

22 December 2015



Mr A Albury
General Manager, Western Region
Department of Planning and Environment
PO Box 58
DUBBO NSW 2830

Dear Mr Albury

PLANNING PROPOSAL – SECONDARY DWELLINGS PROVISIONS – PROPOSED AMENDMENT TO CLAUSE 5.4(9)(b) OF THE DUBBO LOCAL ENVIRONMENTAL PLAN 2011

A Planning Proposal has been prepared by Dubbo City Council which seeks to amend the Dubbo Local Environmental Plan 2011. The Planning Proposal seeks to undertake an amendment to the provisions for secondary dwellings in Clause 5.4(9)(b) by increasing the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

Council, at its meeting on 21 December 2015, considered a report in relation to the Planning Proposal and resolved as follows:

- “1. That Council endorse the Planning Proposal to amend Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.
2. That Council seek a Gateway Determination from the Department of Planning and Environment to enable the Planning Proposal to be placed on public exhibition.
3. That Council recommend a minimum 28 day public exhibition period for the Planning Proposal to seek the views of the community.”

It should be noted that Council has not specifically resolved to use the Delegations provided by the Minister for Planning and Environment to undertake the functions of Sections 59(2) and 59(3) of the Environmental Planning and Assessment Act, 1979. It is considered that, given the extent of land that the Planning Proposal will affect, it is requested that the Department of Planning and Environment performs these functions.

A copy of the Planning Proposal and supporting information is provided attached for your consideration.

All communications to:

THE GENERAL MANAGER PO BOX 81 CHURCH STREET DUBBO NSW 2830

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Council requests that the Department provide a Gateway Determination for the Planning Proposal, at its earliest convenience.

If you require any further information, please do not hesitate to contact Council's Strategic Planning Supervisor, Steven Jennings, on (02) 6801 4000.

Yours faithfully



Debbie Archer
Director Environmental Services

- Attachments:
1. Appendix 1 –Planning Proposal
 2. Appendix 2 – Council Report and Minutes
 3. Appendix 3 – Request for Gateway Determination

Proposed Amendment to Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011

Planning Proposal

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Appendix 1 – Council Report 28 September 2015 (PDC15/39)

Appendix 2 – Council Minutes 28 September 2015 (PDC15/39)

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Executive Summary

Council at its meeting on 28 September 2015 considered a report in respect of the provisions of the Dubbo Local Environmental Plan 2011 for the development of secondary dwellings. In consideration of the report, Council resolved as follows:

- "1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.*
- 2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.*
- 3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process."*

A Planning Proposal has now been prepared following Council's resolution. The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 and the NSW Government Department of Planning and Infrastructure 'A Guide to preparing planning proposals.'

The Planning Proposal will facilitate the following amendment to the Dubbo Local Environmental Plan 2011:

- That Clause 5.4 (9)(b) be amended to increase the maximum floor space of a secondary dwelling from 40% of the size of the principal dwelling to 65% of the size of the principal dwelling.

The Planning Proposal is considered to be broadly consistent with the provisions of the Dubbo Urban Areas Development Strategy including the Residential Areas Development Strategy. The Planning Proposal is also considered to be broadly consistent with the Dubbo Rural Areas Development Strategy. It is considered that the Planning Proposal could have the ability to provide a number of economic and social benefits to Dubbo including a diversification of housing types and sizes reflective of the current and future demographic profile and increase the supply of affordable housing options in Dubbo. It will also support and promote economic development by providing a wider range of development opportunities for secondary dwelling housing and further opportunities for rental income.

In rural zones where secondary dwellings are already a permissible land use, the Planning Proposal may provide for larger secondary dwellings that may be more suitable to accommodate a second generation of the same farming family or provide further opportunities for rental income.

Part 1 Objectives or Intended Outcomes

The objective of this Planning Proposal is to facilitate an amendment to Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor space area of secondary dwellings from 40% of the size of the principal dwelling to 65% of the size of the principal dwelling.

The Planning Proposal seeks to increase the maximum total floor space of secondary dwellings to provide a greater range of options for the development of affordable housing options with minimal environmental impact, which will enable the City to provide a range of residential housing styles and sizes reflective of the current and future demographic profile.

The Planning Proposal will expand the options currently available to landowners for the development of secondary dwellings and may stimulate the development of a more affordable and diversified housing supply, whilst encouraging efficient growth patterns through infill development where the majority of infrastructure services are already in place.

The Planning Proposal may also have positive benefits in rural zones by allowing for larger sized secondary dwellings where appropriate to meet the needs of rural landowners to provide accommodation for a second generation of the same farming family to reside on the one property and/or provide further opportunities for rental income.

The current provisions of the Dubbo Local Environmental Plan 2011 allow for the development of secondary dwellings up to 60 m² in area or 40% of the floor area of the principal dwelling, whichever is greater. Secondary dwellings are a permissible land use in the following land use zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village
- R1 General Residential
- R2 Low Density Residential
- R5 large Lot Residential
- B4 Mixed Use

Part 2 Explanation of Provisions

The Planning Proposal seeks to amend the Dubbo Local Environmental Plan 2011 by undertaking an amendment to the provisions for secondary dwellings under Clause 5.4 (9)(b). The proposed outcome will be achieved by:

- Amending Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor space of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

A secondary dwelling is defined in the Dubbo Local Environmental Plan 2011 as follows:

“secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”

Clause 5.4 (9) of the Dubbo Local Environmental Plan 2011 currently states:

“(9) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,
- (b) 40% of the total floor area of the principal dwelling.”

The Planning Proposal does not require any amendments to the Dubbo Local Environmental Plan 2011 maps.

Part 3 Justification

A Need for the Planning Proposal

1. Is the Planning Proposal the result of any Strategic Study or report?

The Planning Proposal is not the result of any Strategic Study or report. The Planning Proposal is the result of a Council resolution at its meeting on 28 September 2015.

Council at its meeting on 28 September 2015 considered a report in relation to a review of the secondary dwelling provisions as contained in the Dubbo Local Environmental Plan 2011. The review of secondary dwelling provisions included a comparison to other Evocities, small and medium sized regional councils and far west NSW councils. A copy of the report is provided in **Appendix 1**.

In consideration of the report, Council resolved the following:

- "1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.*
- 2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.*
- 3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process."*

The primary objective of permitting a greater maximum floorspace for secondary dwellings is to ensure the City can provide a greater range of residential housing opportunities reflective of the future demographic profile.

2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The Planning Proposal is the best means of achieving the objectives or intended outcomes. It is considered that the Planning Proposal is the only way to amend Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011.

B Relationship to Strategic Planning Framework

3. Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Dubbo Local Government Area does not have an applicable regional or sub-regional land use strategy.

4. Is the Planning Proposal consistent with a local strategy or other local strategic plan?

Dubbo 2036 Community Strategic Plan

In July 2012, the Dubbo 2036 Community Strategic Plan was adopted by Council. The 25-year plan sets out the community's long-term vision for the development of the City. The plan is based on five principal themes; Our People, Our Places, Our Leadership, Our Infrastructure and Our Sustainability. The Planning Proposal is broadly consistent with the following relevant goals:

- 2.2.3 New development and land uses in the city are of a quality that compliments the existing built environment of the city.
- 2.3.2 The Dubbo Local Environmental Plan ensures that there are opportunities available to rural landholders to pursue alternative land uses to support the ongoing productivity of agriculture land.
- 2.4.3 Planning Instruments reflect the intent and direction of the adopted land use strategies and facilitate sustainable development and growth of the City.

On this basis the Planning Proposal is considered to be broadly consistent with the Dubbo 2036 Community Strategic Plan.

Dubbo Urban Areas Development Strategy/Dubbo Rural Areas Development Strategy

The Dubbo Urban Areas Development Strategy (including the Dubbo Residential Areas Development Strategy) forms the basis of the land use zonings and planning controls provided in the Dubbo Local Environmental Plan 2011. The Dubbo Urban Areas Development Strategy commenced operation in 1996. The Strategy was reviewed by Council in 2007 and again in 2011 in preparation of the Dubbo LEP 2011.

The Department of Planning and Environment, in consideration of the Dubbo LEP 2011 provided Council with the Director General's endorsement of the Dubbo Urban Areas Development Strategy 1996 and the Review undertaken in 2007.

The Dubbo Urban Areas Development Strategy consists of a number of components as provided below:

- A) Residential Areas Development Strategy;
- B) Commercial Areas Development Strategy;
- C) Industrial Areas Development Strategy;
- D) Institutional Areas Development Strategy;
- E) Recreational Areas Development Strategy; and
- F) Future Directions and Structure Plan.

It is considered that the Planning Proposal is considered to be broadly consistent with the provisions of the Dubbo Urban Areas Development Strategy.

A review of the Dubbo Residential Areas Development Strategy was undertaken by Hill PDA in 2013. One of the key findings and recommendations of the Hill PDA Review was to diversify the current range of housing types, locations and price points in order to satisfy the current and future housing needs in Dubbo. It is considered the Planning Proposal will achieve this by permitting a greater range of options for the size of secondary dwellings where this type of residential accommodation is a permissible land use.

The Planning Proposal is also considered to be consistent with the Dubbo Rural Areas Development Strategy as it may assist in directing rural settlement pressures into selected areas of existing fragmentation and enable a more efficient alternative use of land already lost from effective rural production by permitting a greater potential for the size of secondary dwellings.

It should also be noted that the Planning Proposal will allow for further infill development within village zones to the extent compatible with the village character and capacity, which is consistent with the provisions of the Strategy.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following table provides consideration of the applicable State Environmental Planning Policies for consideration in the Planning Proposal.

State Environmental Planning Policy	Relevance	Discussion
Orana Regional Environmental Plan No 1 – Siding Spring Observatory (deemed SEPP)	The Plan aims to preserve conditions at the Observatory for astronomical observations.	Nothing in the Planning Proposal impacts upon the aims and objectives of this deemed SEPP.
State Environmental Planning Policy No. 32 – Urban Consolidation (Redevelopment of Urban Land)	The SEPP guides urban consolidation of land for the development of multiple dwelling housing of a regional significance.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP.
State Environmental Planning Policy No. 36 – Manufactured Home Estates	The SEPP guides the development of manufactured home estates.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP.
State Environmental Planning Policy No. 55 – Remediation of Land	The SEPP guides the consideration of the development of potentially contaminated lands.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP.

State Environmental Planning Policy	Relevance	Discussion
State Environmental Planning Policy No. 64 – Advertising and Signage	The SEPP guides the development of advertising and signage.	Nothing in this Planning Proposal impacts upon the aims and objectives of this SEPP.
State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development	The SEPP guides the development of residential apartment development.	Nothing in this Planning Proposal impacts upon the aims and objectives of this SEPP.
State Environmental Planning Policy (Affordable Rental Housing) 2009	The SEPP provides guidance in the provision and composition of affordable rental housing.	Nothing in this Planning Proposal impacts upon the aims and objectives of this SEPP. The Planning Proposal is consistent with the SEPP and its aim of facilitating the delivery of affordable housing in response to growing community needs in NSW.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	The SEPP guides the provision of Exempt and Complying development across the State.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	The SEPP guides the provision of housing for seniors or for persons with a disability. The Policy is applicable to residential lands.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP. The Planning Proposal is consistent with the SEPP and its aim of increasing the supply and diversity of residences that meet the needs of seniors or people with a disability, and making more efficient use of existing infrastructure and services.
State Environmental Planning Policy (Infrastructure) 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service	Nothing in the Planning Proposal impacts upon the aims and objectives of this SEPP.

State Environmental Planning Policy	Relevance	Discussion
	facilities.	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	The SEPP guides the development of land for mining, petroleum production and extractive industries.	Nothing in this Planning Proposal impacts upon the aims and objectives of this SEPP.
State Environmental Planning Policy (Rural Lands) 2008	The SEPP guides the development of rural lands for rural and related purposes.	Nothing in the Planning Proposal impacts upon the aims and provisions of this SEPP. The Planning Proposal is consistent with the rural planning principles as contained in the SEPP. It is considered that the Planning Proposal is broadly consistent with the requirements of the SEPP.

6. Is the Planning Proposal consistent with any applicable Section 117 Directions?

The following table provides consideration of the applicable Section 117 Directions for consideration in the planning proposal:

Direction	Relevance	Discussion
1.1 Business and Industrial Zones	The Direction aims to ensure business and industrial zones are provided in suitable locations and to protect the integrity of existing centres. This Direction is applicable when a Planning Proposal will affect land within an existing or proposed business or industrial zone.	The Direction requires a Planning Proposal to provide the following: (a) Give effect to the objectives of the Direction. (b) Retain areas and locations of existing business and industrial zones. (c) Not reduce the total potential floor space area for employment uses and related public services in business zones, (d) Not reduce the total potential floor space area for industrial uses in industrial zones, and (e) Ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning. The Planning Proposal will affect land within the B4 Mixed Use zone as secondary dwellings are currently permitted under the provisions of the Dubbo Local Environmental Plan 2011. The Planning Proposal will not reduce the area of any commercial zone or any industrial zone. The Planning Proposal is consistent with this Direction.
1.2 Rural Zones	The Direction aims to protect the agricultural production value of rural land and applies when a Planning Proposal will affect land within an existing or proposed rural zone.	Clause 4(a) of the Direction requires a Planning Proposal to not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The Planning Proposal does not include any rezoning of land. The Planning Proposal is consistent with the Direction.

