

APPENDIX A.

Planning and Development Committee Report PDC13/26 dated 27 September 2013



REPORT: Administrative Review of Dubbo Local Environmental Plan 2011 - Review of Rural and Heritage Submissions and Other Issues

AUTHOR: Manager City Strategy Services
REPORT DATE: 2 September 2013
FILE: 11/63

EXECUTIVE SUMMARY

Dubbo Local Environmental Plan (LEP) 2011 has now been in operation for over 12 months. Following completion of this period and in keeping with best practice plan making, Council is undertaking its first Administrative Review of the Plan.

Council, at its meeting on 27 May 2013, considered a number of proposed administrative amendments and unresolved written submissions received during the public exhibition process of draft Dubbo LEP 2011. Council resolved to support 15 items which will be included in a Planning Proposal for the first Administrative Review of Dubbo LEP 2011. The details of these items are provided here in **Appendix 1**.

Council, at its meeting on 27 May 2013, also resolved that the submissions in respect of the removal of five heritage items along with submissions from D Pogson, P C Mumford, G Peters, B R and F T Croghan and T Marlin, Geolyse Pty Ltd on behalf of Dubbo Partnerships and A F Croghan were all subject to further investigation. The purpose of this report is to provide information from the further investigation in respect of these submissions.

Further, Council resolved that the submissions received from the Real Estate Institute be supported and that Council engages an independent consultant to undertake a review of the submissions received in respect of residential development to the east of Dubbo. These items are subject to separate reports to Council.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

Following completion of the LEP review process, any items recommended by Council will be included in a Planning Proposal for an amendment to Dubbo Local Environmental Plan 2011.

STRATEGIC LANDUSE WORKING PARTY (SLUWP) CONSIDERATION

This matter was considered by the Strategic Landuse Working Party at its meeting held on Thursday 5 September 2013. Present at this meeting were Councillor's M Dickerson (Mayor and Chairman), B Kelly, K Parker and B Shields along with Council's General Manager, Director Environmental Services, Director Technical Services, Director Corporate Development, Director Parks and Landcare Services, Director Community Services, Manager Technical Services and the Strategic Planning Supervisor.

Following consideration of the matter the Working Party recommended that the matter be referred to the Council for further consideration of the recommendation of the Manager City Strategy Services as below.

RECOMMENDATION

1. That the matters identified in the submissions included in Appendix 12 as attached to this report be supported by Council.
2. That the matters included in Appendix 1 and 12 as attached to this report be pursued in a Planning Proposal for an amendment to the Dubbo Local Environmental Plan 2011.
3. That Council further consults with the owner of No. 13 Mitchell Street, Dubbo regarding the removal of Item I167 from Schedule 5 of Dubbo LEP 2011.
4. That Council further investigates conservation incentives with the owners of No. 46 Wingewarra Street, Dubbo including possible access to the Local Heritage Fund to assist with the preparation of a Conservation Management Strategy for the site.
5. That Council further consults with the owner of No. 2 Roper Street, Dubbo and provides further advice regarding the future development of the site, as requested.
6. That the submissions included in Appendix 13 not be supported on the planning grounds stated and that no further action be undertaken in relation to these submissions.

Tony Aikins

Manager City Strategy Services

BACKGROUND

Dubbo Local Environmental Plan 2011 was gazetted by the Minister for Planning and Infrastructure on 11 November 2011. Dubbo LEP 2011 replaced the former Dubbo Local Environmental Plan 1997 – Rural Areas and Dubbo Local Environmental Plan 1998 – Urban Areas.

Following completion of the first 12 months of operation and in keeping with best practice plan making, Council is undertaking the first administrative review of the Plan.

Council, at its meeting on 27 May 2013, considered a report in relation to the administrative review of Dubbo LEP 2011 and resolved as follows:

- "1. That the submissions included in Appendix 4 of the report of the Director Environmental Services dated 14 May 2013 and the related recommendations be included in a Planning Proposal for the first administrative amendment to Dubbo Local Environmental Plan 2011.*
- 2. That the submissions included in Appendix 5 of the report of the Director Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect of F McCauley, J Harris, L Bender, M Bender, J and S Brady, B Comerford, J Black, J Ryan, A E Cox, Geolyse Pty Ltd on behalf of D Pogson, P C Mumford, G Peters, B R and F T Croghan and T Marlin, Geolyse Pty Ltd on behalf of Dubbo Partnership Pty Ltd and A F Croghan which are subject to further investigation.*
- 3. That Council engages an independent consultant to undertake a review of the submissions provided in respect of further residential development to the east of Dubbo (Appendix 6), of the report of the Director Environmental Services dated 14 May 2013.*
- 4. That the review included in item 3 includes the following as a minimum:*
 - (i) A supply and demand analysis for residential development in the City.*
 - (ii) An assessment of the success or otherwise of the Residential Areas Development Strategy in delivering appropriate housing supply in the City.*
- 5. That submissions provided in respect of F McCauley, J Harris, L Bender, M Bender, J and S Brady, B Comerford, J Black and J Ryan (Appendix 5), of the report of the Director Environmental Services dated 14 May 2013, be included in the review of the Commercial Areas Development Strategy currently underway and not be further considered in the context of the Administrative Review of LEP 2011.*
- 6. That Council prepares further supporting information in respect of the submissions provided by Mrs W Wilson, Mr H Bennett, Mr S Sinclair, Ms K Mills and Mr A E Cox regarding the listing of heritage items for further consideration by Council.*
- 7. That in relation to submission number 40 (Daisy Hill):*
 - (a) Council invite the proponent to submit a Planning Proposal which seeks to amend the LEP as follows:*

