

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

Proposal Title :	Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4		
Proposal Summary :	The Planning Proposal intends to rectify anomalies in the Land Use Table, include provisions for additional permitted uses in Schedule 1, make amendments to Schedule 5, rectify mapping errors, rezone various parcels of land, reclassify public land and refine local clauses.		
PP Number :	PP_2013_DUBBO_003_00	Dop File No :	13/20839

Proposal Details

Date Planning Proposal Received :	20-Dec-2013	LGA covered :	Dubbo
Region :	Western	RPA :	Dubbo City Council
State Electorate :	DUBBO	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	11 Mitchell Street			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 11 DP 975591			
Street :	326 Macquarie Street			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 1 DP 959451			
Street :	141L Obley Road			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 154 DP 585079			
Street :	Mitchell Highway			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 302 DP 602386, Lot 23 DP 755114, Lot 46 DP 755114, Lot 151 DP 755094			
Street :	Erskine Street			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot A DP 162733, Lot B DP 162733, Lot A DP 62456, Lot 100 DP 808182, Lot 0 SP 19646 and Lot A DP 162468			
Street :	Boothenba Road			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 1 DP 358031, Lot 2 DP 358031, Lot 2670 DP 852445 and Lot 2671 DP 852445			
Street :	Moran Drive			
Suburb :	City :	Dubbo	Postcode :	2830
Land Parcel :	Lot 111 DP 1032596 and Lot 113 DP 1032596			

**Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies,
Refinement of Local Clauses and Amendments - Amendment No. 4**

Street :	Rosedale Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 4 DP 827872, Lot 5 DP 827872, Lot 1 DP 255300, Lot 2 DP 255300, Lot 3 DP 255300, Lot 4 DP 255300, Lot 5 DP 255300, Lot 6 DP 255300, Lot 7 DP 255300 and Lot 8 DP 255300		
Street :	Thompson Street		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 100 DP 261729		
Street :	Lansdowne Drive		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 2000 DP 1031663		
Street :	North Street		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 111 DP 585079		
Street :	Hillside Drive		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 25 DP 247786, Lot 26 DP 247786, Lot 27 DP 247786, Lot 28 DP 247786		
Street :	Whitewood Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 15 DP 570858, Lot 12 DP 253395, Lot 10 DP 253395, Lot 11 DP 253395, Lot 14 DP 570858, Lot 9 DP 253395, Lot 3 DP 245709, Lot 4 DP 245709, Lot 5 DP 245709, Lot 6 DP 245709, Lot 7 DP 245709, Lot 8 DP 245709,		
Street :	Wellington Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 1 DP 775508, Lot 257 DP 754308		
Street :	South Bunninyong Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 12 DP 245709, Lot 11 DP 245709, Lot 10 DP 245709, Lot 9 DP 245709,		
Street :	Bunninyong Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 81 DP 551355, Lot 16 DP 570858		
Street :	Peachville Road		
Suburb :		City : Dubbo	Postcode : 2830
Land Parcel :	Lot 1 DP 570854, Lot 2 DP 570854, Lot 7 DP 252285		

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

DoP Planning Officer Contact Details

Contact Name : Jenna McNabb
Contact Number : 0268412180
Contact Email : jenna.mcnabb@planning.nsw.gov.au

RPA Contact Details

Contact Name : Jessica Holland
Contact Number : 0268014000
Contact Email : jessica.holland@dubbo.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Azaria Dobson
Contact Number : 0268412180
Contact Email : azaria.dobson@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	59	No. of Dwellings (where relevant) :	59
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : The following amendments to the Dubbo Local Environmental Plan 2011 are proposed as part of this planning proposal:

1. Amendment of the Land Use Table in insert various land uses into a variety of zones;
2. Amendment of Schedule 5 - Environmental Heritage to correct property descriptions, remove 2 items of local heritage and insert one additional heritage item;
3. Amendment of Schedule 1 - Additional Permitted Uses for the purposes of a dwelling at Narromine Road, Dubbo (not supported);
4. Amendment of Schedule 1 - Additional Permitted Uses for the purposes of an agricultural produce industry at Brisbane and Erskine Streets, Dubbo;