Direction	Relevance	Discussion
	Clause 4(a) of this Direction is applicable to all relevant planning authorities and when a Planning Proposal will affect land within an existing or proposed rural zone.	
1.3 Mining, Petroleum Production and Extractive Industries	The Direction aims to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive industries are not compromised by inappropriate development. This Direction is applicable when a Planning Proposal is prepared that would restrict or be incompatible with mining.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the Planning Proposal relates only to the provisions relating to an existing permitted land use (secondary dwellings). Secondary dwellings can only be established in conjunction with a principal dwelling which would already be restrictive or incompatible with mining, petroleum production and extractive industries.
1.5 Rural Lands	The Direction aims to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes. This Direction is applicable to the Planning Proposal as <i>State Environmental Planning Policy</i>	The Direction requires the Planning Proposal to be consistent with the Rural Planning Principles listed in the SEPP including: a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas, b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State, c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Direction	Relevance	Discussion
	<i>(Rural Lands) 2008</i> (the SEPP) applies to the Dubbo Local Government Area.	d) in planning for rural lands, to balance the social, economic and environmental interests of the community, e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land, f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities, g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing, h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General. The Planning Proposal is considered consistent with the rural planning principles. The Planning Proposal is consistent with the Direction.
2.1 Environment Protection	The Direction aims to ensure that environmentally sensitive areas are protected and conserved. This Direction is applicable when a Planning Proposal is prepared that applies to land identified for environmental protection purposes in an LEP.	The Direction requires a Planning Proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas and must not reduce the environmental protection standards that apply to the land. The Planning proposal will not alter any provisions that facilitate the protection and conservation of environmentally sensitive areas. The Planning Proposal will also not reduce any environmental protection standards currently applying to the Dubbo Local Environmental Plan 2011. The Planning Proposal is consistent with the Direction.

Direction	Relevance	Discussion
2.3 Heritage Conservation	The Direction aims to ensure the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The Direction is applicable when a Planning Proposal is prepared that incorporates a heritage item listed in an LEP.	The Direction requires a Planning Proposal to contain provisions that facilitate the conservation of: (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act, 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people. The Planning Proposal will not alter any provisions that facilitate the conservation of heritage items, areas, objects and places of environmental and indigenous heritage significance. Any future development application in respect of any lands that contain a listed heritage item will be required to comply with Clause 5.10 Heritage conservation of the Dubbo LEP 2011. The Planning Proposal is consistent with the Direction.
3.1 Residential Zones	The Direction aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make	The Direction requires that a Planning Proposal include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and

Direction	Relevance	Discussion
	efficient use of existing infrastructure and to minimise the impacts of residential development. This Direction is applicable as the Planning Proposal will impact land in an existing residential zone and other zones in which significant residential development is permitted.	(b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good urban design. A Planning Proposal must also: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. The Planning Proposal will provide additional opportunities for residential development by permitting a larger floor area for secondary dwellings, which could allow for greater flexibility in design. It is also considered that the Planning Proposal will allow infrastructure to be used and reduce the consumption of land on the urban fringe by allowing a greater development potential on existing allotments. The Planning Proposal is consistent with the Direction.
3.3 Home Occupations	This Direction encourages the carrying out of low impact small businesses in dwelling houses. The Direction is applicable when a Planning Proposal is prepared that includes residential	The Direction requires planning proposals to permit home occupations to be carried out in dwelling houses without the need for development consent. The Planning Proposal will not alter the current controls contained in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and the Dubbo Local Environmental Plan 2011, which permit the undertaking of home occupations without development consent.

Direction	Relevance	Discussion
	accommodation.	The Planning Proposal is consistent with the Direction.
3.4 Integrating Land Use and Transport	This Direction aims to ensure urban development is located in such a manner as to ensure development is designed to facilitate orderly and efficient transport linkages and to ensure development is located within a reasonable proximity to urban development. This Direction is applicable when a Planning Proposal will alter a provision relating to urban land.	The Direction requires a Planning Proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001). The Direction requires a Planning Proposal to ensure zones to be used for urban purposes allow for access to employment, opportunities for alternative transport methods, public transport and to reduce the requirement for domestic vehicles. The Planning Proposal does not locate any additional zones for urban purposes away from existing infrastructure and urban development. It is considered that the Planning Proposal will enable the development of larger sized secondary dwellings in conjunction with a principal dwelling that may already be serviced by alternative transport methods and public transport. The Planning Proposal is consistent with the Direction.
3.5 Development Near Licensed Aerodromes	This Direction aims to ensure the effective and safe operation of aerodromes, ensure their operation is not compromised by development and ensure	The Direction requires the Planning Proposal to consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome, take into consideration the Obstacle Limitation Surface (OLS) and for land affected by the OLS, prepare appropriate development standards and allow as permissible with consent development types that are

Direction	Relevance	Discussion
	residential development, if situated on land between ANEF contours between 20 and 25, incorporates appropriate mitigation measures to aircraft noise. This Direction is applicable when a Planning Proposal will alter a provision relating to land in the vicinity of a licensed aerodrome.	compatible with the operation of an aerodrome. The Dubbo LEP 2011 already contains an airspace operations clause that would apply to secondary dwellings if they were proposed on land within the vicinity of the Dubbo City Regional Airport. The Planning Proposal is consistent with the Direction.
3.6 Shooting Ranges	This Direction aims to maintain public safety and amenity when rezoning land adjacent to an existing shooting range, reduce land use conflict and identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range. This Direction is applicable when a Planning Proposal will affect a provision relating to land adjacent to and/or adjoining an existing shooting range.	The Direction requires a Planning Proposal to not rezone land adjacent to and/or adjoining an existing shooting range that has the effect of permitting more intensive land uses than those which are permitted under the existing zone or permitting land uses that are incompatible with the noise emitted by the existing shooting range. The Planning Proposal does not seek to rezone any land. The Planning Proposes only to alter provisions relating to an existing permitted land use. The Planning Proposal is consistent with the Direction.

Direction	Relevance	Discussion
4.3 Flood Prone Land	This Direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain development Manual 2005 and ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. This Direction is applicable when a Planning Proposal will affect land that is mapped as being flood prone.	The Direction requires a Planning Proposal to include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas). The Dubbo LEP 2011 already contains a flood planning clause that would apply to secondary dwellings if they were proposed on land that is flood prone. Given that secondary dwellings are already a permissible land use in the RU1 Primary Production, RU2 Rural Landscape, RU5 Village, R1 General Residential, R2 Low Density Residential, R5 large Lot Residential and B4 Mixed Use zones, it is considered that the Planning Proposal will not permit any significant development on flood prone land beyond what is already permitted. The Planning Proposal is consistent with the Direction.

Direction	Relevance	Discussion
4.4 Planning for Bushfire Protection	This Direction aims to protect life, property and the environment from bush fire hazards by discouraging the establishment of incompatible land uses in bush fire prone areas, and encourage sound management of bush fire prone areas. The Direction is applicable when a Planning Proposal will affect land that is mapped as, or within close proximity to, bushfire prone.	The Direction requires a Planning Proposal consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination. The Planning Proposal does not seek to reduce any controls that avoid placing inappropriate developments in hazardous areas. The Planning Proposal is consistent with the Direction.
6.1 Approval and Referral Requirements	This Direction aims to ensure Planning Proposals provide the provisions that encourage the efficient and appropriate assessment of development. This Direction is applicable when any Planning Proposal is prepared.	The Direction requires a Planning Proposal to not contain provisions that concurrence, consultation or referral to a Minister or public authority. The Planning Proposal does not include any provisions that require concurrence. The Planning Proposal is consistent with the Direction.
6.3 Site Specific Provisions	This Direction aims to discourage unnecessarily restrictive site specific planning controls.	The Direction requires a Planning Proposal to not provide any additional specific development standards or requirements to those already provided on the land. A Planning Proposal must also not include any drawings showing details of the development.

Direction	Relevance	Discussion
	The Direction is applicable when a Planning Proposal is prepared that will allow a particular development to be carried out.	The Planning Proposal is consistent with the Direction.

C Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats will be adversely affected?

It is considered that the Planning Proposal will not directly affect any critical habitat or threatened species, populations or ecological communities or their habitats. Any development application for a secondary dwelling as a result of this Planning Proposal will be required to consider any impacts on critical habitat or threatened species, populations or ecological communities or their habitats as a component of the development assessment process.

8. Are there any environmental impacts and how will they be mitigated?

It is considered that the Planning Proposal will not cause any environmental impacts. Any development application for a secondary dwelling as a result of this Planning Proposal will be required to consider any environmental impacts as a component of the development assessment process.

9. Has the Planning Proposal adequately addressed any social and economic impact?

It is considered that the Planning Proposal will not result in any negative social or economic impacts.

It is considered that the Planning Proposal could have the ability to provide a number of economic and social benefits to Dubbo including a diversification of housing types and sizes reflective of the current and future demographic profile and increase the supply of affordable housing options in Dubbo. It will also support and promote economic development by providing a wider range of development opportunities for secondary dwelling housing and further opportunities for rental income. In rural zones where secondary dwellings are already a permissible land use, the Planning Proposal will allow for larger secondary dwellings that may be suitable to accommodate a second generation of the same farming family or provide further opportunities for rental income.

D State and Commonwealth interests

10. Is there adequate public infrastructure for the Planning Proposal?

It is considered that there is adequate public infrastructure for the Planning Proposal. Any existing infrastructure provided for a principal dwelling in association with a secondary dwelling as a result of this Planning Proposal is likely to be adequate to also service the needs of a secondary dwelling resulting from this Planning Proposal. The Planning Proposal is unlikely to place a level of demand of public infrastructure that could not be managed satisfactorily by Council.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

State and Commonwealth public authorities will be consulted in accordance with the Gateway determination and will be given at least 21 days to comment on the proposal.

The following table provides a summary of the relevant public authorities, which in the opinion of Council, should be consulted in accordance with the Gateway Determination:

Public authority/Stakeholder	Issue requiring comment
Civil Aviation Safety Authority	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 3.5 to consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome.
NSW Rural Fire Service	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 to consult with the Commissioner of the NSW Rural Fire Service.
Department of Primary Industries	Impact of permitting larger sized secondary dwellings on farming and rural industries.

Part 4 Mapping

The Planning Proposal does not require amendment to any map as contained in the Dubbo Local Environmental Plan 2011.

Part 5 Community Consultation

Council will place the Planning Proposal on public exhibition for a period of not less than 28 days and undertake consultation with the community as directed.

The Planning Proposal is not considered to be low impact as outlined in the Department of Planning and Environment's *A guide to preparing local environmental plans*. A minimum 28 day public exhibition period is recommended.

All public consultation processes will be undertaken in accordance with the requirements of the Gateway Determination.

Part 6 Project Timeline

The following project timeline is intended to be a guide only and may be subject to changes in response to the public consultation process and/or community submissions.

Plan Making Step	Estimated Timeframe
Preparation of the Planning Proposal	October – November 2015
Consideration by Planning and Development Committee and Council	December 2015
Gateway Submission	January 2016
Gateway Assessment (DoPE)	January 2016
Gateway Determination	January 2016
Public Exhibition (28 days)	February 2016
Review of public submissions	March 2016
Consideration by Planning and Development Committee and Council	March 2016
Legal Drafting of LEP Amendment	April 2016
Submission to Parliamentary Counsel Office	April 2015
Gazettal (finalisation)	May 2016

Appendix 1 – Council Report 28 September 2015 (PDC15/39)

Appendix 2 – Council Minutes 28 September 2015 (PDC15/39)



REPORT: Review of the Dubbo Local Environmental Plan 2011 Secondary Dwelling Provisions

AUTHOR: Director Environmental Services
REPORT DATE: 15 September 2015
TRIM REFERENCE: ID15/1220

EXECUTIVE SUMMARY

The Dubbo Local Environmental Plan (LEP) 2011 allows for the development of a secondary dwelling up to 60 m² in area or 40% of the floor area of the principal dwelling on the land. This allows for the development of a small-scale dwelling that is secondary to the main dwelling.

The overall intent of the secondary dwelling provisions is to add to the range of residential housing opportunities reflective of the future demographic profile of the city and allow for a relative/s or an unrelated person(s) to live in their own home adjacent to and within the curtilage of a main dwelling on a block of land.