- (i) *The minimum allotment size for subdivision of lots 661 and 662 DP 565756 Eulomogo, Pinedale and Torwood Roads and the subdivision of Lot 200 DP825059 Eulomogo Road, Dubbo, be a minimum of 6,000M2*
- (ii) *Lots 64 and 65 DP754287 Eulomogo, Pinedale and Torwood Roads, Dubbo, be a minimum of 1.5Ha.*
- (iii) *Lots 316 and 317 DP754308 Eulomogo and Pinedale Roads, Dubbo, be an average of 6Ha.*
- (b) *That for the purposes of preparing a Planning Proposal for the subject land as described in 7(a) above, Council accept that the proposal would be consistent with the Urban Development Strategy Plan specifically in respect of Strategy (A) – Residential Areas Development Strategy.”*

REPORT

1. Review of LEP

Dubbo Local Environmental Plan 2011 has now been in operation for over 12 months. Following completion of this period and in keeping with best practice plan making, Council is undertaking its first administrative review of the Plan.

Council, at its meeting on 27 May 2013, considered a number of proposed administrative amendments and unresolved written submissions received during the public exhibition process of draft Dubbo LEP 2011. Council resolved to support 15 items which will be included in a Planning Proposal for the first administrative review of the Dubbo LEP 2011. The details of these items are provided here in **Appendix 1**.

Council also resolved that a number of submissions be the subject of further investigation including five submissions regarding heritage items and submissions from D Pogson, P C Mumford, G Peters, B R and F T Croghan and T Marlin, Geolyse on behalf of Dubbo Partnerships and A F Croghan.

The purpose of this report is to provide the Strategic Land Use Working Party (SLUWP) with the information obtained by Council officers through further investigation in respect of these submissions.

2. Matters for further consideration

a) Heritage submissions

The Dubbo Urban Heritage Review and Community-based Heritage Study were undertaken by Council in 2006. A report detailing recommendations of the review was presented to SLUWP for consideration at its meeting of 16 October 2009 and was later adopted by Council.

The report recommended items appropriate for listing in draft Dubbo LEP 2011 for the purpose of public consultation. The following item Nos. I136, I167, I160, I229 and I203 were identified in this report as appropriate items of Environmental Heritage.

(i) Heritage Item No. I136 – 3 Cottages - 36, 38 and 40 Macleay Street, Dubbo

In consideration of Dubbo LEP 2011, the New South Wales (NSW) Department of Planning and Infrastructure listed the properties at 36, 38 and 40 Macleay Street as a single item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

The existing statement of significance describes the item as an interesting group of three late Victorian cottages with some fine detail, each making a strong streetscape contribution. The cottages are similarly small-scaled with high pitched roofs and contain interesting render, door decoration and mouldings which differ for each cottage.

Council, in undertaking the administrative review of Dubbo LEP 2011, provided the property owner with the opportunity to provide a further submission in support of the submission received during public exhibition of draft LEP 2011. Council did not receive any additional submission. A copy of the original submission received in 20 October 2010 is provided here in **Appendix 2**.

The submission sought to have the property No. 38 Macleay Street, Dubbo removed from Schedule 5 of LEP 2011. The submission states objection to the heritage listing of the property on the grounds that the inclusion of the property in the LEP as an item of Environmental Heritage will impact on the potential for renovation and also de-value the property.

Council, at its meeting on 27 May 2013, considered the submission and resolved as follows:

“That Council prepares further supporting information in respect of the submissions provided by ... Mr A E Cox regarding the listing of heritage items for further consideration by Council.”

In carrying out further investigation, Council engaged an independent consultant to review the significance of the item with reference to the matters identified in the proponent’s submission. The assessment sheet completed by the consultant is attached as **Appendix 3** and provides the following information:

- *Streetscape character is a significant aspect in the overall significance;*
- *Fine tree-line street complimented by small-scale period houses from a range of periods along its length;*
- *The three (3) late Victorian cottages are a strong visual group central in the street – located close to the street alignment their detail is evident;*
- *Their architectural detail to the facades is unusually rich for modestly-scaled cottages. Elements include quoining to the corners of each building, boldly rendered architraves to the windows and front doors, decorative render to the chimneys with scored ashlar and projected cornices;*
- *Some minor inappropriate changes which could be readily reversed to the benefit of each cottage including verandahs, aluminium screen doors, concrete driveway blocking subfloor ventilation, PVC downpipes, fences etc, and*
- *A lack of maintenance and renovation including gutters and paintwork.*

Council has contacted the owner to discuss the matters raised in the submission including the potential for development on the site and the perceived impact of heritage listing on property value. The proponent perceives that listing will complicate future renovation.

However, the approvals process promotes sympathetic changes to retain the authenticity of heritage places. In addition, listed places can be converted to new uses and renovated with approval. Further, Dubbo LEP 2011 permits the use of a heritage listed building for a purpose not currently permissible on the land. Council's Heritage Advisor is also available to provide advice on these or other limited changes at no cost to the owner. Other works considered to be of a minor nature or for the maintenance of the item may be carried out without consent.

In respect of property values, studies show that listing has no effect on the value of property in most cases and can, in some cases, improve resale value. 'Heritage' plays a major role in the appeal and life of neighbourhoods and 'listing' gives owners greater certainty that the heritage qualities of the area are protected.