5. To rectify a minor labeling error on the Land Reservation Acquisition Map - Sheet LRA _008B;
6. To remove land from the Urban Release Area at Bootherba Road, Dubbo;
7. To rezone 2 allotments at Moran Drive, Dubbo from SP2 - Infrastructure (Health Services Facility) to R1 - General Residential and amend the minimum lot size to 300m²;
8. To rezone 10 allotments at Rosedale Road, Dubbo from RU2 - Rural Landscape to R5 - Large Lot Residential and amend the minimum lot size from 100 hectares to 8 hectares (not supported);
9. To rezone one allotment at Currawong Road, Dubbo from RE1 - Public Recreation to R2 - Low Density Residential and to impose a minimum lot size of 600m²;
10. To rezone one allotment at North Street, Dubbo from R1 - General Residential to B6 - Enterprise Corridor and to remove the minimum lot size requirement at this site;
11. Amendment to Schedule 4 - Classification and Reclassification of Public Land to reclassify one allotment at Thompson Street, Dubbo from 'community' land to 'operational' land, rezone the site from RE1 - Public Recreation to R2 - Low Density Residential and to impose a minimum lot size of 600m²;
12. To modify Clause 5.4 to increase the floor area provisions for neighborhood shops to 150m²; and
13. To amend Clause 7.13(a) regarding restricted premises in the IN3 - Heavy Industrial zone.

The above mentioned amendments are discussed in further detail below:

1) Amendment of the Land Use Table to insert the following land uses in the following zones as development permissible with consent:

RU1 – Primary Production: Permit Electricity Generating Works

RU2 – Rural Landscape: Permit Electricity Generating Works

RU4 – Rural Small Holdings: Permit Electricity Generating Works

R2 – Low Density Residential: Permit semi-detached dwelling and Sewage Reticulation Systems

R5 – Large Lot Residential: Permit Sewage Reticulation Systems

B1 – Neighborhood Centre: Permit Sewage Reticulation Systems

B2 – Local Centre: Permit Sewage Reticulation Systems

B3 – Commercial Core: Permit Seniors Housing

B4 – Mixed Use: Permit Sewage Reticulation Systems

B5 – Business Development: Permit Industrial Outlets, Light Industries, Waste or Resource Transfer Station and Seniors Housing

B6 – Enterprise Corridor: Permit Waste or Resource Transfer Station, Seniors Housing and Sewage Reticulation Systems

B7 – Business Park: Permit Industrial Retail Outlets, Places of Public Worship, Recreation Facilities (indoor), Vehicle Repair Workshops and Vehicle Repair Stations

IN2 – Light Industrial: Permit Sewage Reticulation Systems

IN3 – Heavy Industrial: Permit Sewage Reticulation Systems

SP3 - Tourist: Permit Sewage Reticulation Systems

RE1 – Public Recreation: Permit Sewage Reticulation Systems

RE2 – Private Recreation: Permit Sewage Reticulation Systems

E3 – Environmental Management: Permit Sewage Reticulation Systems

W2 – Recreational Waterways: Permit Sewage Reticulation Systems

Electricity Generating Works are currently prohibited in the RU1, RU2 and RU4 zones in the Dubbo LEP. The amendment is proposed to ensure the LEP is consistent with SEPP (Infrastructure) (iSEPP), where electricity generating works may be carried out by any person with consent on any land in a prescribed rural zone. RU1, RU2 and RU4 are prescribed zones within the iSEPP.

The Dubbo LEP currently prohibits Seniors Housing in the B3, B5 and B6 zones. Under the provisions of the SEPP (Housing for Seniors or People with a Disability), the development of seniors housing is permitted on land zoned primarily for urban purposes. The amendment seeks to ensure the Dubbo LEP is consistent with the SEPP.

The Dubbo LEP currently prohibits waste or resource transfer stations in the B5 and B6 zones. The iSEPP provides that waste or resource transfer stations may be carried out with consent on any land in a prescribed zone. The proposed amendment will ensure consistency between the iSEPP and the Dubbo LEP.

The iSEPP takes precedence over the LEP in the EPI hierarchy, however, there is no negative impacts of Dubbo Council including these land uses in the LEP to be consistent with the iSEPP.

The inclusion of land uses as permissible with development consent within the B5 Business Development and B7 Business Park Zones: It is intended to include 'industrial outlets' and 'light industries' as development permissible with consent within the land use table of the B5 zone, and 'industrial retail outlets', 'places of public worship', 'recreation facilities (indoor)', 'vehicle body repair workshop' and 'vehicle repair stations' as development permissible with consent within the land use table of the B7 zone.