Council at its meeting held on 27 July 2015 considered a report in relation to a Development Application for the construction of a secondary dwelling with an overall floor area in excess of the maximum allowable floor area under the provisions of the Dubbo Local Environmental Plan 2011 (LEP) of 60 m² or 40% of the floor area of the principal dwelling.

In consideration of the report, Council, in part, resolved as follows:

"That Council undertake an amendment of the Dubbo Local Environmental Plan 2011 which would have the effect of permitting larger secondary dwellings in the RU2 Rural Landscape and R5 Large Lot Residential zones than are currently permitted in accordance with the controls included in Clause 5.4 relating to the total floor area of a secondary dwelling."

In accordance with the above resolution, this report presents the findings of a review of the LEP and recommends Council pursue a Planning Proposal to undertake an amendment to the LEP to amend the maximum floor area requirements where secondary dwellings are permitted uses.

To consider the floorspace controls in the RU2 Rural Landscape R5 Large Lot Residential zones in accordance with Council's resolution, a review of the operation of the Clause 5.4 has been undertaken. Clause 5.4 provides floorspace controls for the development of secondary dwellings in permissible locations on rural and urban lands. Any change to variation to the secondary dwelling provisions will have the effect of impacting their provision across the City by virtue of the operation of the Standard Instrument (Local Environmental Plans) Order, 2006 on which the Dubbo Local Environmental Plan 2011 is based. It is considered that to seek to have controls that vary between the rural and urban zones would create subzones that may not be acceptable to the NSW Department of Planning and Environment consistent with previous advice from the Department.

A review of the secondary dwelling provisions for the Evocities, a selection of small and medium-sized regional councils and far west councils, has been undertaken. This review has shown that each council has adopted the 60 m² maximum however, there is a variance between the different council groupings in respect of the maximum floor area percentage of the principal dwelling, as provided below:

- Evocities councils - 32%;
- Small and medium-sized regional councils - 49%; and
- Far West councils - 63%.

From the review of the Evocities, surrounding Local Government Areas and the relative characteristics of these areas it is recommended that Council increase the maximum floor space limitation to 50%.

The development of a secondary dwelling with a 50% floor space limitation is likely to be able to provide a reasonably sized two (2) bedroom dwelling through to a smaller sized three (3) bedroom dwelling depending on the size of the principal dwelling.

It is therefore recommended that a Planning Proposal be prepared to undertake an amendment to Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor space of a secondary dwelling from 40% of the size of the principal dwelling to 50% of the size of the principal dwelling.

STRATEGIC ALIGNMENT

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

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report other than the cost of staff

resources to prepare the Planning Proposal.

POLICY IMPLICATIONS

This report recommends Council undertake an amendment to the LEP in respect of the secondary dwelling provisions. The LEP is a gazetted Environmental Planning Instrument. A Planning Proposal will be required to be prepared to undertake any proposed amendments.

RECOMMENDATION

1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.
2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 50% of the total floor area of the principal dwelling.
3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process.

Melissa Watkins
Director Environmental Services

BACKGROUND

Council at its meeting on 27 July 2015 considered a report in relation to a Development Application for the construction of a secondary dwelling with an overall floor area that was in excess of the maximum allowable floor area under the provisions of the Dubbo Local Environmental Plan 2011 (LEP).

Clause 5.4 of the LEP provides specific floor area limitations for a number of land use activities including secondary dwellings. Clause 5.4 (9) states the following in respect to secondary dwellings:

“(9) Secondary Dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 40% of the total floor area of the principal dwelling.”*

The secondary dwelling approved by Council was 57.66% of the principal dwelling with Council also resolving, in part, as follows:

“That Council undertake an amendment of the Dubbo Local Environmental Plan 2011 which would have the effect of permitting larger secondary dwellings in the RU2 Rural Landscape and R5 Large Lot Residential zones than currently permitted in accordance with the controls included in Clause 5.4 relating to the total floor area of a secondary dwelling.”

In response to this resolution of Council as provided, a review of the secondary dwelling provisions of the LEP in comparison to other councils has now been undertaken and it is recommended that Council pursue a Planning Proposal to undertake an amendment to the LEP to increase the maximum floor area requirements for all secondary dwellings (urban and rural).

REPORT

1. State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP)

The intent of the SEPP is to ensure affordable housing can be effectively delivered and ensure affordable housing can meet the needs of a changing population.

State Environmental Planning Policy (Affordable Rental Housing) 2009 defines a secondary dwelling as the following:

“secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling),*
and
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”*

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP) allows for the development of a secondary dwelling on land zoned R1 General Residential, R2 Low Density Residential and R5 Large Lot Residential.

The SEPP provides a maximum floor area limitation of 60 m² for secondary dwellings in the zones specified above. However, if an LEP allows for a higher maximum floor area limitation, the higher limitation can be adopted.

The SEPP also provides specific development controls for secondary dwellings in the following areas:

- Minimum lot size requirements;
- Maximum site coverage requirements;
- Maximum floor area requirements;
- Building setbacks and maximum floor area limitations for balconies, decks, patios, terrace and verandahs;
- Building heights;
- Setbacks from classified roads;
- Setbacks from side boundaries;
- Setbacks from rear boundaries;
- Building articulation requirements;
- Privacy;
- Landscaping requirements;
- Private Open space requirements;
- Earthworks and drainage requirements; and
- Environmental impacts.

Any Complying Development Certificate that is lodged for the provision of a secondary dwelling in the R1 General Residential zone, R2 Low Density Residential zone or the R5 Large Lot Residential zone, must meet the development controls specified in the SEPP however, any development application received by Council for the provision of a secondary dwelling in the R1 General Residential zone, R2 Low Density Residential zone or the R5 Large Lot Residential zone is not required to comply with the development controls contained in the SEPP.

Any Development Application for a secondary dwelling in any other zone is not required to achieve compliance with the SEPP however, compliance with the requirements of the Dubbo LEP 2011 is required to be achieved as the provisions of the LEP are, in fact, a prohibition on development that falls outside the definition as distinct from a development standard that can be varied by Council.

2. Dubbo Local Environmental Plan (LEP) 2011

The Dubbo LEP 2011 was gazetted on 11 November 2011. The Dubbo LEP 2011 is based on a mandatory platform called the Standard Instrument (Local Environmental Plans) Order 2006 which was prepared by the NSW State Government and is now in use across the majority of Local Government Areas. This means that land use definitions and core land use permissibility is the same in each Standard Instrument Local Environmental Plan.

One such definition the Standard Instrument included in the Dubbo LEP was that of a secondary dwelling which is as follows:

“secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling),*
and
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.”*

The Dubbo LEP also contains specific controls specifying the maximum allowable floor area of a secondary dwelling. Clause 5.4(9) states as follows:

“If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 40% of the total floor area of the principal dwelling.”*

As noted above the maximum floor space allowance is not a development standard in the LEP which could otherwise be varied with the approval of Council; rather, it is a prohibition that must be complied with.

The intent of including secondary dwellings as a permissible form of development in the LEP is to ensure the City can provide a range of residential housing opportunities reflective of the future demographic profile. In the case of secondary dwellings, this provision allows for a relative/s or an unrelated person(s) to live in their own home adjacent to and within the curtilage of a main dwelling on a block of land.

The Standard Instrument (Local Environmental Plans) Order, 2006 does not mandate the provision of secondary dwellings in any land use zone.

The Dubbo LEP 2011 went beyond the Standard Instrument (LEP) Order and the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 to allow for the development of a secondary dwelling with consent in the following range of land use zones:

- RU1 Primary Production;
- RU2 Rural Landscape;
- RU5 Village;
- R1 General Residential;
- R2 Low Density Residential;
- R5 Large Lot Residential; and
- B4 Mixed Use.

As outlined above Council, in preparation of the LEP, included secondary dwellings as permissible development activities in the RU2 Rural Landscape zone, the RU5 Village zone and the B4 Mixed Use zone over and above the permissible zones included in SEPP (Affordable Rental Housing). Other Local Government Areas have generally not chosen to be as generous in allowing for the development of secondary dwellings in the RU2 Rural Landscape zone.

Council's intent by including secondary dwellings as permissible development in the LEP was to ensure the interim additional dwelling provisions of the former Dubbo Local Environmental Plan 1998 – Urban Areas would continue to be available to residents.

It should be noted that the former Urban LEP 1998 only allowed for the development of an 'interim' additional dwelling. By its very nature this was not a permanent dwelling. In addition, the former provisions also only allowed an interim additional dwelling that was transportable and that could easily be removed.

Clause 25 of the former Dubbo LEP 1998 – Urban Areas provided the following permissibility in respect to interim additional dwellings:

"25 Interim additional dwelling on land within Zone 1 (b)

The consent authority may consent to the erection of one, but only one, interim additional dwelling on land within Zone 1 (b) that is to be occupied by an employee involved in rural activities on the land or a member of the landowner's family, or where use of the dwelling is ancillary to a use of the land for which consent has been granted, if:

- (a) the land on which the dwelling will be erected will not be capable of being excised by way of transfer of a new or existing title, and*
- (b) the dwellings share a common access to a public road, and*
- (c) the consent authority is satisfied that the dwelling is for an interim period only and is transportable, and*

- (d) *the consent authority is satisfied that the interim additional dwelling will be inhabited by either a relative of the owner or an employee involved in a rural activity on the land for which consent has been granted (and who is required to be on-site) or use of the dwelling will be ancillary to and necessary to sustain another productive land use for which consent has been granted."*

The former Urban LEP also contained a similar permissibility clause in respect of the provision of interim additional dwellings on land zoned 2(e) Residential Country.

Land previously zoned 1(b) Urban Rural Buffer is now predominantly zoned RU2 Rural Landscape in the LEP. Land previously zoned 2(e) Residential Country is now predominantly zoned R5 Large Lot Residential.

Whilst the secondary dwelling provisions in the LEP (and SEPP Affordable Rental Housing) have size limitations, a secondary dwelling can now be a permanent structure and is not required to be removed once the residents have ceased its use. A maximum floor area requirement for secondary dwellings, both in the urban and rural context, is an important land use management tool. This is to ensure a secondary dwelling is consistent with the LEP and relevant zone objectives.

3. Secondary Dwelling Permissibility in Other Local Government Areas

In the consideration of secondary dwelling provisions, a review of Local Environmental Plans has been undertaken based on the following categories:

- Evocities councils;
- Small - medium-sized councils; and
- Far West councils.

Table 1 provides the results of the secondary dwelling review which shows the average floor space limitation in square metres and average floor space limit as a percentage.

EVOCITIES	RU2 Zone in LEP	Permissible in RU2 Zone	R5 Zone	Floor Space Limit (m ²)	Floor Space Limit (%)
Albury	Y	Y	Y	60	25
Armidale	N			60	30
Bathurst	Y	Y	Y	60	20
Dubbo	Y	Y	Y	60	40
Orange	N		Y	60	50
Tamworth	N		Y	60	25
Wagga Wagga	Y	Y	Y	60	33
Average				60	32

SMALL-MEDIUM SIZED COUNCILS				
Gilgandra	N	Y	60	54
Narromine	N	Y	60	65
Parkes	N	Y	60	40
Wellington	N	Y	60	40
Warrumbungle	N	Y	60	30
Coonamble	N	Y	60	40
Mid-Western	N	Y	60	50
Warren	N	Y	60	75
Average			60	49
FAR WEST				
Brewarrina	N	Y	60	80
Bogan	N	Y	60	40
Bourke	N	Y	60	80
Central Darling	N	Y	60	80
Cobar	N	Y	60	40
Walgett	N	Y	60	60
Average			60	63

Table 1. A comparison of the secondary dwelling controls in the Evocities

Table 1 shows that the average floor space limitation in the Evocities is 32% of the floor area of the principal dwelling. Orange has the largest percentage at 50% and Bathurst the lowest at 20%.

Of the small-medium sized councils, the average floor area of the principal dwelling is 49%, with Warren having the largest at 75% and Warrumbungle the lowest at 30%. Mid- Western (Mudgee) has a 50% floor space limitation.

Of the Far West councils, the average floor area of the principal dwelling is 63%, with Brewarrina, Bourke and Central Darling all allowing a secondary dwelling up to 80% of the floor area of the principal dwelling. However, it should be noted that Bogan Shire has the same permissibility limitations as the Dubbo LEP 2011.

It is considered that this range of floor space limitations shows a clear difference between the Evocities, small-medium sized councils and Far West councils in the use of the secondary dwelling provisions for their intended means through to their use as a means to stimulate further housing growth in rural and fringe areas.

4. Amendment to the Dubbo Local Environmental Plan 2011

As previously discussed in this report, the existing provisions of the Dubbo LEP 2011 allow for the development of a secondary dwelling up to 60 m² in area or 40% of the floor area of the principal dwelling on the land. This allows for the development of a small-scale dwelling that is secondary to the main dwelling which is consistent with the overall intent to provide for a range of residential housing opportunities reflective of the future demographic profile which allow for a relative/s or unrelated persons to live in their own home adjacent to and within the curtilage of a main dwelling on a block of land.