It is considered that the cottage at No. 38 Macleay Street makes an essential contribution as part of the historic group of cottages. Accordingly, it is recommended that the subject cottage, No. 38 Macleay Street, be retained as a group item of three cottages in Schedule 5 of Dubbo LEP 2011.

(ii) Heritage Item No. I167 – 2 Cottages – 11 - 13 Mitchell Street, Dubbo

In consideration of Dubbo LEP 2011, the NSW Department of Planning and Infrastructure included Nos. 11 and 13 Mitchell Street as items of Environmental Heritage in Schedule 5 of the LEP 2011.

The item is described as a pair of simple board and batten cottages, c1870-80s with historical significance as relatively good examples of early Dubbo workers' homes. The cottages have aesthetic significance as a group, illustrating a particular period in Dubbo's growth and development. The intact batten and board cottage at 11 Mitchell Street is particularly now a rare example in Dubbo. It retains much of its simple mid 19th Century character, form and detail, is relatively intact and is in fair condition.

SLUWP, at its meeting on 19 March 2013, was provided with a verbal submission from the owner of 11 Mitchell Street, Mrs W Wilson, in support of Submission No. 47 received during the public exhibition process of draft Dubbo LEP 2011. A copy of the submission is provided here in **Appendix 4**. The submission sought for the property to be removed from Schedule 5 of the LEP noting that the building is structurally in poor condition and that the inclusion of the property is perceived to impede on the saleability of the property while also reducing the property's value.

Council, at its meeting on 27 May 2013, considered the submission and resolved as follows:

"That Council prepares further supporting information in respect of the submissions provided by Mrs W Wilson ... regarding the listing of heritage items for further consideration by Council."

In carrying out further investigation, Council engaged an independent consultant to review the significance of the item with reference to the matters identified in the proponent's submission.

The assessment sheet completed by the consultant is attached as **Appendix 5** and provides the following information:

- *The cottage is relatively intact and in good condition internally;*
- *The cottage has a quaint charm and character that would appeal to the right buyer;*
- *The group is a highly visible element in Mitchell Street and makes a positive streetscape contribution, and*
- *There is some scope for sensitively-considered additions toward the rear.*

In assessing heritage significance, there are seven different criteria used to determine the significance of a building. The criteria encompass the four values in the Australia ICOMOS Burra Charter which are commonly accepted as generic values by heritage agencies and professional consultants, including:

- historical significance;
- aesthetic significance;
- scientific significance; and
- social significance.

The dwellings at Nos. 11 and 13 Mitchell Street are currently listed in Schedule 5 of Dubbo LEP 2011 under Heritage Significance Criterion (a), (c) and (f) being:

- (a) An item is important in the course, or pattern, of the cultural or natural history of the local area;
- (c) An item is important in demonstrating aesthetic characteristic and/or a high degree of creative or technical achievement in the local area, and
- (f) An item that possess uncommon, rare or endangered aspects of the cultural or natural history or the local area.

It is considered that the item meets the guidelines for exclusion, as follows:

- No. 13 Mitchell Street has been so altered that it can no longer provide evidence of association with the history of the area - Criterion (a);
- The cottages are not a work by an important designer or artist – Criterion (c);
- The cottages no longer have visual or sensory appeal as their qualities have been more than temporarily degraded – Criterion (c); and
- The cottages are numerous in the Dubbo area even though they are under threat – Criterion (f).

The board and batten cottage is considered relevant as important in representing the history of the growth and development of Dubbo. There remains several examples of board and batten cottages in the Dubbo area. Many provide a better representation of an intact board and batten cottage compared to those at No. 11 and No. 13 Mitchell Street.

Cottages identified in Schedule 5 of Dubbo LEP of board and batten construction include:

- 22 Sterling Street – Item No. I209 of Schedule 5;
- 25 Goode Street – Item No. I133 of Schedule 5; and
- 37 Bishop Street – Item No. I118 of Schedule 5.

Cottages of board and batten construction not listed as items of Environmental Heritage include:

- 61 Myall Street, Dubbo;
- 19 Jubilee Street, Dubbo;
- 21 Jubilee Street, Dubbo;
- 76 Macleay Street, Dubbo; and
- 78 Macleay Street, Dubbo.

Accordingly, it is recommended that the item be removed as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

Further consultation is required with the owner of 13 Mitchell Street in relation to the recommended removal of the Item from Schedule 5. Following consultation and receipt of written consent of the owner of 13 Mitchell Street, Council will pursue removal of the Item. If the owner of 13 Mitchell Street does not wish for the property to be removed from Schedule 5, 13 Mitchell Street will become a separate item in Schedule 5 of Dubbo LEP 2011.

(iii) Heritage Item No. I160 – Lot 1 DP 959451, 326 Macquarie Street, Dubbo

In consideration of LEP 2011, the Department of Planning and Infrastructure included the property 326 Macquarie Street as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

The Community-based Heritage Review (2008) referenced the dwellings at 322, 324 and 326 Macquarie Street as a group of early 20th Century houses with aesthetic significance. They maintain a constant scale and setback, have a variety of roof forms and have been thoughtfully designed and detailed with a variety of materials typical of the early 20th Century period including face brick, render and stucco, feature chimneys, tiled and shingle roofs, timber shingles, stonework and decorative timberwork.