Both the B5 and B7 zones are located at the Blueridge Estate, a business park located on the western fringe of Dubbo's urban area. It is considered appropriate to include the proposed additional land uses within the B5 and B7 zones, given the characteristics of the Blueridge Estate (the site currently contains a office premises, child care facility, indoor recreation facility, and NSW Office of Water).

The proposed additional uses are considered to be in accordance with the objectives of the B5 and B7 zones, and the inclusion of the additional uses will ensure appropriate uses are located within the Blueridge Business Park, and minimise potential land use conflict in other areas of Dubbo. The proposal does not intend to alter the areas and locations of existing business and industrial zones and does not reduce the total potential floor space area available for employment uses.

2) Amendment of Schedule 5 - Environmental Heritage, as follows:

- Item I167 - 2 Cottages No. 11-13 Mitchell Street: Amend Item I167 to list Lot 15 DP 975591, No. 13 Mitchell Street as a stand alone item;
- Item I167 - 2 Cottages No. 11-13 Mitchell Street: Remove Lot 16 DP 975591, No. 11 Mitchell Street from Item I167.
- Item I160 - Lot 1 DO 959451, No. 326 Macquarie Street: Remove from Schedule.
- Proposed Item - Dwelling - Lot 154 DP 1163936 - 141L Obley Road Dubbo: Include in Schedule;
- Item I6 - Cockleshell Corner: Amend suburb to read 'Toongi';
- Item I8 - "Mountain View": Amend suburb to read 'Wongarbon';
- Item I65 - Terramungamine Homestead: Amend suburb to read 'Terramungamine';
- Item I166 - Terramungamine Woolshed: Amend suburb to read 'Terramungamine';
- Item I79 - Coolabaggie Hall: Amend suburb to read 'Terramungamine';
- Item I211 - Shepherd's Hill: Amend suburb to read 'Benalong';
- Item I226 - "Eulandool": Amend suburb to read 'Toongi';
- Item I228 - Wylandra Crossing: Amend suburb to read 'Rawsonville';
- Item I98 - "Dulcidene": Amend suburb to read 'Terramungamine';
- Item I102 - Barbical Hill: Amend suburb to read 'Ballimore';
- Item I103 - "Barbical" Homestead and Woolshed: Amend suburb to read 'Ballimore';
- Item I35 - Communications Bunker: Amend Property Description to read 'Lot 121 DP 1182087';
- Item I180 - "Cranbrook" Cottage, Blacksmith's Shop, Shearer's quarters and outbuildings: Amend suburb to read 'Toongi';
- Item I82 - St Johns' Anglican Church: Amend suburb to read 'Wambangalang';
- Item I183 - "The Meadows" - Amend suburb to read 'Wambangalang';
- Item I184 - "Miriam": Amend suburb to read 'Wambangalang';
- Item I189 - "The Springs" - Amend Suburb to read 'Toongi', amend Property Description to read 'Lot 4 DP 753236';
- Item I190 - Carved Tree (indigenous item): Amend suburb to read 'Toongi';

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

- Item I118 - Residence and Shop: Amend Property Description to read 'Lot 101 DP 1182503';
- Item I119 - Edwardian House: Amend Property Description to read 'Lot 100 DP 1182503';
- Item I128 - Town House: Amend Property Description to read 'Lot 100 DP 1084224';
- Item I157 - Dubbo Museum (former): Amend address to read '230 Macquarie Street', amend Property Description to read 'Lot 11 DP 1046365'.

The majority of amendments to schedule 5 relate to updating property descriptions for various local items.

Two items are proposed to be removed from the schedule:

- Item I167 - 11-13 Mitchell Street, Dubbo: The planning proposal intends to remove the dwelling located at 11 Mitchell Street, Dubbo from Schedule 5 (local significance). The property is described as a pair of simple board and batten cottages, c1870-80s with historical significance as relatively good examples of Dubbo early workers cottages. The cottage at 11 Mitchell Street is in a state of disrepair, has been altered significantly so no obvious heritage significance is evident and there are several other examples of board and batten cottages in the Dubbo area, providing a higher quality visual and sensory appeal. A heritage assessment of the property at Mitchell Street by Dubbo Council found that the poor condition of the property did not enhance the heritage significance of the site, and the continued listing of the site within Schedule 5 would prove difficult for the sale of the property in the future, due to the extensive repairs required. It is intended that the property at 13 Mitchell Street remain listed in Schedule 5, as it is in a better state of repair.