As previously addressed in this report, an overall review of the secondary dwellings provisions in the LEP was undertaken as Clause 5.4(9) provides floorspace controls for the development of secondary dwellings across the LEP and not just for development in the RU2 Rural Landscape and R5 Large Lot Residential zones.

It is considered that, based on the review of Evocities and surrounding Local Government Areas and the relative characteristics of these areas and their respective LEPs, Council should explore the inclusion of a maximum floor space limitation of 50%. The development of a secondary dwelling within the 50% floor space limitation is likely to be able to provide a reasonably sized two (2) bedroom dwelling through to a smaller sized three (3) bedroom dwelling depending on the size of the principal dwelling.

A proposed amendment to the provisions of the LEP to amend Clause 5.4 from 40% to 50% would ensure a consistency of provision and, particularly in the case of land in the RU2 Rural Landscape zone, ensure that secondary dwellings remain subordinate to the principal dwelling and do not result in unacceptably large dwellings that, by their size and characteristics, promote use by large or multiple families that may not necessarily be related to the owners of the principal dwelling consistent with the intent of a secondary dwelling as 'affordable' accommodation.

Amendment to Clause 5.4(9) Secondary Dwellings of the LEP will require Council to prepare a Planning Proposal in accordance with the requirements of the NSW Department of Planning and Environment. The Planning Proposal process is included in Figure 1.

PLANNING PROPOSAL PROCESS

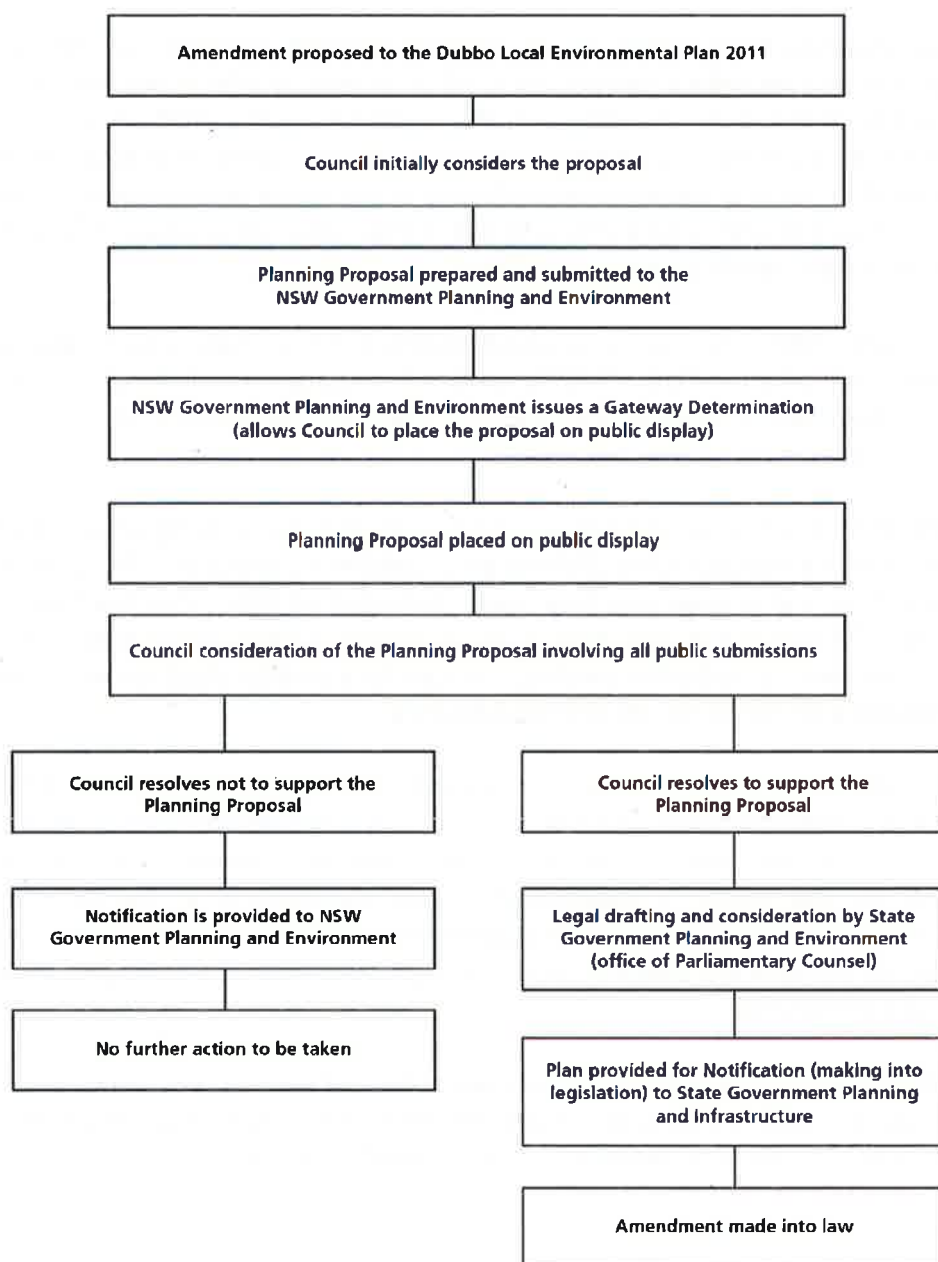


Figure 1. Planning Proposal Process

Following the preparation of a Planning Proposal, a further report will be provided to Council for consideration.

SUMMARY

This report provides the results of a review of the secondary dwelling provisions and controls as contained in the Dubbo Local Environmental Plan 2011 (LEP). It also provides comparative analysis of the controls relating to secondary dwellings in other areas including the Evocities and surrounding Local Government Areas.

It is recommended that a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the LEP from 40% of the total floor area of the principal dwelling to 50% of the total floor area of the principal dwelling. However, the 60 m² limitation is proposed to be retained.



**REPORT
PLANNING AND DEVELOPMENT
COMMITTEE
21 SEPTEMBER 2015**

PRESENT:

Councillors M Dickerson, L Griffiths, B Kelly, G Matthews, G Mohr, K Parker, T Reynolds, B Shields, A Smith, R Towney and J Walkom.

ALSO IN ATTENDANCE:

The General Manager, the Director Organisational Services, the Manager Governance and Risk, the Supervisor Governance, the Administrative Officer Governance, the Manager Management Accounting Services, the Manager Financial Accounting Services, the Director Corporate Development, the Media and Public Relations Coordinator, the Director Technical Services, the Manager Technical Support, the Manager Civil Infrastructure and Solid Waste, the Director Environmental Services, the Manager Building and Development Services, the Building Services Supervisor, the Planning Services Supervisor, the Manager City Strategy Services, the Strategic Planning Supervisor, the Manager Environmental Control, the Director Community Services, the Director Parks and Landcare Services (N Everett) and the Director Macquarie Regional Library.

Councillor M Dickerson assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 5.30pm.

PDC15/36 ELECTION OF CHAIRMAN (ID15/1222)

At this stage, the Mayor, Councillor M Dickerson vacated the Chair and the General Manager as Returning Officer invited nominations for the position of Chairman of Council's Planning and Development Committee and Chairman of Council's Works and Services Committee for the Mayoral term with the following nomination received:

Councillor K Parker nominated by Councillor L Griffiths and Councillor G Mohr

Councillor K Parker formally accepted his nomination.

The General Manager as Returning Officer advised that as only one nomination was received, Councillor K Parker be duly elected as Chairman of Council's Planning and Development Committee and Chairman of Council's Works and Services Committee for the Mayoral term.

Councillor K Parker assumed chairmanship of the meeting.

**PDC15/37 REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE - MEETING 17
AUGUST 2015 (ID15/1153)**

The Committee had before it the report of the Planning and Development Committee meeting held 17 August 2015.

Moved by Councillor A Smith and seconded by Councillor R Towney

MOTION

The Committee recommends that the report of the Planning and Development Committee meeting held on 17 August 2015, be adopted.

CARRIED

PDC15/38 DUBBO SECTION 94 DEVELOPER CONTRIBUTIONS (ID15/1169)

The Committee had before it the report dated 15 September 2015 from the Strategic Planning Supervisor regarding Dubbo Section 94 Developer Contributions.

Moved by Councillor M Dickerson and seconded by Councillor L Griffiths

MOTION

The Committee recommends:

1. That Council endorse the key steps and timelines for the delivery of the following Contribution Plans (Stage 1 and 2), as provided in the report of the Strategic Planning Supervisor dated 15 September 2015:
 - Section 94A Contribution Plan - Residential Infill Development;
 - Section 94 Contribution Plan – Open Space and Recreation Facilities; and
 - Section 94 Contribution Plan – Roads and Traffic Management Facilities.
2. That Council not pursue any interim amendment to the Section 94 Contribution Plan – Roads, Traffic Management and Car Parking.
3. That a further report be presented to the March 2016 meeting of Council including the key steps and timelines for the delivery of the components of Stage 3 of the Dubbo Developer Contributions System.

Moved by Councillor G Matthews and seconded by Councillor B Shields

AMENDMENT

1. That Council endorse the key steps and timelines for the delivery of the following Contribution Plans (Stage 1 and 2), as provided in this report:
 - Section 94A Contribution Plan - Residential Infill Development;
 - Section 94 Contribution Plan – Open Space and Recreation Facilities; and
 - Section 94 Contribution Plan – Roads and Traffic Management Facilities.
2. That in addition to the above key steps and guidelines, Council proceed to pursue an interim amendment to the Section 94 Contribution Plan – Roads, Traffic Management and Car Parking such that all “change of use” Development Applications of a value equal to or less than \$100,000 be exempted from the requirements of the Plan, subject to the Section 94 amendment process as per the Environmental Planning and Assessment Act.
3. That a further report be presented to the March 2016 meeting of Council including the key steps and timelines for the delivery of the components of Stage 3 of the Dubbo Developer Contributions System.

The amendment on being put to the meeting was carried.

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Committee and left the room and was out of sight during the Committee's consideration of this matter. The reasons for such interest is that Councillor B Kelly has family members who own residential land in Dubbo that is currently being, and will be developed into the future; Councillor B Kelly and his wife are shareholders of a Company that have shares in a company that has acquired residential land holdings in Dubbo, and Councillor B Kelly is currently co-ordinating the sale of allotments in the family members owned Magnolia and Southlake Estate holdings and the Eykan Holdings land within the Keswick Estate.

Councillor J Walkom declared a pecuniary, significant interest in the matter now before the Committee and left the room and was out of sight during the Committee's consideration of this matter. The reason for such interest is that Councillor J Walkom is a director of a company that owns property in the Central Business District.

PDC15/39 REVIEW OF THE DUBBO LOCAL ENVIRONMENTAL PLAN 2011 SECONDARY DWELLING PROVISIONS (ID15/1220)

The Committee had before it the report dated 15 September 2015 from the Director Environmental Services regarding Review of the Dubbo Local Environmental Plan 2011 Secondary Dwelling Provisions.

Moved by Councillor M Dickerson and seconded by Councillor G Matthews

MOTION

The Committee recommends:

1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.
2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 50% of the total floor area of the principal dwelling.
3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process.

Moved by Councillor A Smith and seconded by Councillor B Shields

AMENDMENT

The Committee recommends:

1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.
2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.
3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process.

The amendment on being put to the meeting was carried.

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Committee and left the room and was out of sight during the Committee's consideration of this matter. The reasons for such interest is that Councillor B Kelly has family members who own rural residential land in Dubbo.

Councillor B Shields declared a pecuniary, significant interest in the matter now before the Committee. The reason for such interest is that Councillor Shields' parents owns rural residential land in Dubbo. It is noted Councillor Shields lodged a Form of Special Disclosure of Pecuniary Interest relating to this matter with Council's General Manager before the commencement of the meeting and was laid on the table at the meeting. In accordance with Section 451 (4) of the Local Government Act 1993, Councillor Shields participated in discussions and considerations of this matter. The Form of Special Disclosure is attached to these minutes as Appendix 1.

Councillor J Walkom declared a pecuniary, significant interest in the matter now before the Committee and left the room and was out of sight during the Committee's consideration of this matter. The reason for such interest is that Councillor J Walkom owns land in the city of Dubbo that may be effected as a result of this proposal.

PDC15/40 (D2015-386) DEVELOPMENT APPLICATION FOR BOUNDARY ADJUSTMENT OF LOTS 125 AND 146, DP 754328, GILGANDRA ROAD, BROCKLEHURST OWNER/APPLICANT: DUBBO CITY COUNCIL (ID15/1208)

The Committee had before it the report dated 15 September 2015 from the Planning Services Supervisor regarding (D2015-386) Development Application for Boundary Adjustment of Lots 125 and 146, DP 754328, Gilgandra Road, Brocklehurst.