SLUWP, at its meeting on 19 March 2013, was provided with a verbal submission from the owner of the subject property, Mr H Bennett, to support Submission No. 48 received during the public exhibition process of draft Dubbo LEP 2011. A copy of the submission is provided here in **Appendix 6**.

The submission sought for the property, 326 Macquarie Street, Dubbo, to be removed from Schedule 5 stating that the information included in the Heritage Review (2008) in respect of properties 322, 324 and 326 Macquarie Street is out of date and inaccurate. The owner raises concerns regarding the financial implications of the inclusion of the property as an item of Environmental Heritage and questions the significance of the dwelling in comparison to other dwellings in Macquarie Street. Further, the properties 322 and 324 are not listed as items of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That Council prepares further supporting information in respect of the submissions provided by ... Mr H Bennett ... regarding the listing of heritage items for further consideration.”

In carrying out further investigation, Council engaged an independent consultant to review the significance of the item with reference to the matters identified in the proponent's submission. The assessment sheet completed by the consultant is provided here in **Appendix 7** and provides the following information:

- *The current owners have made a positive effort in the care and presentation of the dwelling however this is little different from other dwellings in Macquarie Street;*
- *There are many well-represented homes and gardens in Macquarie Street and a number of houses that have more architectural qualities than those of 326 Macquarie Street; and*
- *It is uncertain why the dwellings at 322 and 324 Macquarie Street have not been listed in the group.*

The dwelling at 326 Macquarie Street is currently listed in Schedule 5 of Dubbo LEP 2011 under Heritage Significance Criterion (c) being:

- (c) An item is important in demonstrating aesthetic characteristic and/or a high degree of creative or technical achievement in the local area.

This item is considered to meet the guidelines for exclusion under Criterion (c) as the item is not a major work by an important designer or artist and the item only has loose association with a creative or technical achievement.

It is recommended that the individual listing of 326 Macquarie Street be removed from Schedule 5 of the Dubbo LEP 2011.

(iv) Heritage Item No. I229 – Lot 1 DP 13483, 46 Wingewarra Street, Dubbo

In consideration of LEP 2011, the Department of Planning and Infrastructure included the property at 46 Wingewarra Street as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

The building is described as a mid 20th Century two storey commercial building with aesthetic significance, retaining much of its original outward character, form and material. The design incorporates a range of interesting architectural elements and materials. The hipped roof is tiled and includes an interesting roof vent and rendered chimney. This includes rendered decorative elements such as window sills, bracketed details and recessed rendered panels. The main entry is a rendered element with strong lines and moulded cornice. There have been minor alterations to the facade such as the enclosure of the glazed verandahs and a recent addition at the rear. Overall, the building is highly intact, well-maintained and makes a positive streetscape contribution.

SLUWP, at its meeting on 19 March 2013, was provided with a verbal submission from the owner of the property, Mr S Sinclair, to support Submission Nos. 49 and 50 received during the public exhibition process of draft Dubbo LEP 2011. Copies of the submissions are provided here in **Appendix 8**.

The submissions sought for the property to be removed from Schedule 5 and raised concerns regarding the constraints associated with heritage items and the potential impact on the ability to accommodate the tenants' requirements and carry out improvements to the property. The

owners advised Council that the renovations undertaken in 1985 and associated procedures undertaken to meet fire regulation significantly altered the internal fabric of the building, including the original architectural elements.

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That Council prepares further supporting information in respect of the submissions provided by ... Mr P Sinclair ... regarding the listing of heritage items for further consideration by Council.”

In carrying out further investigation, Council engaged an independent consultant to review the significance of the item with reference to the matters identified in the proponent's submission. The assessment sheet completed by the consultant is attached here in **Appendix 9** and provides the following information:

- *The current owners have made a positive effort in the care and presentation of the building;*
- *The building makes a major contribution to this section of Wingewarra Street which has lost much of its early character; and*
- *Much of the external and internal fabric and decorative detail has been well-maintained and is largely intact.*

The owners of the property were available for discussion at the time of inspection and the matters raised in the submission to Council were further discussed. The main concern expressed by the owner was in regard to the potential for future development on the site.

In addressing this matter, the levels of significance on the site were identified with reference to the rear addition completed in 1988. A number of potential development opportunities were identified, sympathetic to the heritage value of the building. Current incentives offered by Council were identified in the context of the item, notably the opportunity for the building to be converted to a new use otherwise prohibited and variations from standard development controls such as the requirement for the provision of on-site car parking which is common Council Policy not to be applied to heritage items.

During discussions, the owners noted that they were not aware of the full range of incentives currently offered by Council and were supportive of the opportunities made available.

The role of a Conservation Management Strategy was identified in outlining the significant values throughout the building and as a means for planning future development opportunities for the site.

It is considered that the item retains its significance in the streetscape as a major contribution to Wingewarra Street. It is recommended that the building be retained as an item of Environmental Heritage on Schedule 5 of Dubbo LEP 2011 and that Council further investigate conservation incentives with the owners and make the Local Heritage Fund available to assist with the preparation of a Conservation Management Strategy for the site.

(v) Heritage Item No. I203 – Lot 1 DP 1148881, 2 Roper Street, Dubbo

In consideration of LEP 2011, the Department of Planning and Infrastructure included the property 2 Roper Street as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

The building was constructed in 1870 and is described as a simple brick cottage with historic and aesthetic significance retaining much of its mid 19th Century character, form and detail. The simple Georgian form comprises a high hipped roof and single brick chimney. The front facade has a relatively fine concave verandah and the eaves are picked out with brick corbels. Despite the minor changes and the current condition there is considerable opportunity to restore and recover the original character.