- Item I160 - Brick House - 326 Macquarie Street, Dubbo: The item is described as an early 20th Century house with aesthetic significance, currently listed under Heritage Significance Criterion (c) as an item that is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the area. The item was not designed or constructed by a notable architect and only has loose association with a creative or technical achievement. A heritage assessment of the property by Dubbo Council found that the dwelling did not have any significant heritage features, and that there are better examples of this type of architecture elsewhere in Dubbo. The item is identified as having local heritage significance in Schedule 5. It is therefore considered that the item be removed from Schedule 5 of the Dubbo LEP.

One additional item is proposed to be included in Schedule 5 of the Dubbo LEP. The dwelling located on No. 141L Obley Road, Dubbo is described as a late Victorian/Federation weatherboard farmhouse with possible inter-war modification to the verandah and bay windows. The property is considered important due to its aesthetic characteristics and as having a high degree of creative or technical achievement in the local area. The inclusion of the dwelling in Schedule 5 of the Dubbo LEP is considered appropriate.

3) Amendment of Schedule 1(2) - Additional Permitted Uses to include the following at the listed site (also known as Mitchell Highway)(not supported):

Use of certain land at Narromine Road, Dubbo

(1) This clause applies to Lot 302 DP 602386, Lot 23 DP 755114, Lot 46 DP 755114 and Lot 151 DP 755094 at Narromine Road, Dubbo.

(2) This clause applies to land situated on the southern side of the Narromine Road.

(3) Development for the purposes of a dwelling.

The subject site is divided by the Mitchell Highway (Narromine Road), with the northern portion of the site zoned RU4 and the land to the south zoned RU1. Dubbo Council has requested the amendment of Schedule 1 following a submission from a landowner, which cited difficulties in selling the property as justification to allow a dwelling on the site. The subject site is identified within the Rural Area Development Strategy (dated 1996, endorsed 3 February 2012) as suitable for intensive agriculture and the consolidation of land into

more sustainable and productive configurations where necessary.

A Property Productivity Report prepared by Geolyse (dated 2 January 2013) for the subject site states that a dwelling would be advantageous to the site. However, the agricultural productivity of the site does not diminish with or without a dwelling.

It is considered that difficulties in selling a property is not a justifiable reason to allow a dwelling on the land, where a dwelling entitlement is not present, and that the use of Schedule 1 in this instance is inappropriate. No planning justification has been provided, and it has not been demonstrated why the development standard should not be complied with. The subject site is under the required minimum lot size of 800 hectares, having a total area of 156.606 hectares. If this proposed amendment to Schedule 1 was supported, it would also set an inappropriate precedent for other landowners to follow, without adequate justification on planning grounds.

It is therefore considered that the amendment of Schedule 1 (3) to allow a dwelling on the subject site should not be supported.

4) Use of certain land at 90-101 Brisbane Street and 27 Erskine Street, Dubbo

(1) This clause applies to Lot A DP 1622733, Lot B DP 162733, Lot A DP 62456, Lot 100 DP 808182, Lot 0 SP 19646 and Lot A DP 162468.

(2) Development for the purposes of an agricultural produce industry.

An agricultural produce industry currently operates from the subject site, being the Ben Furney Flour Mill. The listing of the subject site in Schedule 1 will reflect the current use of the land. Council has advised that it is unclear if the Ben Furney Flour Mill enjoys existing use rights, and that the listing of the site in Schedule 1 is the best way to protect the industry. It is considered that the site would have existing use rights, however there is no objection to the use of Schedule 1 to protect the industry.

5) To rectify a minor labeling error on the Land Reservation Acquisition Map - Sheet LRA_008B: The error relates to land adjoining the Mitchell Highway identified on the map as R1 - General Residential. The correct zone reference is SP2 - Infrastructure. This is considered appropriate.

6) Remove land from the Urban Release Area relating to Lot 1 DP 358031, Lot 2 DP 358031, Lot 2670 DP 852445 and Lot 2671 DP 852445: Dubbo LEP identifies the subject land as Urban Release Area. The Industrial Areas Development Strategy situates the land within the North Sub-District which has an industry and transport focus. The subject land is currently zoned IN3 - Heavy Industrial. Based on the number of allotments, the Urban Release Provisions of the Dubbo LEP may not be triggered if the landowner does not seek to undertake a major subdivision of the land. Currently the land is used as an International Freight Terminal and a Grain Handling Facility. This amendment is supported.