Owner/Applicant: Dubbo City Council.

Moved by Councillor B Shields and seconded by Councillor G Matthews

MOTION

The Committee recommends:

- 1. That Development Application D2015-386 for a boundary adjustment at Lots 125 and 146, DP 754328, Gilgandra Road, Brocklehurst be granted approval subject to the conditions of consent provided attached in Appendix 1.**
- 2. That those people who made a submission in respect of this Development Application be advised of Council's decision in this matter.**

CARRIED

Councillor T Reynolds declared a non-pecuniary, less than significant interest in the matter now before the Committee and remained in the room during the Committee's consideration of this matter. The reason for such interest is that Councillor T Reynolds has attended meetings in her capacity as a Councillor with Dubbo City Car Club and that such interest would not impair her decision making on the matter.

The meeting closed at 6.06pm.

.....
CHAIRMAN

APPENDIX 1

Local Government (General) Regulation 2005

Schedule 3A Form of special disclosure of pecuniary interest

(Clause 195A)

Local Government Act 1993

Form of Special Disclosure of Pecuniary Interest

- 1 The particulars of this form are to be written in block letters or typed.
2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by **BENJAMIN WILLIAMS SHIELDS**

in the matter of **PDC15/39 - Review of the Dubbo Local Environmental Plan 2011 Secondary Dwelling Provisions** which is to be considered at a meeting of the **Dubbo City Council Planning and Development Committee** to be held on the 21st day of September 2015.

Pecuniary interest	
Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>) ¹	7R Eulomogo Road, Dubbo 2830
Relationship of identified land to councillor [Tick or cross one box.]	☒ Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). ☐ Associated person of councillor has interest in the land. ☐ Associated company or body of councillor has interest in the land.

Matter giving rise to pecuniary interest²	
Nature of land that is subject to a change in zone/planning control by proposed LEP (the subject land) ¹ [Tick or cross one box]	☒ The identified land. ☐ Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	Dubbo Local Environmental Plan 2011 R5 Large Lot Residential
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	An amendment of the Dubbo Local Environmental Plan 2011 which would have the effect of permitting larger secondary dwellings in the RU2 Rural Landscape and R5 Large Lot Residential zones than currently permitted in accordance with the controls included in Clause 5.4 relating to the total floor area of a secondary dwelling.
Effect of proposed change of zone/planning control on councillor [Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]	Appreciable financial gain

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature



Date 21 September 2015

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

¹ Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative⁴ or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

² Section 442 of the *Local Government Act 1993* provides that a *pecuniary interest* is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

³ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section 448 (g) (ii) of the *Local Government Act 1993*.

⁴ *Relative* is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.



REPORT: Planning Proposal - Secondary Dwelling Provisions - Proposed Amendment to Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011

AUTHOR: Director Environmental Services
REPORT DATE: 4 December 2015
TRIM REFERENCE: ID15/1535

EXECUTIVE SUMMARY

Council at its meeting on 28 September 2015 considered a report (PDC15/39) in respect of the provisions of the Dubbo Local Environmental Plan 2011 for the development of secondary dwellings.

Council in consideration of the report resolved as follows:

- "1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.*
- 2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.*
- 3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process."*

A Planning Proposal has now been prepared following Council's resolution. The Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 and the NSW Government Department of Planning and Infrastructure 'A Guide to Preparing Planning Proposals'. A copy of the Planning Proposal is provided in **Appendix 1**.

The Planning Proposal seeks to amend the Dubbo Local Environmental Plan 2011 by undertaking an amendment to the secondary dwelling provisions under Clause 5.4 (9). The Planning Proposal seeks to increase the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

The Planning Proposal is considered to be broadly consistent with the provisions of the Dubbo Urban Areas Development Strategy including the Residential Areas Development Strategy. The Planning Proposal is also considered to be broadly consistent with the Dubbo Rural Areas Development Strategy.

It is considered that the Planning Proposal could have the ability to provide a number of economic and social benefits to Dubbo including a diversification of housing types and sizes reflective of the current and future demographic profile and increase the supply of affordable housing options in Dubbo. It will also support and promote economic development by providing a wider range of development opportunities for secondary dwelling housing and further opportunities for rental income. In rural zones where secondary dwellings are already a permissible land use, the Planning Proposal may provide for larger secondary dwellings that may be suitable to accommodate a second generation of the same farming family or provide further opportunities for rental income.

The Planning Proposal is provided for the consideration of Council to formally commence the process of undertaking an amendment to the Dubbo Local Environmental Plan 2011. It is recommended that the Planning Proposal be endorsed for the purposes of seeking a Gateway Determination from the Department of Planning and Environment. The provision of a Gateway Determination will allow the Planning Proposal to be placed on public exhibition for a period of at least 28 days to seek the views of the community. Following completion of the public exhibition process, a further report would be presented for the consideration of Council.

STRATEGIC ALIGNMENT

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

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report other than the cost of staff resources to prepare and process the Planning Proposal.

POLICY IMPLICATIONS

The Planning Proposal provided with this report seeks to amend the provisions for secondary dwellings as contained in Clause 5.4 (9) of the Dubbo Local Environmental Plan 2011. The Dubbo LEP 2011 is a gazetted Environmental Planning Instrument. This report recommends that Council support the Planning Proposal and seek a Gateway Determination which will allow the formal Planning Proposal process to commence.

RECOMMENDATION

- 1. That Council endorse the Planning Proposal to amend Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.**
- 2. That Council seek a Gateway Determination from the Department of Planning and Environment to enable the Planning Proposal to be placed on public exhibition.**
- 3. That Council recommend a minimum 28 day public exhibition period for the Planning Proposal to seek the views of the community.**

Melissa Watkins
Director Environmental Services

BACKGROUND

Council at its meeting on 28 September 2015 considered a report in relation to a review of the secondary dwelling provisions as contained in the Dubbo Local Environmental Plan 2011. The review of secondary dwelling provisions included a comparison to other Evocities, small and medium sized regional councils and far west NSW councils.

In consideration of the report, Council resolved the following:

- "1. That Council endorse the findings of the review of the Secondary Dwellings provisions in the Dubbo Local Environmental Plan 2011.*
- 2. That a Planning Proposal be prepared to increase the maximum floorspace limitation for secondary dwellings in Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.*
- 3. That a further report be provided to Council for its consideration in respect of the Planning Proposal referenced in recommendation 2 above to commence the Planning Proposal process."*

The purpose of this report is to seek Council's endorsement of a Planning Proposal to enact changes to Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 as specified in Council's resolution.

REPORT

1. Particulars of the Planning Proposal

The Planning Proposal seeks to amend Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of secondary dwellings from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

Clause 5.4(9) of the Dubbo Local Environmental Plan 2011 currently reads as follows:

"If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 40% of the total floor area of the principal dwelling."*

The Planning Proposal seeks to amend Clause 5.4(9)(b) to read as follows:

"If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 65% of the total floor area of the principal dwelling."*

The Planning Proposal directly affects all land where secondary dwellings are currently a permissible land use, which includes as follows:

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village
- R1 General Residential
- R2 Low Density Residential
- R5 large Lot Residential
- B4 Mixed Use

This represents approximately 80% of all land within the Dubbo Local Government Area.

2. Amendments to Local Environmental Plans

The Department of Planning and Environment has introduced a process for the consideration of amendments to Local Environmental Plans in 2009. The process for the consideration of an amendment to a Local Environmental Plan (LEP) commences with Council's consideration of a Planning Proposal. The Planning Proposal process is outlined in Figure 1.

PLANNING PROPOSAL PROCESS

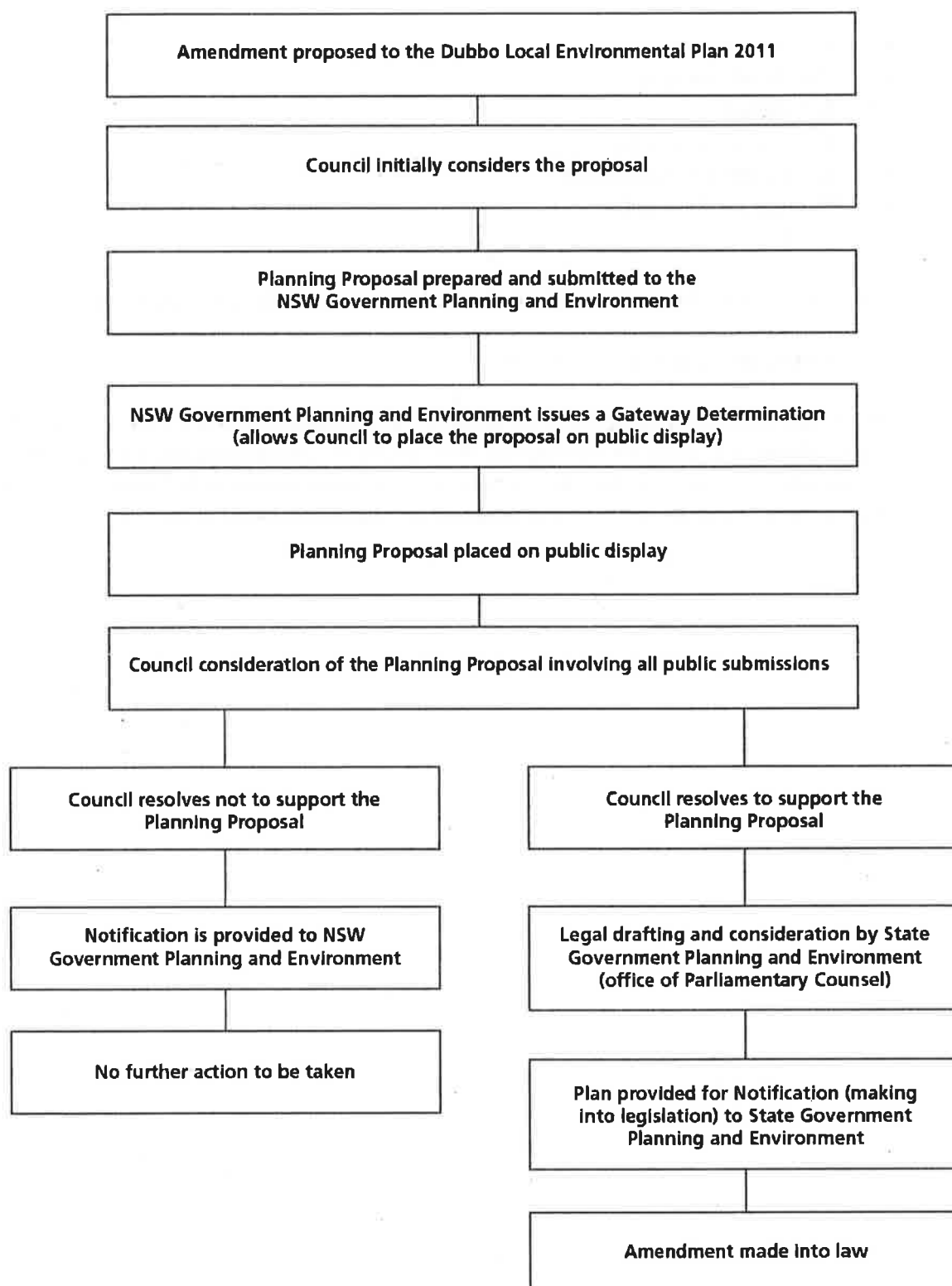


Figure 1. Planning Proposal Process

The role of a Planning Proposal is to explain the intended effects of a proposed LEP amendment and the justification for undertaking the amendment. Council has the role of considering the Planning Proposal. If Council resolves to proceed with the Planning Proposal, the LEP amendment will be provided to the Department to seek a Gateway Determination.

The Gateway is a relatively recent addition to the plan making process, which ultimately reviews and considers Planning Proposals in their initial stages prior to further consideration by Council. After consideration by the Department, Council is provided with a Gateway Determination for the LEP amendment.

The Gateway Determination specifies that the Department will allow the proposed amendment to proceed, specify any matters that require additional information, the level of public consultation required and State Government agencies to be consulted. After all additional matters have been addressed and the required consultation has been carried out, a report will be provided to Council for further consideration.

3. Planning Considerations

(i) Dubbo Urban Areas Development Strategy/Dubbo Rural Areas Development Strategy

The Dubbo Urban Areas Development Strategy (including the Dubbo Residential Areas Development Strategy) forms the basis of the land use zonings and planning controls provided in the Dubbo Local Environmental Plan 2011. The Planning Proposal is considered to be broadly consistent with the provisions of the Strategy.

A review of the Dubbo Residential Areas Development Strategy was undertaken by Hill PDA in 2013. One of the key findings and recommendations of the Hill PDA Review was to diversify the current range of housing types, locations and price points in order to satisfy the current and future housing needs in Dubbo. It is considered the Planning Proposal will achieve this by permitting a greater range of options for the size of secondary dwellings where this type of residential accommodation is a permissible land use.

