

Dubbo LEP 2011 - Amendment of Section 5.4(9)(b) Controls Relating to Miscellaneous Permissible Uses – Secondary Dwellings

Proposal Title :	Dubbo LEP 2011 - Amendment of Section 5.4(9)(b) Controls Relating to Miscellaneous Permissible Uses – Secondary Dwellings		
Proposal Summary :	Amendment of Section 5.4(9)(b) Controls Relating to Miscellaneous Permissible Uses – Secondary Dwellings which intends to change the permissible floor area from 40% to 65% of the total floor area of the principal dwelling.		
PP Number :	PP_2016_DUBBO_001_00	Dop File No :	16/01349

Proposal Details

Date Planning Proposal Received :	05-Jan-2016	LGA covered :	Dubbo
Region :	Western	RPA :	Dubbo City Council
State Electorate :	DUBBO	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :	Dubbo		
Suburb :	Dubbo	City :	Dubbo
		Postcode :	Dubbo
Land Parcel :			

DoP Planning Officer Contact Details

Contact Name :	Tim Collins
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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :

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MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

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 amendment of the maximum allowable floor area for secondary dwellings is proposed to increase from 40% to 65% of the principal dwellings floor area. The increase in maximum floor area is to allow for a greater diversity in residential accommodation and to meet the current and changing demographic profile of Dubbo.

The Dubbo City Council Planning and Development Committee at its 21 September 2015 meeting recommended a 50% maximum floor area for secondary dwellings based on a review of a number of Council LEP's. This recommendation was amended at the whole of Council meeting and the revised motion, proposing a 65% maximum floor area, was carried. The maximum floor area being proposed has been discussed internally as well as with Dubbo City Council and it is agreed that while there may not be evidence to support demand for the change from 40% to 65%, there has been no significant potential issues identified and therefore the Department of Planning & Environment can support the amendment. The proposed increase is not inconsistent with government policy. The proposal does not permit additional opportunities for secondary dwellings but does increase the size of them to provide greater diversity and flexibility for residential housing opportunities.

Council has requested that authorisation to exercise delegation not be provided. This is a routine local policy matter that can be dealt with under Council delegation. It is recommended Dubbo City Council be authorised to exercise delegation to make the plan.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment :

The objective of the planning proposal is to facilitate an amendment of Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor space area of secondary dwellings to 65% of the principal dwelling.

The planning proposal seeks to increase the maximum floor area to allow for a greater range of affordable housing options, and to better meet the housing styles and sizes of Dubbo's current and future demographic profile.

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

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

Comment : The explanation of provisions clearly state the intent of the planning proposal is to increase the allowable floor area of secondary dwellings to 65% of the principal dwelling on land which secondary dwellings are permissible, being land zones RU1 Primary Production, RU2 Rural Landscape, RU5 Village, R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential and B4 Mixed Use.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 (Rural Lands) 2008

Orana REP No. 1 - Siding Spring

SEPP (Affordable Rental Housing) 2009

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

1.1 Business and Industrial Zones: The Ministerial Direction is relevant to the planning proposal as the proposal applies to zone B4 Mixed Use Zone. The planning proposal is consistent with the Direction in that it will not reduce the area of any commercial or Industrial zone.

1.2 Rural Zones: The Ministerial Direction is relevant to the planning proposal as the proposal affects land within existing rural zones. The Direction requires that planning proposals must not rezone land from a rural zone to a residential zone or contain provisions that will increase the permissible density of land within a rural zone. The planning proposal is consistent with the Direction as it does not propose to amend the land use zone. While an increase in the permissible floor area of a land use permitted with consent is proposed, it is not intended to allow for an increased density of residential development on rural zoned land.

1.3 Mining, Petroleum Production and extractive Industries: The Ministerial Direction is relevant to the planning proposals which restrict or be incompatible with mining. The planning proposal is inconsistent with this direction. However, the provisions relate only to existing permitted land uses. Therefore the delegate of the Secretary can be satisfied that the inconsistency is minor in nature.

1.5 Rural Lands: The Ministerial Direction is relevant to the planning proposal as the planning proposal affects land within a rural zone. The Direction requires the planning proposal be consistent with the rural planning principles and rural subdivision principles in the SEPP (Rural Lands) 2008.