SLUWP, at its meeting on 19 March 2013, was provided with a verbal submission by Miss K Mills on behalf of the owner of the subject property, Mr J Grey, to support Submission Nos. 51 and 52 received during the public exhibition process of draft Dubbo LEP 2011. The submissions are provided here in **Appendix 10**.

The submissions sought for the property to be removed from Schedule 5 of Dubbo LEP 2011 noting that the building is structurally in poor condition and that the inclusion of the property in the Schedule is perceived to impede on the saleability of the property while also reducing property value.

Submission 51 noted that the land is currently zoned IN2 Light Industrial and expressed the opinion that it is inappropriately located within this zone as the potential of the land for an industrial land use cannot be realised while the building is erected on the land.

Council, at its meeting on 27 May 2013, considered the submission and resolved as follows:

“That Council prepares further supporting information in respect of the submissions provided by ... K Mills ... regarding the listing of heritage items for further consideration by Council.”

In carrying out further investigation, Council engaged an independent consultant to review the significance of the item with reference to the matters identified in the proponent's submission. The assessment sheet completed by the consultant is provided here in **Appendix 11** and provides the following information:

- *Roper Street is still largely residential despite the recent change to the zoning boundary;*
- *There is a number of properties on the northern side of Roper Street and surrounding streets integrating smaller buildings as part of light industrial development;*
- *The structural condition of the building appears good despite years of maintenance neglect;*
- *There are a number of early external features giving this modest cottage some significance such as the corbelled brickwork, tuck-pointed brickwork and quality joinery; some research undertaken by the Heritage Advisory Committee in 2007 suggests that there are further internal features remaining;*
- *The cottage sits closely to the footpath and is part of a double block; and*

There is scope to reconsider the heritage curtilage in response to the owner's concerns.

The dwelling is currently listed in Schedule 5 under Assessment Criterion (a), (c) and (f) being:

- (a) An item is important in the course or pattern of the cultural or natural history of the local area;
- (c) An item is important in demonstrating aesthetic characteristic and/or a high degree of creative or technical achievement in the local area; and
- (f) An item that possess uncommon, rare or endangered aspects of the cultural or natural history or the local area.

The item is considered to remain relevant in demonstrating the history of the Dubbo area and contains early external features which are of both aesthetic and technical importance. The cottage is constructed on the south-western boundary of the allotment and acts as a buffer between the potential light industrial use of the land to the rear and the adjacent residential dwellings on the southern side of Roper Street, zoned R1 General Residential.

During further investigation, Council officers discussed opportunities for the development of the site with Ms Mills, on behalf of the property owners. Particular discussions related to the potential for the boundary between the two existing allotments to be adjusted to reduce the area of land identified in Schedule 5. The boundary adjustment would create a large allotment not heritage listed and a smaller allotment immediately surrounding the cottage which is identified as an item of Environmental Heritage. It is recommended that Schedule 5 of Dubbo LEP 2011 be amended to recognise that the listing covers only part of the subject allotment within the immediate curtilage of the dwelling.

Council's Heritage Advisor is also available to provide further advice to the owner regarding the use of the cottage as an office or caretaker's residence ancillary to the light industrial use of the land or for the cottage to be renovated for occupation as a dwelling; the Local Heritage Fund is available to assist financially with the cost of works.



No. 2 Roper Street, Dubbo

It is recommended that Schedule 5 of Dubbo LEP 2011 be amended to recognise that the listing on 2 Roper Street covers only the immediate curtilage of the dwelling.

b) Other submissions

(i) Minimum Lot Size Reduction – 82L Boothenba Road, Dubbo

The proponent, A F Croghan, is seeking to reduce the minimum allotment size for subdivision on the subject land from 100 hectares to eight hectares. The existing allotment is 111.6 hectares in area and is situated within the RU2 Rural Landscape zone which has a minimum allotment size for subdivision of 100 hectares.

The proponent is seeking to introduce the reduction in the minimum allotment size to allow for livestock carriers to utilise the land for residential purposes given the close proximity to the Dubbo Regional Livestock Market. It is noted that truck depots are currently a permissible land use activity in the RU2 Rural Landscape zone.

Council, at its meeting on 27 May 2013, considered the submission and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertake in relation to these submission expect for submissions in respect of... A F Croghan which are subject to further investigation.”

Council received further correspondence from the proponent on 12 July 2013 confirming the request for the minimum allotment size to be reduced to eight hectares to facilitate subdivision of the land for residential purposes. The submission notes that the subject land is suited to a rural residential land use, is adjacent to similar development on the south and west and adjoins a transport corridor, Boothenba Road. The proponent also states that there is a demand in the market for eight hectare allotments and an under-supply of smaller, rural residential allotments.

The land area is zoned RU2 Rural Landscape and is considered to adequately provide for development consistent with the objectives of the zone:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;*
- *To maintain the rural landscape character of the land; and*
- *To provide for a range of compatible land uses, including extensive agriculture.*

The proponent has not provided any further information in support of the amendment in relation to the suitability of the land for agricultural activity or compliance with the provisions of the Rural Areas Development Strategy. This land is not provided in the Rural Areas Development Strategy as being inappropriate for agricultural activities and suitable for rural residential development. In addition, the land is situated within close proximity to industrial land use activities and it is unsure as to the exact impact of the industrial activities on rural residential land use activities.