The Planning Proposal is also considered to be broadly consistent with the Dubbo Rural Areas Development Strategy in that it may assist in directing rural settlement pressures into selected areas of existing fragmentation and enable a more efficient alternative use of areas already lost from effective rural production by permitting a greater potential for the size of secondary dwellings.

It should also be noted that the Planning Proposal will allow for further infill development within village zones to the extent compatible with the village character and capacity, which is consistent with the provisions of the Strategy.

(ii) Section 117 Directions

A number of Section 117 Directions are applicable to the Planning Proposal as described below:

Direction	Requirement	Consistency
1.1 Business and Industrial Zones	This Direction is applicable when a Planning Proposal will affect land within an existing or proposed business or industrial zone.	The Planning Proposal will not reduce the area of any commercial zone or any industrial zone. The Planning Proposal is consistent with the Direction.
1.2 Rural Zones	Clause 4(a) of this Direction is applicable to all relevant planning authorities and when a Planning Proposal will affect land within an existing or proposed rural zone.	Clause 4(a) of the Direction requires a Planning Proposal to not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. The Planning Proposal does not include any rezoning. The Planning Proposal is consistent with the Direction.
1.3 Mining, Petroleum Production and Extractive Industries	This Direction is applicable when a Planning Proposal is prepared that would restrict or be incompatible with mining.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the land affected by the Planning Proposal already permits secondary dwellings in conjunction with a principal dwelling which would already be restrictive or incompatible with mining.
1.5 Rural Lands	This Direction is applicable to the Planning Proposal as <i>State Environmental Planning Policy (Rural Lands) 2008</i> (the SEPP) applies to the Dubbo LGA.	The Direction requires the Planning Proposal to be consistent with the Rural Planning Principles listed in the SEPP. The Planning Proposal is considered consistent with the rural planning principles and the Direction.
2.1 Environment Protection	This Direction is applicable when a Planning Proposal is prepared that applies to land identified for environmental protection purposes in an LEP.	The Planning proposal will not alter any provisions that facilitate the protection and conservation of environmentally sensitive areas. The Planning Proposal will also not reduce any environmental protection standards currently applying to the Dubbo Local Environmental Plan 2011. The Planning Proposal is consistent with the Direction.
2.3 Heritage Conservation	The Direction is applicable when a Planning Proposal is prepared that incorporates a heritage item listed in an LEP.	The Planning Proposal will not alter any provisions that facilitate the conservation of heritage items, areas, objects and places of environmental and indigenous heritage significance. Any future development application in respect of any lands that contain a listed heritage item will be required to comply with Clause 5.10 Heritage conservation of the Dubbo LEP 2011. The Planning Proposal is consistent with the Direction.

3.1 Residential Zones	This Direction is applicable as the Planning Proposal will impact land in an existing residential zone and other zones in which significant residential development is permitted.	The Planning Proposal will provide additional opportunities for residential development by permitting a larger floor area for secondary dwellings, which could allow for greater flexibility in design. It is also considered that the Planning Proposal will allow existing infrastructure to be used and reduce the consumption of land on the urban fringe by allowing a greater development potential on existing allotments. The Planning Proposal is consistent with the Direction.
3.3 Home Occupations	The Direction is applicable when a Planning Proposal is prepared that includes residential accommodation.	The Planning Proposal will not alter the current controls contained in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and the Dubbo Local Environmental Plan 2011, which permit the undertaking of home occupations without development consent. The Planning Proposal is consistent with the Direction.
3.4 Integrating Land Use and Transport	This Direction is applicable when a Planning Proposal will alter a provision relating to urban land.	The Planning Proposal does not locate any additional zones for urban purposes away from existing infrastructure and urban development. It is considered that the Planning Proposal will enable the development of larger sized secondary dwellings in conjunction with a principal dwelling that may already be serviced by alternative transport methods and public transport. The Planning Proposal is consistent with the Direction.
3.5 Development Near Licensed Aerodromes	This Direction is applicable when a Planning Proposal will alter a provision relating to land in the vicinity of a licensed aerodrome.	The Dubbo LEP 2011 already contains an airspace operations clause that would apply to secondary dwellings if they were proposed on land within the vicinity of the Dubbo City Regional Airport. The Planning Proposal is consistent with the Direction.
3.6 Shooting Ranges	This Direction is applicable when a Planning Proposal will affect a provision relating to land adjacent to and/or adjoining an existing shooting range.	The Planning Proposal does not seek to rezone any land adjacent to and/or adjoining an existing shooting range. The Planning Proposal is consistent with the Direction.
4.3 Flood Prone Land	This Direction is applicable when a Planning Proposal will affect land that is mapped as being flood prone.	The Dubbo LEP 2011 already contains a flood planning clause that would apply to secondary dwellings if they were proposed on land that is flood prone. The Planning Proposal is consistent with the Direction.
4.4 Planning for Bushfire Protection	The Direction is applicable when a Planning Proposal will affect land that is mapped as, or within close proximity to, bushfire prone.	The Planning Proposal does not seek to reduce any controls that avoid placing inappropriate developments in hazardous areas. The Planning Proposal is consistent with the Direction.

6.1 Approval and Referral Requirements	This Direction is applicable when any Planning Proposal is prepared.	The Planning Proposal does not include any provisions that require concurrence, consultation or referral to a Minister or public authority. The Planning Proposal is consistent with the Direction.
6.3 Site Specific Provisions	The Direction is applicable when a Planning Proposal is prepared that will allow a particular development to be carried out.	The Direction requires a Planning Proposal to not provide any additional specific development standards or requirements to those already provided on the land. A Planning Proposal must also not include any drawings showing details of the development. The Planning Proposal is consistent with the Direction.

(iii) State Environmental Planning Policies

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

- Orana Regional Environmental Plan No. 1 – Siding Spring Observatory (Deemed State Environmental Planning Policy)
- State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)
- State Environmental Planning Policy No. 36 – Manufactured Home Estates
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
- State Environmental Planning Policy (Rural Lands) 2008.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The intent of the SEPP is to ensure affordable housing can be effectively delivered and to ensure it can meet the needs of the changing population.

The Planning Proposal is consistent with the SEPP and its aim of facilitating the delivery of affordable housing in response to growing community needs in NSW.

State Environmental Planning Policy (Rural Lands) 2008

The intent of the SEPP is to facilitate the orderly and economic use and development of rural lands for rural and related purposes, implement measures to reduce land use conflicts and identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land.

The Planning Proposal is consistent with the rural planning principles as contained in the SEPP. Any future development application in respect of rural lands will be required to address and be consistent with the matters in clause 10. It is considered that the Planning Proposal is broadly consistent with the requirements of the SEPP.

(iv) Dubbo Local Environmental Plan 2011

The Dubbo LEP 2011 was gazetted on 11 November 2011. The Dubbo LEP 2011 is based on the Standard Instrument (Local Environmental Plans) Order 2006 which was prepared by the NSW State Government which is now in use across the majority of Local Government Areas. This means that land use definitions and core land use permissibility is the same in each Standard Instrument Local Environmental Plan.

One such definition the Standard Instrument included in the Dubbo LEP 2011 was that of a secondary dwelling which is as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling),*
and
- (b) is on the same lot of land as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

The Dubbo LEP 2011 also contains specific controls specifying the maximum allowable floor area of a secondary dwelling. Clause 5.4(9) states as follows:

"If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 40% of the total floor area of the principal dwelling."*

The Planning Proposal seeks to amend Clause 5.4(9)(b) to read as follows:

"If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 65% of the total floor area of the principal dwelling."*

The Planning Proposal does not require amendment to any map as contained in the Dubbo Local Environmental Plan 2011.

(v) Other Impacts

Any development application for a secondary dwelling that is not classified as Complying Development will be required to be assessed in accordance with the requirements of Section 79C of the Environmental Planning and Assessment Act 1979. This includes consideration of the following matters as relevant to the development application:

- “(a) the provisions of:*
- (i) any environmental planning instrument, and*
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*
- that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
 - (c) the suitability of the site for the development,*
 - (d) any submissions made in accordance with this Act or the regulations,*
 - (e) the public interest.”*

SUMMARY

Dubbo City Council has prepared a Planning Proposal to seek an amendment to Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011. The Planning Proposal seeks to increase the maximum permissible floor area of secondary dwellings from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

The Planning Proposal will allow for an increase in the size of secondary dwellings where secondary dwellings are an existing permissible use in the following land use zones:

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village
- R1 General Residential
- R2 Low Density Residential

- R5 large Lot Residential
- B4 Mixed Use

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

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment to seek a Gateway Determination. Following receipt of the Gateway Determination the Planning Proposal will be placed on public exhibition for a period of at least 28 days and consultation will be undertaken with relevant State Agencies.

A further report will be provided to council detailing the results of public exhibition and further consideration of the Planning Proposal.

Appendices:

1 Planning Proposal - Secondary Dwelling Provisions



REPORT ORDINARY COUNCIL MEETING 21 DECEMBER 2015

PRESENT:

Councillors M Dickerson, L Griffiths, B Kelly, G Matthews, G Mohr, K Parker, T Reynolds, A Smith, R Towney and J Walkom.

ALSO IN ATTENDANCE:

The General Manager, the Director Organisational Services, the Manager Governance and Risk, the Supervisor Governance, the Administrative Officer Governance, the Director Corporate Development (Ms N Comber), the Corporate Communications Supervisor, the Airport Operations Manager, the Director Technical Services (Mr I Bailey), the Manager Technical Support, the Manager Civil Infrastructure and Solid Waste, the Director Environmental Services (Ms D Archer), the Manager Building and Development Services, the Strategic Planning Supervisor, the Director Community Services, the Director Parks and Landcare Services and the Director Macquarie Regional Library.

Councillor M Dickerson assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 5.30pm with a prayer for Divine Guidance to the Council in its deliberations and activities.

CCL15/145 CONFIRMATION OF MINUTES (ID15/1692)

Confirmation of the minutes of the proceedings of the Ordinary Council meeting held on 23 November 2015.

Moved by Councillor G Mohr and seconded by Councillor J Walkom

MOTION

That the minutes of the proceedings of the Council of the City of Dubbo at the Ordinary Council meeting held on 23 November 2015 comprising pages 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the series be taken as read, confirmed as correct minutes and signed by the Mayor and the General Manager.

CARRIED

CCL15/146 LEAVE OF ABSENCE (ID15/1687)

A request for leave of absence was received from Councillor B Shields who was absent from the meeting due to the personal reasons.

Moved by Councillor J Walkom and seconded by Councillor R Towney

MOTION

That such request for leave of absence be accepted and Councillor B Shields be granted leave of absence from this meeting.

CARRIED

At this Juncture, the Mayor congratulated the staff from Dubbo Visitor Information Centre and Old Dubbo Gaol on the receipt of their NSW Tourism Awards, Kate Wright who was recognised as Dubbo's Young Business Executive of the Year at the Chamber of Commerce Rhino Business Awards and Prue Galvin who was awarded a Highly Commended for the Environmental Health Professional of the Year Award.

CCL15/147 PUBLIC FORUM (ID15/1688)

There were no speakers during Public Forum.

MAYORAL MINUTES:

CCL15/148 MAYORAL APPOINTMENTS (ID15/1576)

The Council had before it the Mayoral Minute regarding Mayoral Appointments.

Moved by Councillor M Dickerson

MOTION

That the information contained in the Mayoral Minute be noted.

CARRIED

CCL15/148(a) LOCAL GOVERNMENT REFORM (ID15/1711)

The Council had before it the Mayoral Minute regarding Local Government Reform.

Moved by Councillor M Dickerson

MOTION

1. That Council confirm its position that as an IPART assessed "Fit for the Future" Council, it stand alone and participate in an Orana Joint Organisation, noting that neither Council/community sees benefit in merging with Wellington Council with Dubbo having previously discussed this position with Wellington, who concur.
2. That the Member for Dubbo be invited to meet with Councillors to explain the Government's position and detail the rationale of their position regarding a proposed amalgamation of Dubbo and Wellington and seek his position as Member for Dubbo as to how he intends to support Dubbo in this important matter.

CARRIED

MATTERS CONSIDERED BY COMMITTEES:

CCL15/149 REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE - MEETING 14 DECEMBER 2015 (ID15/1696)

The Council had before it the report of the Planning and Development Committee meeting held 14 December 2015.

Moved by Councillor K Parker and seconded by Councillor A Smith

MOTION

That the report of the Planning and Development Committee meeting held on 14 December 2015, be adopted, save and except Clauses PDC15/57 and PDC15/58 with such Clauses being dealt with separately.