7) To rezone Lot 111 DP 1032596 and Lot 113 DP 1032596: The land is currently zoned SP2 - Infrastructure (Health Services Facility) and is privately owned. It is proposed to rezone the land to R1 - General Residential to facilitate the development of serviced apartments on the land. The proposed zoning will be consistent with the surrounding uses of the land, which is residential and industrial, and is consistent with the endorsed Strategy. It is also intended to include a minimum lot size provision for the site of 300m². Currently the site does not have a minimum lot size. Council has advised that the SP2 zoning of the land has proven to be restrictive of development, given that proposed development must show a justifiable link to the SP2 zoning and also be undertaken by or on behalf of a health services facility. Therefore it is considered that the R1 zoning will allow for the development of serviced accommodation whilst still permitting 'health services facility' to be undertaken as permissible development.

8) Rezoning of land at Lot 4 DP 827872, Lot 5 DP 827872, Lot 1 DP 255300, Lot 2 DP 255300, Lot 3 DP 255300, Lot 4 DP 255300, Lot 6 DP 255300, Lot 7 DP 255300 and Lot 8 DP

2553000: The subject land is located adjacent to Rosedale Road, and is currently zoned RU2 - Rural Landscape. The subject allotments are located adjacent to land zoned R5 to the east and the west. The rezoning totals 10 allotments - seven of the allotments are occupied by a dwelling house and are less than 11ha in size. The remaining allotments are 40.1ha, 102.2ha and 19.4ha in size.

It is intended to rezone the land to R5 - Large Lot Residential, to be consistent with the existing uses and North Western Sub-district Residential Policy (dated 1996, endorsed 2 February 2012) whilst also protecting the land for long term residential development. It is also intended to impose a minimum lot size of 8 hectares, to be consistent with the proposed R5 zoning of the site. The rezoning would result in a potential lot yield of approximately 20 allotments.

Whilst the use of a portion of the land for future residential expansion has generally been identified in the Strategy, there is no detailed justification for rezoning these sites included as part of the planning proposal or within the Strategy.

Part of this proposed site is identified within the Strategy as "airport flight path", and is recommended that this area be protected from development likely to cause conflicts or restrict airport operations. Any additional dwellings in the area may impede airport operations via reflective roof surfaces, building height, obstruction of flight paths. In addition, the assessment of a dwelling under Section 79C of the EP & A Act may find that a dwelling in this area does not comply with ANEF contours and the dwelling may be subjected to excessive aircraft noise where there are no mitigation measures available.

Adjoining allotments are already zoned R5 and were done so under the Standard Instrument process. A map has been provided identifying the subject allotments and the adjoining land (Tag - Item 8 - Subject Land Map).

Given that rezoning part of the subject site identified as airport flight path is not supported by a strategy, it is considered that Council has not demonstrated sufficient justification for the rezoning. It is recommended that the rezoning of these allotments not be supported at this time.

9) To rezone Lot 2000 DP 1031663: This parcel is currently zoned RE1 - Public Recreation. The land is not in Council ownership (the majority of Lot 2000 is occupied by the Macquarie Anglican Grammar School) and it is intended to rezone the land to R2 - Low Density Residential to be consistent with the surrounding land zoning. The location of the land, and its private ownership make it difficult for public recreation uses to be undertaken on the site. It is considered that the land is better suited to the surrounding R2 zoning.

10) To rezone Lot 111 DP 585079: This parcel is currently zoned R1 - General Residential. It is intended to rezone the land to B6 - Enterprise Corridor to recognise the current commercial use of the land. The subject site is currently occupied by Western Plains Automotive, a commercial premises, which enjoys existing use rights. The rezoning will result in the subject land not having a minimum lot size provision. The rezoning is supported.

11) Amendment of Schedule 4 - Classification and Reclassification of Public Land to reclassify land at Lot 100 DP 261729 as Operational Land, rezone the site from RE1 to R2 and impose a minimum lot size of 600m2.

The land is currently held in Council ownership and is classified as Community Land under the provisions of the Local Government Act 1993. The land is located between two (2) separate allotments under private ownership and used by the Riverside Church. The subject land is identified in the Strategy as being part of the Western Precinct - Residential Areas, suitable for residential expansion. Council's adopted Strategic Open Space Master Plan and the Dubbo Section 94 Contributions Plan Open Space and Recreation Facilities do not list the subject land as required for open space and recreation purposes.