It is considered appropriate for the land to remain zoned RU2 Rural Landscape with a minimum allotment size for subdivision of 100 hectares and for zoning of the land to be further considered in the next review of the Rural Areas Development Strategy to be undertaken by Council.

(ii) Minimum Lot Size Reduction – 65L Boothenba Road, Dubbo

The proponent, B R and F T Croghan and T Marlin are seeking to rezone the land at 65L Boothenba Road from RU1 Primary Production to RU4 Primary Production Small Lots to permit a two lot subdivision. The proponent seeks for two lots of 20 hectares and 32 hectares respectively on which the erection of a dwelling house is permissible.

The existing allotment is 53.7 hectares in area and is situated within the RU1 Primary Production zone which has a minimum allotment size for subdivision of 800 hectares. Council granted development consent for the erection of a dwelling on the land on 25 July 2013 pursuant to Clause 4.5C(3)(b) of the Dubbo LEP 2011; the allotment was created through subdivision in 1978 under the then Dubbo and Talbragar Planning Scheme Ordinance (Amendment No. 1).

SLUWP, at its meeting on 3 April 2013, considered the submission and resolved as follows:

“Lot 102 DP 602334, No. 65 Boothenba Road, Dubbo maintains the RU1 Primary Production zone with a minimum allotment size for subdivision of 800Ha.”

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect on ... B R and F T Croghan and T Marlin ... which are subject to further investigation.”

The RU4 Primary Production Small Lots zone has the following objectives:

*“... To encourage intensive plant agriculture activities which meet sustainable natural recourse management principals; and
To ensure land with high potential agricultural productivity is protected from inappropriate use and is conserved for intensive plant agricultural activities ...”*

The Rural Areas Development Strategy undertaken in 2003 identifies that the land at 65L Boothenba Road is not suited to intensive agriculture. It is considered inappropriate to zone the land RU4 Primary Production Small Lots as the capability of the land does not allow intensive agricultural land use consistent with the zone objectives.

Accordingly, it is recommended that the land zoning be retained as RU1 Primary Production with a minimum lot size for subdivision of 800 hectares.

(iii) Additional permitted uses on land – 252-256 Fitzroy Street, Dubbo

The proponent, Mr D Pogson, provided a submission during the public exhibition process of draft Dubbo LEP 2011 seeking additional permitted uses including educational establishment,

business premises and office premises to be permitted on the land by identification of such uses in Schedule 1 of the Dubbo LEP 2011.

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect of ... Geolyse on behalf of D Pogson ... which are subject to further investigation.”

Council provided correspondence to the proponent on 21 June 2013 seeking confirmation regarding the additional uses sought on the land and requesting confirmation that the matter should be further considered in the Administrative Review of the LEP. Council did not receive any correspondence in response to this request.

The site contains a two storey building which has previously been used for the purposes of the Australian Technical College, Orana Education and Training Cooperative Ltd and as a private hospital. Further, on 4 July 2012, Council granted development consent for the use of the building as a medical centre.

Dubbo LEP 2011 zoned the land R2 Low Density Residential consistent with the surrounding land. Prior to the gazettal of LEP 2011, the land was zoned 5(a) Institutional which did not provide office premises or business premises as permissible uses on the land. Further, it is noted that the State Environmental Planning Policy (Infrastructure) 2007 has provisions relating to the permissibility of educational establishments in the zone.



No. 252-256 Fitzroy Street, Dubbo

The additional uses proposed in the submission of 10 November 2010, being business premises and office premises, are defined as commercial land use activities. It is considered inappropriate to permit the use of the land in the R2 Low Density Residential for commercial premises as commercial uses are inconsistent with the objectives of the zone.

Accordingly, it is recommended that the additional uses not be listed in Schedule 1 of Dubbo LEP 2011 and that the allotments continue to be zoned R2 Low Density Residential.

(iv) Minimum Lot Size Reduction - 107L Mogriguy Road, Dubbo

The proponent, Mrs P C Mumford, provided a submission to Council during the public exhibition process of draft Dubbo LEP 2011. The submission sought to reduce the minimum allotment size for subdivision of the land to 40 hectares in response to a perceived shortage of small lifestyle allotments near the City.

The land is 675 hectares in size and is zoned RU1 Primary Production with a minimum allotment size for subdivision of 800 hectares. The surrounding land is predominantly used for extensive agriculture.



No. 107L Mogriguy Road, Dubbo

SLUWP, at its meeting on 3 April 2013, considered the submission and resolved as follows:

“Lot 3 DP 233319, No. 107L Mogriguy Road, maintains the RU1 Primary Production zone with a minimum allotment size for subdivision of 800 hectares.”

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect of ... P C Mumford ... which are subject to further investigation.”

In carrying out further investigation, Council provided correspondence to the proponent to address the matters raised in the submission and requested confirmation that the matter be further considered in the Administrative Review of the LEP. Council did not receive any correspondence in response to this request. Further, the proponent has not provided Council with information addressing land capability to support their proposal.

The proposal to reduce the minimum lot size for subdivision on the subject land from 800 hectares to 40 hectares is inconsistent with the Dubbo Rural Areas Development Strategy undertaken in 2003. A dwelling is currently erected on the allotment which is a relatively large allotment in the context of the area. It is considered to be suited to agricultural activities in its own right, without the need for amalgamation with neighbouring properties.