CARRIED

PDC15/57 PLANNING PROPOSAL - SECONDARY DWELLING PROVISIONS - PROPOSED AMENDMENT TO CLAUSE 5.4 (9)(B) OF THE DUBBO LOCAL ENVIRONMENTAL PLAN 2011 (ID15/1535)

The Council had before it the report dated 4 December 2015 from the Director Environmental Services regarding Planning Proposal - Secondary Dwelling Provisions - Proposed Amendment to Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011.

Moved by Councillor K Parker and seconded by Councillor G Matthews

MOTION

1. That Council endorse the Planning Proposal to amend Clause 5.4(9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.
2. That Council seek a Gateway Determination from the Department of Planning and Environment to enable the Planning Proposal to be placed on public exhibition.
3. That Council recommend a minimum 28 day public exhibition period for the Planning Proposal to seek the views of the community.

CARRIED

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Dickerson	
Councillor Griffiths	
Councillor Matthews	
Councillor Mohr	
Councillor Smith	
Councillor Towney	
Councillor Walkom	
Total (7)	Total (0)

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reasons for such interest is that Councillor B Kelly has family members who own rural and residential land in Dubbo.

Councillor J Walkom declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor J Walkom owns land in the city of Dubbo that may be effected as a result of this proposal.

Councillor T Reynolds declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reasons for such interest is that Councillor T Reynolds owns rural residential land in Dubbo.

PDC15/58 DRAFT STRUCTURE PLAN FOR THE SOUTH-EAST RESIDENTIAL URBAN RELEASE AREA (STAGE 1) (ID15/1641)

The Council had before it the report dated 8 December 2015 from the Strategic Planning Supervisor regarding Draft Structure Plan for the South-East Residential Urban Release Area (Stage 1).

Moved by Councillor K Parker and seconded by Councillor A Smith

MOTION

1. That Council endorse the draft Structure Plan for the South-East Residential Urban Release Area (Stage 1) for the purpose of public exhibition for a minimum of 28 days and to undertake consultation with state public agencies and affected landowners.
2. That the land shown in the draft Structure Plan for the South-East Residential Urban Release Area as B1 Neighbourhood Centre must not consist of an overall area in excess of 1.5 hectares.
3. That any future Planning Proposal to rezone land for the purpose of commercial development on the lands included in the draft Structure Plan titled South-East Residential Urban Release Area Structure Plan provides detailed economic impact assessment which, as a minimum, provides an assessment of the impacts on the Dubbo Central Business District, the Orana Mall Marketplace and other applicable neighbourhood centres based on the adopted commercial hierarchy of the City.
4. That the draft Structure Plan for the South-East Residential Urban Release Area be considered by Council as a two stage process with stage one being the subject of this report and stage two consisting of the following:
 - (i) The consideration of the provision of infrastructure to the balance of the Hillview Lands and other lands;
 - (ii) The consideration of development objectives in the Keswick Residential Estate including principles in respect of land use zoning and development density.
5. That a Councillor workshop be convened in early 2016 to discuss options for the future alignment of the Southern Distributor in the south-east sector of the City.
6. That a further report be presented to Council at the conclusion of the public exhibition period.

CARRIED

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Dickerson	
Councillor Griffiths	
Councillor Matthews	
Councillor Mohr	
Councillor Parker	
Councillor Reynolds	
Councillor Smith	
Councillor Towney	
Councillor Walkom	
Total (9)	Total (0)

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reasons for such interest are that Councillor B Kelly has family members who own residential land in Dubbo that is currently being, and will be developed into the future; Councillor B Kelly and his wife are shareholders of a Company that have shares in a company that has acquired residential land holdings in Dubbo, and Councillor B Kelly is currently co-ordinating the sale of allotments in the family members owned Magnolia and Southlake Estate holdings and the Eykan Holdings land within the Keswick Estate.

**CCL15/150 REPORT OF THE WORKS AND SERVICES COMMITTEE - MEETING 14
DECEMBER 2015 (ID15/1697)**

The Council had before it the report of the Works and Services Committee meeting held 14 December 2015.

Moved by Councillor K Parker and seconded by Councillor R Towney

MOTION

That the report of the Works and Services Committee meeting held on 14 December 2015, be adopted, save and except Clauses WSC15/123, WSC15/127 and WSC15/130 with such Clauses being dealt with separately.

CARRIED

WSC15/123 TRAFFIC MANAGEMENT Eastridge (ID15/1659)

The Council had before it the report dated 7 December 2015 from the Manager Technical Support regarding Traffic Management Eastridge.

Moved by Councillor K Parker and seconded by Councillor L Griffiths

MOTION

That Council approval be granted for the implementation of additional Traffic Management Facilities such as median separation islands within Eastridge Estate as detailed on Council's Plan TM 6978.

CARRIED

Councillor A Smith declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor A Smith owns residential property in the Eastridge Estate.

WSC15/127 REVIEW OF THE DUBBO CITY COUNCIL SIGNIFICANT TREE REGISTER 2016 (ID15/1640)

The Council had before it the report dated 30 November 2015 from the Manager Horticulture Services regarding Review of the Dubbo City Council Significant Tree Register 2016.

Moved by Councillor K Parker and seconded by Councillor L Griffiths

MOTION

That the reviewed Significant Tree Register for 2016, dated 30 November 2015, be adopted effective 1 January 2016.

CARRIED

Councillor J Walkom declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor J Walkom's sister-in-law has lodged applications for trees to be included in the register and Councillor J Walkom lives opposite trees listed in this register.

Councillor T Reynolds declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration. The reason for such interest is that she a Director of A1 Tree Service who could potentially provide tree services to Council.

WSC15/130 AWARD OF CONTRACT TO CONSTRUCT SOUTH DUBBO WEIR ROCK RAMP AND FISHWAY (ID15/944)

The Council had before it the report dated 1 December 2015 from the Director Technical Services and the report of the General Manager dated 14 December 2015 regarding Award of Contract to Construct South Dubbo Weir Rock Ramp and Fishway.

Moved by Councillor K Parker and seconded by Councillor A Smith

MOTION

1. That the report of the General Manger dated 14 December 2015, be noted.
2. That the tender of Stanaway Pty Ltd trading as David Payne Constructions in the amount of \$3,799,180 (ex GST) for the construction of the South Dubbo Weir Rock Ramp and Fishway be accepted.
3. That Council not re-construct the "fan" shaped barriers on top of the weir after the construction of the rock ramp and fishway.
4. That any necessary documents be executed under the Common Seal of the Council.
5. That the documents and considerations in regard to this matter remain confidential to Council.

CARRIED

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor B Kelly's Son-in-Law is the Principal of MAAS Group who is a subcontractor in this tender.

CCL15/151 REPORT OF THE FINANCE AND POLICY COMMITTEE - MEETING 14 DECEMBER 2015 (ID15/1699)

The Council had before it the report of the Finance and Policy Committee meeting held 14 December 2015.

Moved by Councillor J Walkom and seconded by Councillor A Smith

MOTION

That the report of the Finance and Policy Committee meeting held on 14 December 2015, be adopted, save and except Clauses FPC15/132 and FPC15/134 with such Clauses being dealt with separately.

CARRIED

FPC15/132 INVESTMENTS UNDER SECTION 625 OF THE LOCAL GOVERNMENT ACT (ID15/1645)

The Council had before it the report dated 1 December 2015 from the Director Organisational Services regarding Investments Under Section 625 of the Local Government Act.

Moved by Councillor J Walkom and seconded by Councillor A Smith

MOTION

That the information contained within the report of the Director Organisational Services dated 1 December 2015, be noted.

CARRIED

Councillor K Parker declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during Council's consideration. The reason for such interest is that Councillor K Parker is the Manager of the Dubbo Branch of the Bank of Queensland, a bank that Council has funds invested with.

FPC15/134 DUBBO CITY YOUTH COUNCIL PRESENTATION (ID15/1666)

The Council was addressed by representatives of the Dubbo City Youth Council at the December 2015 Finance and Policy Committee.

Moved by Councillor L Griffiths and seconded by Councillor T Reynolds

MOTION

That the presentation by the Dubbo City Youth Council be noted.

CARRIED

Councillor J Walkom declared a non-pecuniary, less than significant interest in the matter now before the Council and remained in the room during the Council's consideration of this matter. The reason for such interest is that Councillor J Walkom is the Chair of the DREAM Festival which was mentioned within the verbal report and that this would not impair his decision making on the matter.

**CCL15/152 REPORT OF THE DUBBO CITY REGIONAL AIRPORT WORKING PARTY -
MEETING 15 DECEMBER 2015 (ID15/1695)**

The Council had before it the report of the Dubbo City Regional Airport Working Party meeting held 15 December 2015.

Moved by Councillor A Smith and seconded by Councillor G Matthews

MOTION

That the report of the Dubbo City Regional Airport Working Party meeting held on 15 December 2015, be adopted.

CARRIED

NOTICES OF MOTION:

CCL15/153 INVESTMENT POLICY AND STRATEGY (ID15/1686)

The Council had before it a Notice of Motion dated 14 December 2015 from Councillor A Smith regarding the Investment Policy and Strategy as follows:

“That Council’s Policy in respect of the review of its Investment Policy and Strategy be amended such that effective 2016, the Investment Policy and Strategy be reviewed and submitted to Council for determination, via Council’s Finance and Policy Committee, in July and December annually.”

Moved by Councillor A Smith and seconded by Councillor G Matthews

MOTION

That Council’s Policy in respect of the review of its Investment Policy and Strategy be amended such that effective 2016, the Investment Policy and Strategy be reviewed and submitted to Council for determination, via Council’s Finance and Policy Committee, in July and December annually.

CARRIED

As one or more Councillors voted against the motion, in accordance with Clause (b)(iv)(2) of Council's Code of Meeting Practice, the following votes were recorded:

FOR	AGAINST
Councillor Griffiths	Councillor Dickerson
Councillor Kelly	
Councillor Matthews	
Councillor Mohr	
Councillor Parker	
Councillor Reynolds	
Councillor Smith	
Councillor Towney	
Councillor Walkom	
Total (9)	Total (1)

NOTICE OF MOTION OF RESCISSION:

CCL15/154 NOTICE OF MOTION OF RESCISSION: S96 (1A) MODIFICATION – DEVELOPMENT APPLICATION D2012-355(3) – FUNCTION CENTRE AND TOURIST ACCOMMODATION, 14L CAMP ROAD, DUBBO (ID15/1711)

We the undersigned give notice that we intend to move a motion to rescind the following resolution (Clause PDC15/54) regarding S96(1A) Modification - Development Application D2012-355(3) - Function Centre and Tourist Accommodation, 14L Camp Road, Dubbo.

The Council also had before it the Mayoral Minute dated 21 December 2015 regarding Notice of Motion of Rescission: S96 (1a) Modification – Development Application D2012-355(3) – Function Centre And Tourist Accommodation, 14L Camp Road, Dubbo.

Moved by Councillor M Dickerson

MOTION

That consideration of CCL15/154 Notice Of Motion Of Rescission: S96(1A) Modification – Development Application D2012-355(3) - Function Centre and Tourist Accommodation, 14L Camp Road, Dubbo be deferred pending the completion and finalisation of the Code of Conduct complaint lodged against a Councillor and as relating to the subject agenda item.

CARRIED

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Dickerson	
Councillor Griffiths	
Councillor Kelly	
Councillor Matthews	
Councillor Mohr	
Councillor Parker	
Councillor Reynolds	
Councillor Smith	
Councillor Towney	
Councillor Walkom	
Total (10)	Total (0)

REPORTS FROM STAFF:

CCL15/155 DAISY HILL PLANNING PROPOSAL - LOTS 661 AND 662 DP 565756, LOT 200 DP 825059, LOTS 64 AND 65 DP 754287, LOTS 316 AND 317 DP 754308, PINEDALE, TORWOOD AND EULOMOGO ROADS, DUBBO.
OWNER/APPLICANT: BOURKE SECURITIES PTY LTD (ID15/1685)

The Council had before it the report dated 15 December 2015 from the Director Environmental Services regarding Daisy Hill Planning Proposal - Lots 661 and 662 DP 565756, Lot 200 DP 825059, Lots 64 and 65 DP 754287, Lots 316 and 317 DP 754308, Pinedale, Torwood and Eulomogo Roads, Dubbo.

Moved by Councillor A Smith and seconded by Councillor K Parker

MOTION

1. That the Department of Planning and Environment be advised that Council does not wish to be the Relevant Planning Authority (RPA) for the Daisy Hill Planning Proposal.
2. That the significance of the salinity issue associated with the subject land be reinforced to the Department of Planning and Environment.