Given the location and characteristics of the land, it is considered that the use of the land for recreational purposes cannot be easily undertaken. The rezoning of the land will also require the reduction of the minimum lot size to 600m², consistent with the surrounding land. The reclassification of the site is consistent with the proposed rezoning of the land from RE1 to R2, to provide flexibility in the management of the land, and also the future development of the land for housing purposes. "recreation areas" are permissible with development consent within the proposed R2 zone. It is expected that the reclassification of the site from "community" land to "operational" land will not result in the sale of the land, and Council will continue to manage the land. Council does not intend to extinguish any interests in the land as a result of the reclassification of the land.

12) Amendment of Clause 5.4(7) to read as follows:

(7) Neighborhood Shops:

If development for the purposes of a neighborhood shop is permitted under this Plan, the retail floor area must not exceed 150 square metres.

Clause 5.4(7) of the Dubbo LEP currently requires neighborhood shops to have an retail floor area of not more than 80 square metres. Council considers that the current restriction is not large enough having regard the the functions of a neighborhood shop, and should be increased to 150 square metres. This is considered appropriate, and the environmental and social impacts of this will be assessed by Council at the DA stage.

13) Amendment of Clause 7.13(a):

This clause provides that the development of restricted premises not be located at street level, to ensure that this type of development does not impact on places of high pedestrian activity or on the amenity of the locality. Restricted premises are currently permitted with consent within the B2 Local Centre, B3 Commercial Core, B4 Mixed Use and IN3 Heavy Industrial zones. It is considered that Clause 7.13(a) is not applicable to the IN3 Heavy Industrial zone, as the IN3 zone would not be an area of high pedestrian activity, or an area with high visual amenity.

Council proposes to amend Clause 7.13(a) to read as follows:

7.13 Restricted Premises

The consent authority must not grant consent to development for the purposes of restricted premises unless it has considered the following:

- (a) Except for development within IN3 Heavy Industrial, whether any part of the proposed development, other than an access way or access point, would be located at street level or on the first floor of a building,
- (b) whether any part of the building in which the proposed development will be situated is being, or is proposed to be, used for the purposes of accommodation,
- (c) the impact the proposed development would have on places of high pedestrian activity,
- (d) the impact the proposed development and its hours of operation would have on any place, likely to be regularly frequented by children:
 - (i) that adjoins the proposed development, or
 - (ii) that can be viewed from the proposed development, or
 - (iii) from which a person can view the proposed development,
- (e) the visual impact of the proposed development and any associated signage on the amenity of the locality.

The exact legal mechanism should be determined with the Department's Legal Services.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment :

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

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

Comment :

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

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 (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

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

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

If No, explain :

1.2 - Rural Zones:

Item 8:

The rezoning of land at Rosedale Road, Dubbo from RU2 to R2, and the reduction of the minimum lot size of this land from 100ha to 8ha.

The Dubbo Urban Areas Development Strategy (dated 1996, endorsed 3 February 2012) identifies a portion of the subject land as generally suitable for future residential expansion, within the North Western Sub-District, which is an area of highly fragmented rural land consisting of variable holding sizes. However, the Strategy did not specifically consider the suitability of the site for the intensification of land use. Some of the allotments are located within an area identified in the strategy as "airport flight path". The strategy recommends this area be protected from development likely to cause conflicts or restrict airport operations.

Therefore the rezoning is considered to be inconsistent with the 117 Direction as it does not give consideration to the objectives of the Direction and part of the land is not identified in the Strategy as suitable for residential expansion. The inconsistency with the direction is not considered to be justified and the amendment is not supported. Council can undertake further investigations of this area and submit a future planning proposal.

Item 3:

The inclusion of a dwelling as an additional permitted use in Schedule 1 in respect of

Lot 302 DP 602386, Lot 23 DP 755114, Lot 46 DO 755114 and Lot 151 DP 755094 Mitchell Highway is also inconsistent with Section 117 Direction 1.2. The amendment will increase the permissible density of the land within the holding. Dubbo Council has justified the inconsistency as the density is of minor significance and will not impact on the agricultural production of the land, as follows:

- The land is currently divided by the Mitchell Highway; land on the northern side of the highway is zoned RU4 Rural Small Holdings, and land on the southern side is zoned RU1;
- Land on the northern side of Narromine Road is occupied by a dwelling house; and
- The agricultural use of the land south of the Mitchell Highway supports a dwelling on the land.