It is recommended that the zoning of the land remains RU1 Primary Production with a minimum allotment size for subdivision of 800 hectares.

(v) Rezoning of land - 79L Gilgandra Road, Dubbo and Burraway Road, Dubbo

The proponent, Mr G Peters, provided a submission to Council during the public exhibition process of draft Dubbo LEP 2011. The submission sought to alter the zoning of the land as follows:

- *Lot 138 DP 754328, 79L Gilgandra Road to be zoned RU1 Primary Production from RE1 Public Recreation; and*
- *Lots 14, 51 and 67 DP 754328, Burraway Road to be zoned RU4 Primary Production Small Lots and R5 Large Lot Residential from RU1 Primary Production.*

SLUWP, at its meeting on 3 April 2013, considered the submission and resolved as follows:

“Part Lot 14, Lot 51 and Lot 67 DP 754328 maintains the RU1 Primary Production zone with a minimum allotment size for subdivision of 800 hectares.”

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect of ... G Peters ... which are subject to further investigation.”

Council provided correspondence to the proponent on 21 June 2013 seeking confirmation regarding the zoning sought on the land and requesting confirmation that the matter be further considered in the Administrative Review of the LEP. Council did not receive any correspondence in response to this request.

Dubbo LEP 2011 zoned land at 79L Gilgandra Road RU1 Primary Production consistent with the proponent's submission. It is considered that this matter is not subject to further consideration.

In respect of land at Burraway Road, an alteration to the land use zone RU4 with a reduced minimum allotment size is not consistent with the provisions of the Dubbo Rural Areas Development Strategy 1996 and the review completed in 2003. In addition, the characteristics of the land are not consistent with the RU4 zone which provides for productive small lot agricultural activities.

It is recommended that the land at Burraway Road maintains the RU1 Primary Production zone with a minimum allotment size of subdivision of 800 hectares.

(vi) Rezoning of land – No. 10-12 Victoria Street, Dubbo

The proponent, Dubbo Partnerships Pty Ltd, provided a submission to Council during the public exhibition process of draft Dubbo LEP 2011. The submission sought rezoning of land to allow for business premises and office premises on the subject land.

Dubbo LEP 2011 was gazetted with office premises as an additional permitted use on the land. It is considered that the permissibility of office premises provides adequate flexibility for development of the site in addition to the SP3 Tourist zoning.

SLUWP, at its meeting on 3 April 2013, considered the submission and resolved as follows:

“Lot 1 DP 795554 and Lot 103 DP 875089 maintains the SP3 Tourist zone with the additional permitted use of office premises.”

Council, at its meeting on 27 May 2013, considered the submissions and resolved as follows:

“That the submissions included in Appendix 5 of the report of the Director of Environmental Services dated 14 May 2013 are not supported on the planning grounds stated and that no further action be undertaken in relation to these submissions except for submissions in respect of ... Geoylse on behalf of Dubbo Partnerships Pty Ltd ... which are subject to further investigation.”

Council provided correspondence to the proponent on 21 June 2013 to further discuss the matters raised in the submission and requested confirmation that the matter be further considered in the Administrative Review of the LEP. Council did not receive any correspondence in response to this request.

The submission has been further reviewed and it is noted that the Development Application referenced for the construction of a three storey building on the site, to be used as business premises, was withdrawn by the applicant on 6 July 2011. As such, Dubbo LEP 2011 is not inconsistent with any approved use of the land. It is considered that the current additional permitted use of office premises is sufficient in providing flexibility for development of the site.

It should be noted that Council is also currently undertaking preparation of a new Commercial Areas Development Strategy for the City. It is considered appropriate for the zoning of this land to be reviewed during this process.

It is recommended that the additional use of business premise not be listed in Schedule 1 of Dubbo LEP 2011.

