarding houses, Business premises, Car parks, Child care centres, Commercial premises, Community facilities, Education establishments, Entertainment facilities, Environmental facilities, Function centres, Health consulting rooms, Home businesses, Home industries, Home occupations, Information and education facilities, Medical centres, Neighbourhood shops, Passenger transport facilities, Places of public worship, Respite day care centres, Shop top housing, Signage, Tourist and visitor accommodation, Veterinary hospitals, Waste or resources transfer stations and Water reticulation systems.”

4. Site Characteristics

The site subject to the Planning Proposal is Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo.

The allotment is located on the corner of Baird Drive and Minore Road in west Dubbo. The allotment has an area of 1.299 hectares with a frontage to Baird Drive of approximately 122 metres and Minore Road of approximately 80 metres.

The Delroy Park Shopping Centre complex is situated on the land, see **Figure 2**. The Shopping Centre covers a floor area of approximately 4,386 square metres and includes a supermarket (2,500 square metres), retail specialty stores (1426 square metres) and a medical centre (426 square metres). The proposed gymnasium is to be located within the retail floor space of the Shopping Centre.



Figure 2 - Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo

5. Planning Considerations

Section 117 Directions

Direction 1.1 Business and Industrial Zones

This Direction applies to the Planning Proposal as the proposal will affect land within an existing business zone.

The objectives of this Direction are to:

- a) Encourage employment growth in sustainable locations,
- b) Protect employment land in business and industrial zones, and
- c) Support the viability of identified strategic centres.

The Direction requires the proposal to:

- a) Give effect to the objectives of the direction,
- b) Retain the areas and locations of existing business and industrial zones,
- c) Not reduce the total potential floor space area for employment uses and related public services in the business zone, and
- d) Ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

The Proposal encourages employment and supports viability within the Delroy Shopping Centre complex. The Proposal does not alter the area of land or potential floor space within the zone. The Planning Proposal is considered to be consistent with the requirements.

The Proposal complies with the defined function and is consistent with the Management Principals of the Neighbourhood Shopping Centres Strategy contained within the Dubbo Commercial Areas Development Strategy. The Proposal to include the additional permitted use is not expected to impact on the strategic role of the Centre as defined the Action Plan. It is considered that the Proposal is consistent with the Dubbo Commercial Areas Development Strategy.

Direction 6.3 Site Specific Provisions

This Direction is applicable to the Planning Proposal as the proposal will allow the development of a gymnasium to be carried out on the land. The objective of the Direction is to discourage unnecessarily restrictive site-specific planning controls.

A Planning Proposal that will amend an Environmental Planning Instrument (LEP) in order to allow a particular development to be carried out must either:

- a) Allow that land use to be carried out in the zone the land is situated on, or
- b) Rezone the site to an existing zone already applying in the environmental planning instrument that allow the land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- c) Allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

It is recommended that the Dubbo Local Environmental Plan 2011 be amended to allow the land use Recreation Facility (Indoor) as an additional permitted use on the land. No additional requirements will be imposed in addition to those already contained within the Dubbo Local Environmental Plan 2011.

The Planning Proposal is considered to be consistent with the Direction.

State Environmental Planning Policies

There are no State Environmental Planning Policies relevant to the Planning Proposal.

It is noted that the Planning Proposal references State Environmental Planning Policy 22 – Shops and Commercial Premises. This Policy was repealed on 21 February 2014 by State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013 and is no longer applicable.

Local Environmental Plan

The Planning Proposal will amend the Dubbo Local Environmental Plan 2011 through the inclusion of an additional permitted use in Schedule 1. The amendment will read as follows:

- “2. Use of certain land at 1 Torvean Avenue, Dubbo
(1) This clause application to Lot 100 DP 1168671 at 1 Torvean Avenue, Dubbo
(2) Development for the purpose of Recreation Facility (Indoor).”*

The Planning Proposal does not require amendment to any of the Local Environmental Plan maps.

SUMMARY

Consultants, The Town Planning Group Pty Limited, on behalf of the owner, Shopping Centres Australasia Property Group Pty Limited, lodged, in January 2014, a Planning Proposal with Council seeking the inclusion of an additional permitted use on Lot 100 DP 1168671, 1 Torvean Avenue, Dubbo within the Dubbo LEP.

The Planning Proposal seeks to permit the use Recreation Facility (Indoor) on the land which will facilitate the development of a gymnasium within the existing Delroy Shopping Centre complex.

The subject allotment is currently zoned B1 Neighbourhood Centre. Under the provisions of the Dubbo LEP 2011, the use of the site for a Recreation Facility (Indoor) is currently prohibited.

It is considered that the use of the land for the purpose of a Recreation Facility (Indoor) is consistent with the objectives of the zone. It is recommended that the Planning Proposal be submitted to the Department of Planning and Infrastructure to seek a Gateway Determination.

It is further recommended that, following receipt of the Gateway Determination, Council, under delegation, will place the Planning Proposal on public exhibition for a period not less than 14 days.

A copy of the Planning Proposal is provided here as **Appendix 1**.

Appendices:

- 1** Recreation Facility (Indoor) Planning Proposal