The proposal does not permit an increase in the number of dwellings permitted on rural land or the creation of additional allotments. It will not result in the fragmentation of rural land and does not impact on services and infrastructure. The planning proposal is

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consistent with this direction.

2.1 Environment Protection: The Ministerial Direction is relevant to the planning proposal as the planning proposal applies to all land within the LGA, including environmental protection zones. The planning proposal is consistent as secondary dwellings are not permissible in any environmental zones.

2.3 Heritage Conservation: The Ministerial Direction is relevant as the planning proposal applies to all land within the LGA. The planning proposal will not alter any provisions that facilitate the conservation of heritage items. Any future development application will require consideration of clause 5.10 Heritage Conservation of the Dubbo LEP 2011.

3.1 Residential Zones: The Ministerial Direction is relevant to the planning proposal as the proposal applies to land zone R1 General Residential, R2 Low Density Residential and R5 Large Lot Residential. The planning proposal is consistent as it will provide additional opportunities for residential development by permitting greater flexibility by allowing a larger floor area for secondary dwellings.

3.4 Integrated Land Use and Transport: The Ministerial Direction is relevant to the planning proposal as it will alter the provisions relating to urban land. The proposal will not locate any additional zones for urban purposes away from existing infrastructure. Therefore the planning proposal is not inconsistent with this Direction.

4.3 Flood Prone Land: The Ministerial Direction is relevant to the planning proposal as it will affect land that is flood prone. Given that secondary dwellings are already permissible land uses, the planning proposal will not permit any significant development on flood prone land beyond what is already permitted.

4.4 Planning for Bushfire Protection: The Ministerial Direction is relevant as the planning proposal applies to all land within the LGA. The planning proposal does not seek to reduce any controls that avoid placing inappropriate developments in hazardous areas. A condition has been placed on the Gateway determination requiring Council consult with the Rural Fire Service.

SEPP (Rural Lands) 2008: The SEPP is relevant as the planning proposal affect rural land. The planning proposal is consistent with the rural planning and rural subdivision principles of the SEPP.

SEPP (Affordable Rental Housing) 2009: This SEPP is relevant as the planning proposal is amending controls relating to secondary dwellings. The SEPP contains provisions relating to secondary dwellings and aims to facilitate the effective delivery of affordable rental housing. The planning proposal is consistent with the SEPP and its aims of facilitating the delivery of affordable housing in response to growing community needs.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : The planning proposal seeks to amend clause 5.4(9)(b), which applies to all land, where secondary dwellings are permitted, identified on the Dubbo Local Environmental Plan 2011 Land Application Map.

No mapping amendments are proposed or required.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council's proposed community consultation is acceptable. Council intends to publicly exhibit the planning proposal for a period of 28 days.**

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Dubbo Local Environmental Plan was gazetted on 11 November 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal is required to change the maximum floor area for secondary dwellings from 40% to 65% of the principal dwelling floor area in clause 5.4(9)(b).**

Consistency with strategic planning framework : **The planning proposal is consistent with the Dubbo Urban Areas Development Strategy/Dubbo Rural Areas Development Strategy. This strategy forms the basis of the land use zoning and planning controls in the LEP 2011.**

Environmental social economic impacts : **It is considered that the planning proposal will not have any negative environmental, social or economic impacts.
There are a number of social and economic benefits including a diversification of housing types and sizes as well as the potential for opportunities for rental incomes.**

Assessment Process

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

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

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

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required.:

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal, Council Report & Request for Initial Gateway Determination - DPE.pdf	Proposal	No
Cover Letter.pdf	Proposal Covering Letter	No

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**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**

Additional Information : **The planning proposal to proceed subject to the following conditions:**

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 days as described in A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013); and**
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).**

2. Consultation is required with the following State Agencies under Section 56 (2)(d) of the EP&A Act and/or to comply with the requirements of relevant section 117 Directions:

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- (a) Department of Primary Industries - Agriculture, and
- (b) NSW Rural Fire Services.
- (c) Office of Environment and Heritage

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

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

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

Supporting Reasons :

The planning proposal will provide flexibility in the design, diversification and better reflect the current and future demographic profile of Dubbo.
It is recommended that Council be authorised to exercise plan making delegations.

Signature:



Printed Name:

Tim Collins

Date:

13/1/2016

Endorsed
W Samson 13/1/2016
A/AMWR.