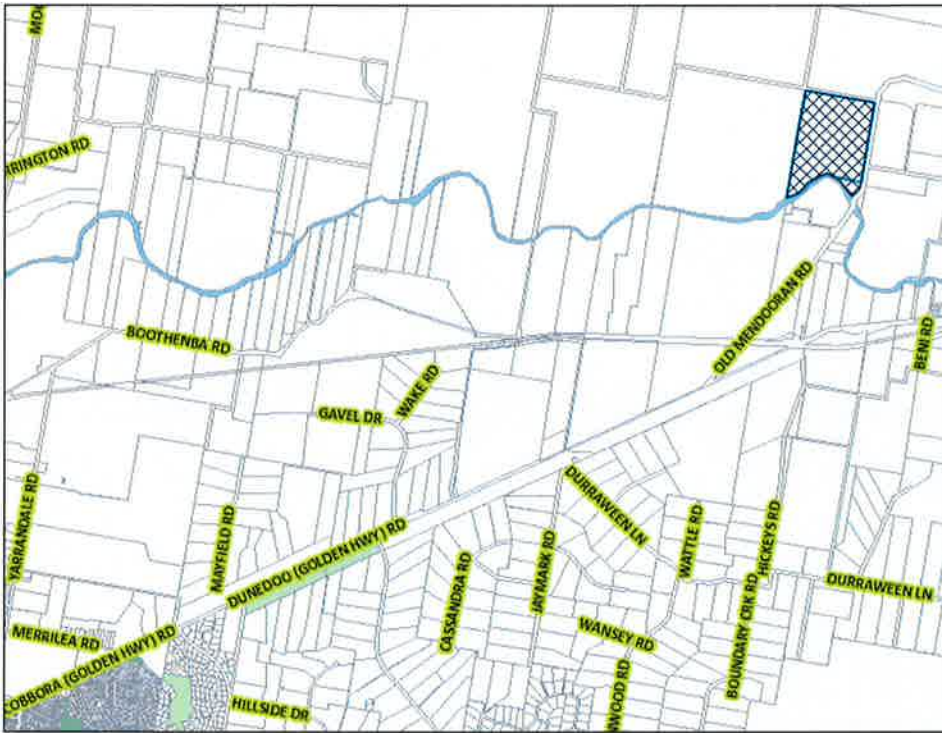
3. Other matters

The following matters have arisen in the period following Council's meeting of 27 May 2013 and accordingly have not been previously considered by Council in the context of the Administrative Review of Dubbo LEP 2011.

(i) Minimum Lot Size Reduction – Old Mendooran Road, Dubbo

The proponent, Western Stock Pty Ltd, is seeking an amendment to Dubbo LEP 2011 to permit a five lot subdivision on the land at Lots 53 and 57 DP 754296, Old Mendooran Road, Dubbo.

The existing two allotments have a total area of 94.94 hectares and are situated within the RU1 Primary Production zone which has a minimum allotment size for subdivision of 800 hectares. The surrounding land is predominantly used for extensive agriculture.



Lots 53 and 57 DP 754296, Old Mendooran Road, Dubbo

Fragmentation of rural land for rural residential uses increases the risk of land use conflict and the alienation of agricultural resources. Subdivision of rural land can also lead to speculative increase in land values for rural land which impacts on the capacity for farm amalgamation and adjustment.

The subdivision of the subject land to create smaller residential allotments is considered inconsistent with objectives of the RU1 Primary Production zone. It may also change the profile of the area and restrict efficient primary production.

It is recommended that the land remain zoned RU1 Primary Production with the minimum lot size for subdivision of 800 hectares.

(ii) Proposed heritage item – No. 141L Obley Road, Dubbo

Council received a written submission from the owner of 141L Obley Road, Mr M Portelli, seeking for the property to be included as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

Council's Heritage Advisor inspected the dwelling and provided the following comments:

- *Old Wilbertree is the homestead of a property that once extended for many thousands of acres;*
- *The dwelling appears to be a late Victorian/Federation weatherboard farmhouse with possible inter-war modification to verandahs and bay windows; and*
- *The interior boards have been mostly covered with battened hardboard or asbestos cement panels but some impressive joinery and fireplaces remain.*

The owner seeks for the property to be listed as recognition of its significance.

The dwelling is considered to meet Heritage Significance Criterion (c) being:

- (c) An item is important in demonstrating aesthetic characteristic and/or a high degree of creative or technical achievement in the local area.

Accordingly, it is recommended that the dwelling be included as an item of Environmental Heritage in Schedule 5 of Dubbo LEP 2011.

(iii) Amendment to Map LRA_008A

The Reservation Acquisition Map – Sheet LRA_008A contains a mapping error made during the final consideration of draft Dubbo LEP 2011. The error relates to land adjoining the Mitchell Highway identified on the map as General Residential (R1). The correct zone reference is SP2 Infrastructure.

It is recommended that the Reservation Acquisition Map – Sheet LRA_008A be amended.

(iv) Amendment to Clause 7.13 Restricted Premises

Dubbo LEP 2011, Clause 7.13 (a) provides that the development of restricted premises not be located at street level. This provision ensures that this type of development does not impact on places of high pedestrian activity or on the amenity in 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 IN3 Heavy Industrial zone. Accordingly, it is recommended that the clause be amended as required.

(v) Administrative amendments to Schedule 5

It is considered necessary to carry out amendments to Schedule 5 of Dubbo LEP 2011 to provide an accurate representation of the listed properties following the subdivision of land and an update of the locality names in the Local Government Area. Items requiring amendments are detailed in **Appendix 14**.

It is recommended that Schedule 5 of Dubbo LEP 2011 be amended accordingly.

(vi) Rezoning of land – No. 10 North Street, Dubbo

Council has recently received a written submission from Barnson Pty Ltd on behalf of the owners of the land. The submission is seeking for the allotment at 10 North Street, Dubbo be rezoned from R1 General Residential to B6 Enterprise Corridor to coincide with the current use of the land by Western Plains Automotive.

The land is used as a car holding area for Western Plains Automotive under existing use rights as the use of land for a commercial premises is prohibited in the R1 General Residential zone under the provisions of Dubbo LEP 2011.

It is considered appropriate that the land be zoned B6 Enterprise Corridor in keeping with the adjacent land and to ensure that the existing use is consistent with the zone objectives.



Lot 111 DP 585079, No. 10 North Street, Dubbo

It is recommended that the land be rezoned from R1 General Residential to B6 Enterprise Corridor in Dubbo LEP 2011.

4. Future Directions

Council, at its meeting on 27 May 2013, resolved in respect of items in **Appendix 1**, that a Planning Proposal be prepared for the first Administrative Review of Dubbo LEP 2011. This is the first step in the process. Following Council's consideration of the Planning Proposal, a Gateway Determination will be sought from the Department of Planning and Infrastructure to enable the matters to be placed on public exhibition.

It is considered appropriate for the matters included in **Appendix 12** to be included in the Planning Proposal for the first Administrative Review of Dubbo Local Environmental Plan 2011.