Council has not adequately demonstrated that the proposal is of minor significance and it is considered that the development would set an undesirable precedent in the area.

It is considered that the inconsistency with Direction 1.2 is not justified, as there is no strategic evidence base for the development standard to be altered in this case and that the agricultural use of the land can continue without a dwelling on the property. The amendment is therefore not supported. If Council wish to consider the development standard in this area they can lodge a future planning proposal or adjust the endorsed strategy.

1.5 - Rural Lands

Item 8:

The rezoning of land at Lot 4 DP 827872, Lot 5 DP 827872, Lot 1 DP 255300, Lot 2 DP 255300, Lot 3 DP 255300, Lot 4 DP 255300, Lot 6 DP 255300, Lot 7 DP 255300 and Lot 8 DP 255300, Rosedale Road, Dubbo from RU2 to R2, and the reduction of the minimum lot size of this land from 100ha to 8ha.

The rezoning of the 9 allotments is inconsistent with the objectives of this direction, which is to protect the agricultural production value of rural land, and facilitate the orderly and economic development of rural lands for rural purposes. The reduction of the minimum lot size and the rezoning from rural to urban does not meet the objectives of the direction.

In addition, part of the land (as per Tag A) is not identified as suitable for residential expansion in the Strategy. A portion of the subject land is identified as "airport flight path" and the intensification of land use (via the rezoning) would result in dwellings potentially impacting on flight and airport operations, as well as being inconsistent with the endorsed strategy.

The proposed rezoning is therefore considered to be inconsistent with the direction.

2.3 - Heritage Conservation

Item 2:

The removal of 2 items from Schedule 5 - Environmental Heritage is considered to be inconsistent with this Direction, as it will remove the provisions that facilitate the conservation of the dwellings, being Item No. I167 - 2 Cottages - 11-13 Mitchell Street, Dubbo, and Item No. I160 - Brick House - 326 Macquarie Street, Dubbo.

Both items are proposed to be removed from Schedule 5 as the buildings are not designed or constructed by an important designer or artist, the buildings are not in good condition, and there are various other examples which provide a higher quality visual appeal. It is considered that the inconsistency has been justified.

6.2 - Reserving Land for Public Purposes

Item 11:

The reclassification of Lot 100 DP 261729 from "Community" land to "Operational" land, and subsequent rezoning to R2 and amendment of the minimum lot size provisions to

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

600m2 is inconsistent with the Direction as approval of the Director-General of the Department has not been obtained at this time. It is expected that the consideration of the reclassification by the Panel will demonstrate that this criteria has been fulfilled.

The location of the allotment is considered to be unsuitable for public purposes. The Strategy identifies the subject site as suitable for residential expansion, and the proposed rezoning and minimum lot size provisions are in keeping with the planning controls of the surrounding land. In addition, Council's Strategic Open Space Master Plan and the Dubbo Section 94 Contributions Open Space and Recreation Facilities Plan do not list this land as being required for open space and recreation purposes. "Recreational areas" are a permissible use with development consent within the R2 zone. It is considered that the inconsistency of minor significance has been justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed?

Comment : **Council proposes to undertake community consultation of the planning proposal for 28 days.**

This is considered appropriate.

In addition, as the proposed amendment involves the reclassification of land, a public hearing is required, following the exhibition period.

Additional Director General's requirements

Are there any additional Director General's requirements? **N/A**

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 : **October 2012**

Comments in relation to Principal LEP : **The Dubbo Local Environmental Plan 2011 was notified on 5 October 2011.**

Assessment Criteria

Need for planning proposal : **The Planning Proposal incorporates the first round of general amendments to the Dubbo LEP 2011 to correct anomalies, rezone a number of parcels of land, reclassify land, refine local clauses and to introduce the amendments arising from the administrative review of the plan.**

A planning proposal is the only means to achieve the objectives outlined in the planning proposal documentation.

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

Consistency with
strategic planning
framework :

The Dubbo Urban Areas Development Strategy forms the basis of the land use zoning and planning controls provided in the Dubbo LEP 2011.

Some of the amendments proposed as part of the Planning Proposal are inconsistent with the Strategy, and are therefore not supported, as detailed earlier in this report.

Environmental social
economic impacts :

It is considered that the proposed amendments which are supported within the Planning Proposal will not adversely affect threatened species, populations or ecological communities or their habitats.