CARRIED

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Dickerson	
Councillor Griffiths	
Councillor Matthews	
Councillor Mohr	
Councillor Parker	
Councillor Reynolds	
Councillor Smith	
Councillor Towney	
Councillor Walkom	
Total (9)	Total (0)

Councillor B Kelly declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reasons for such interest are that Councillor B Kelly has family members who own residential land in Dubbo that is currently being, and will be developed into the future; Councillor B Kelly and his wife are shareholders of a Company that have shares in a company that has acquired residential land holdings in Dubbo, and Councillor B Kelly is currently co-ordinating the sale of allotments in the family members owned Magnolia and Southlake Estate holdings and the Eykan Holdings land within the Keswick Estate.

Councillor A Smith assumed chairmanship of the meeting for consideration of this matter.

CCL15/156 DRAFT DUBBO CBD PRECINCTS PLAN (ID15/1690)

The Council had before it the report dated 15 December 2015 from the Manager City Strategy Services regarding Draft Dubbo CBD Precincts Plan.

Moved by Councillor G Matthews and seconded by Councillor L Griffiths

MOTION

1. That the draft CBD Precincts Plan (Appendix 1 of the report of the Manager City Strategy Services dated 15 December 2015) be adopted for the purposes of public exhibition.
2. That the draft CBD Precincts Plan be placed on public exhibition for a period of no less than 28 days.
3. That following completion of the public exhibition period, a further report be prepared for the consideration of Council providing the results of public exhibition, including any submissions received.

In accordance with s375A(2) of the Local Government Act 1993, a division was duly called, the following votes on the motion were recorded:

FOR	AGAINST
Councillor Griffiths	
Councillor Kelly	
Councillor Matthews	
Councillor Mohr	
Councillor Smith	
Councillor Towney	
Total (6)	Total (0)

Councillor M Dickerson declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor M Dickerson owns a business in Macquarie Street, Dubbo, which is located within the Central Business District.

Councillor K Parker declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor K Parker is the Manager of the Dubbo Branch of the Bank of Queensland who rents property in Macquarie Street, Dubbo, which is located within the Central Business District.

Councillor T Reynolds declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor T Reynolds owns commercial property in the Central Business District.

Councillor J Walkom declared a pecuniary, significant interest in the matter now before the Council and left the room and was out of sight during the Council's consideration of this matter. The reason for such interest is that Councillor J Walkom is a partner in commercial property in the Central Business District.

Councillor M Dickerson resumed chairmanship of the meeting.

CCL15/157 COMMENTS AND MATTERS OF URGENCY (ID15/1689)

There were no matters recorded under this clause.

At this juncture it was moved by Councillor G Matthews and seconded by Councillor A Smith that the Council resolve into the Committee of the Whole Council, the time being 6.28pm.

The meeting resumed at 6.37pm.

CCL15/158 COMMITTEE OF THE WHOLE

The Director Community Services read to the meeting the Report of Committee of the Whole Council held on 18 December 2015.

Moved by Councillor G Matthews and seconded by Councillor A Smith

MOTION

That the report of the meeting of Committee of the Whole Council held on 18 December 2015 be adopted.

CARRIED

The meeting closed at 6.38pm.

.....
CHAIRMAN

Request for Initial Gateway Determination

Relevant Planning Authority Details

Dubbo City Council

Contact Person: Steven Jennings

(02) 6801 4000 steven.jennings@dubbo.nsw.gov.au

Planning Proposal Details

Complete Planning Proposal attached

Planning Proposal – Secondary Dwellings Provisions

Signed for and on behalf of the Relevant Planning Authority:

A handwritten signature in black ink, appearing to read 'Mark Riley', is written over a light blue horizontal line.

Mark Riley

General Manager

Request for Initial Gateway Determination

Instructions to Users

When forwarding a planning proposal to the Minister under section 56(1), the relevant planning authority must provide the information specified on this form. This form and the required information should be sent to your local Regional Office. Please note one (1) electronic copy and two (2) hard copies of the completed Planning Proposal must be sent to your local Regional Office.

Relevant Planning Authority Details

Name of Relevant Planning Authority: Dubbo City Council
Contact Person: Steven Jennings
Contact Phone Number and Email Address: (02) 6801 4000
steven.jennings@dubbo.nsw.gov.au

Planning Proposal Details - Attachments

- | | | |
|----|--|-----------|
| 1. | LAND INVOLVED (If relevant - e.g. Street Address and Lot and Deposited Plan): | NA |
| 2. | MAPS (If applicable – 1 electronic and 2 hard copy)
<ul style="list-style-type: none"> ○ Location map showing the land affected by the proposed draft plan in the context of the LGA (tagged 'location map'). ○ Existing zoning map showing the existing zoning of the site and surrounding land and proposed zoning change for the site/s (tagged 'comparative existing/proposed zoning') | NA |
| 3. | PHOTOS and other visual material (if applicable)
<ul style="list-style-type: none"> ○ Aerial photos of land affected by the Planning Proposal ○ Photos of land involved and surrounding land uses | NA |
| 4. | COMPLETE PLANNING PROPOSAL (1 electronic and 2 hard copy)
<ul style="list-style-type: none"> ○ <u>All</u> matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land) in accordance with a 'Guide to preparing a planning proposal' are completed prior to forwarding to the Regional Office in the first instance. See <u>attached</u> pro-forma. | ✓ |
| 4. | PLANNING PROPOSAL HAS BEEN SUPPORTED BY COUNCIL
<ul style="list-style-type: none"> ○ Council has considered the written planning proposal before it is sent to the Department of Planning. ○ <u>Attached</u> is Council's resolution to send the written planning proposal to the Department of Planning. | ✓ |



Signed for and on behalf of the Relevant Planning Authority

DATE: 23/12/15

General Manager
DUBBO CITY COUNCIL

PLANNING PROPOSAL

SECONDARY DWELLINGS PROVISIONS

Part 1 - Objectives or Intended Outcomes [see Page 2 of 'A guide to preparing a planning proposal]

The objective of this planning proposal is to facilitate an amendment to Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of secondary dwellings from 40% of the size of the principal dwelling to 65% of the size of the principal dwelling. It is intended that the planning proposal will provide a greater range of options for the development of affordable housing with minimal environmental impact. It is also intended that the planning proposal will enable the City to provide a range of residential housing styles and sizes reflective of the current and future demographic profile.

Part 2 - Explanation of Provisions [see Page 3-4 of 'A guide to preparing a planning proposal]

The planning proposal seeks to amend the Dubbo Local Environmental Plan 2011 by undertaking an amendment to the provisions for secondary dwellings under Clause 5.4 (9)(b). The proposed outcome will be achieved by:

- Amending Clause 5.4 (9)(b) of the Dubbo Local Environmental Plan 2011 to increase the maximum floor area of a secondary dwelling from 40% of the total floor area of the principal dwelling to 65% of the total floor area of the principal dwelling.

Part 3 - Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report? [see Page 5 of 'A guide to preparing a planning proposal]

The planning proposal is not the result of any strategic plan or report.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? [see Page 5 of 'A guide to preparing a planning proposal]

It is considered that the planning proposal is the best means of achieving the proposed outcome.

Section B - Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions contained within the applicable **regional or sub-regional strategy** (including the Sydney Metropolitan Strategy and exhibited draft strategies)? [see Page 6 of 'A guide to preparing a planning proposal]

There is no regional or sub-regional strategy applicable to the planning proposal.

4. Is the planning proposal consistent with the local council's **Community Strategic Plan**, or other **local strategic plan**? [see Page 7 of 'A guide to preparing a planning proposal]

It is considered that the planning proposal is broadly consistent with the following key strategies:

- Dubbo 2036 Community Strategic Plan;
- Dubbo Urban Areas Development Strategy; and
- Dubbo Rural Areas Development Strategy.

5. Is the planning proposal consistent with applicable state **environmental planning policies**?
[see Page 7 of 'A guide to preparing a planning proposal']

The planning proposal is consistent with all applicable State Environmental Planning Policies. It is considered that nothing in the planning proposal will impact upon the aims and objectives of any SEPP.

6. Is the planning proposal consistent with applicable **Ministerial Directions** (s.117 directions)?
[see Page 7 of 'A guide to preparing a planning proposal']

It is considered that the planning proposal is consistent with the following Section 117 Directions:

- Direction 1.1 Business and Industrial Zones;
- Direction 1.2 Rural Zones;
- Direction 1.5 Rural Lands;
- Direction 2.1 Environment Protection;
- Direction 2.3 Heritage Conservation;
- Direction 3.1 Residential Zones;
- Direction 3.3 Home Occupations;
- Direction 3.4 Integrating Land Use and Transport;
- Direction 3.5 Development Near Licensed Aerodromes;
- Direction 3.6 Shooting Ranges;
- Direction 4.3 Flood Prone Land;
- Direction 4.4 Planning for Bushfire Protection;
- Direction 6.1 Approval and Referral Requirements; and
- Direction 6.3 Site Specific Provisions.

It is considered that the planning proposal is inconsistent with the following Section 117 Direction/s, however, the inconsistency is of minor significance:

- Direction 1.3 Mining, Petroleum Production and Extractive Industries.

Section C - Environmental, social and economic impact.

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? [see Page 7-8 of 'A guide to preparing a planning proposal']

The planning proposal is unlikely to adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? [see Page 8 of 'A guide to preparing a planning proposal']

It is considered that the planning proposal is unlikely to have any significant environmental effects.

9. How has the planning proposal adequately addressed any social and economic effects? [see Page 8 of 'A guide to preparing a planning proposal']

The planning proposal has not identified any significant social or economic effects.

Section D - State and Commonwealth interests.

10. Is there adequate public infrastructure for the planning proposal? [see Page 8 of 'A guide to preparing a planning proposal']

It is considered that there is adequate public infrastructure for the planning proposal. Any existing infrastructure provided for a principal dwelling in association with a secondary dwelling as a result of the planning proposal is likely to be adequate to also service the needs of a secondary dwelling.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal? [see Page 9 of 'A guide to preparing a planning proposal']

Note (1): Do State or Commonwealth own or have an interest in any of the land involved?

Note (2): The RPA must list the State and Commonwealth public authorities to be consulted.

At the present time no State or Commonwealth Agencies have been consulted. State and Commonwealth public authorities will be consulted in accordance with the Gateway determination and will be given at least 21 days to comment on the proposal.

The following table provides a summary of the relevant public authorities, which in the opinion of Council, should be consulted in accordance with the Gateway Determination:

Public authority/ stakeholder	Issue requiring comment
Civil Aviation Safety Authority	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 3.5 to consult with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome.
NSW Rural Fire Service	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 to consult with the Commissioner of the NSW Rural Fire Service.
Department of Primary Industries	Impact of permitting larger sized secondary dwellings on farming and rural industries.

Section E – Reclassification of Public Land. (Note: Only required if reclassifying public land. Delete this section if not applicable)

12. Is the planning proposal a result of any strategic study or report? [see Page 5 & 11 of 'A guide to preparing a planning proposal']

Not applicable.

13. Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

It is considered that the planning proposal is broadly consistent with the Dubbo 2036 Community Strategic Plan.

14. If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished.

Not applicable.

15. The concurrence of the landowner, where the land is not owned by the relevant planning authority.

Not applicable.

Part 4 - Community Consultation [see Page 9 of 'A guide to preparing a planning proposal]

Council in consideration of the planning proposal resolved for the proposal to be placed on public exhibition for a minimum period of 28 days.

Part 5 – Risks to the Planning Proposal. [RPA must identify possible risks]

NOTE (1): RPA must identify strategic and operational risks that could adversely impact the progress of the planning proposal and the making of the plan within the required time frame. Examples of risks Council should consider include;

- State or Commonwealth public authority objection to the LEP
- Community objection to the LEP
- Time required to resolve public and or community objections
- Requirement to re-exhibit
- Requirement for a public hearing
- Missing Council meetings
- Delay in finalising the associated development control plan
- Department of Planning delay in resolving Standard Instrument policy and practice
- Department of Planning changing Standard Instrument policy and practice
- Council staff taking leave or resigning
- Council lack of resources (please specify e.g. Council does not have capacity to complete SI LEP mapping)

NOTE (2): If the RPA believes a risk will prevent the making of the plan within the required time frame the RPA should consider not lodging a planning proposal with the Department of Planning until the risk has been resolved.

Council has considered the potential risks which could have an adverse effect on the completion of the proposal within the required time frame, including:

- Community objection to the planning proposal;
- Time required to address public and or community objections; and
- Request for a public hearing by the community.

Part 6 – Benchmark Timeframes for making the Plan.

Note: You cannot delete or alter any of the following statements except were directed to select an option.

1. The plan will be made within 6 months of the Gateway Determination date.
2. The Planning Proposal will be exhibited within 4 weeks of the Gateway Determination date.
3. Community Consultation will be completed 28 days from the last day the Planning Proposal must be exhibited

4. Public Authority Consultation will be completed within 35 days of the Gateway Determination date.
5. The RPA will request the Department to draft and finalise the LEP no later than 6 weeks prior to the projected making of the plan date specified in point 1.