The proposed changes in some instances reflect the nature of current uses and occupations. Where additional uses have been permitted on land, an assessment of the environmental and social impact will be undertaken at the DA stage.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation :

Public Authority Consultation - s56(2)(d) : **Essential Energy
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service
Other**

Is Public Hearing by the PAC required? **Yes**

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

If no, provide reasons :

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **The Planning Proposal involves the reclassification of one allotment.**

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
Appendix A. Development Committee Report (1).pdf	Proposal	Yes
Appendix A. Development Committee Report (2).pdf	Proposal	Yes
Appendix B. Objectives of the Planning Proposal.pdf	Proposal	Yes
Appendix C. Submissions.pdf	Proposal	Yes
Appendix D. Address and Locality Names and Boundaries.pdf	Map	Yes

Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies, Refinement of Local Clauses and Amendments - Amendment No. 4

Appendix E. Draft Dubbo LEP Maps 2011.pdf	Map	Yes
Appendix F. Project Timeline.pdf	Proposal	Yes
Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Request for Gateway.pdf	Proposal	Yes
TAG A - Item 8 Subject Land.pdf	Map	Yes
Statement of General Requirements- Reclassification of Land.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**

Additional Information : **That Gateway determine and support the Planning Proposal, subject to the following conditions:**

1. The Planning Proposal should proceed generally as submitted by Council with the exception of Items No. 3 and 8 as identified within the proposal, which are not supported.

These amendments are considered to be inconsistent with the endorsed strategy, Section 117 Direction 1.2 and 1.5 and insufficiently justified.

2. Proceed and finalise the planning proposal within 12 months of the Gateway Determination Date.

3. Public Consultation is to occur for a minimum of 28 days.

4. A public hearing is to be held for the reclassification of Lot 100 DP 261729 from 'community' land to 'operational' land. The public hearing is to be held after the close of the exhibition period, and public notice of the hearing must be sent or published at least 21 days before the start of the public hearing.

5. Due to the proposed reclassification of Lot 100 DP 261729, the documentation submitted to the Department to finalise the Planning Proposal should state whether or not any interests are to be extinguished as a result of the reclassification of land.

6. Council is to consult with the following authorities:

**Essential Energy
Central West Catchment Management Authority
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service
NSW Office of Water
Catchment and Lands**

7. Council is to prepare amended maps which are at an appropriate scale and clearly identify the subject lands for the Section 59 Submission that are compliant with the Departments Standard technical requirements for LEP maps. The following maps are to be amended:

**Dubbo Local Environmental Plan 2011 - Various Amendments - Correct Anomalies,
Refinement of Local Clauses and Amendments - Amendment No. 4**

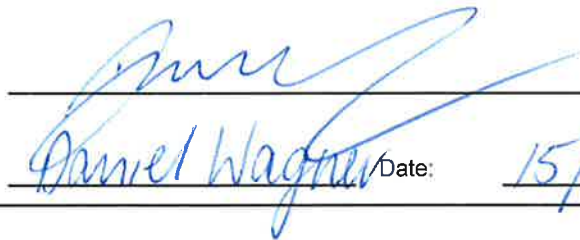
- a) Land Reservation Acquisition Map - Sheet LRA_008B;
- b) Urban Release Area Maps - Sheet URA_007;
- c) Land Zoning Map - LZN_002;
- d) Land Zoning Map - LZN_003;
- e) Land Zoning Map - LZN_007A;
- f) Land Zoning Map - LZN_007C;
- g) Land Zoning Map - LZN_008A;
- h) Lot Size Map - Sheet LSZ_002;
- i) Lot Size Map - Sheet LSZ_003;
- j) Lot Size Map - Sheet LSZ_007A;
- k) Lot Size Map - Sheet LSZ_007C;
- l) Lot Size Map - Sheet LSZ_008A;
- m) Lot Size Map - Sheet LSZ_008B;
- n) Heritage Map - Sheet HER_008; and
- o) Heritage Map - Sheet HER_008A.

8. Council is to request the drafting and finalisation of the amendment no later than 6 weeks prior to the projected making of the amendment date.

9. Authorise Dubbo City Council to utilise delegations to finalise the Planning Proposal, except for the reclassification of Lot 100 DP 261729. Council does not have delegations to reclassify land.

Supporting Reasons : The proposed amendments to the Dubbo LEP 2011 are considered to be minor in nature (with the exception of the reclassification of land).

Signature:



Printed Name:

Daniel Wagner

Date:

15/01/2014

