

## Planning and Assessment

IRF20/4881

### Gateway determination report

<b>LGA</b>	Dubbo Regional Council (DRC)
<b>PPA</b>	Dubbo Regional Council
<b>NAME</b>	Amendment to Schedule 1(5) of the Dubbo Local Environmental Plan 2011 to permit a pub with development consent, as an Additional permitted use, on Part Lot 501 DP 1255115, Boundary Road, Dubbo.
<b>NUMBER</b>	PP_2020_DREGI_001_00
<b>LEP TO BE AMENDED</b>	Dubbo Local Environmental Plan 2011
<b>ADDRESS</b>	Boundary Road, Dubbo
<b>DESCRIPTION</b>	Part Lot 501 DP 1255115
<b>RECEIVED</b>	13 October 2020
<b>FILE NO.</b>	IRF20/4881
<b>POLITICAL DONATIONS</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend Dubbo Local Environmental Plan 2011 as follows:

- Permit a pub with development consent, as an Additional permitted use in Schedule 1(5) on Part Lot 501 DP 1255115 Boundary Road, Dubbo.

The planning proposal was reported to Dubbo Regional Council (DRC) on 29 June 2020, Council resolved to support the proposal as submitted by the proponent.

### 1.2 Site description

The subject land is described as Part Lot 501 DP 1255115 Boundary Road, Dubbo. The land has an area of 2ha and has a frontage to Boundary Road. The land is a vacant, cleared lot, that is zoned B1 Neighbourhood Centre. The subject land is within the South-East Residential Urban Release Area under the provisions of the Dubbo Local Environmental Plan 2011. The subject site is within the planned extension of Boundary Road to the north. The western and southern boundaries of the site adjoin R1 General Residential zoned land and the eastern boundary abuts the Southlakes drainage reserve.

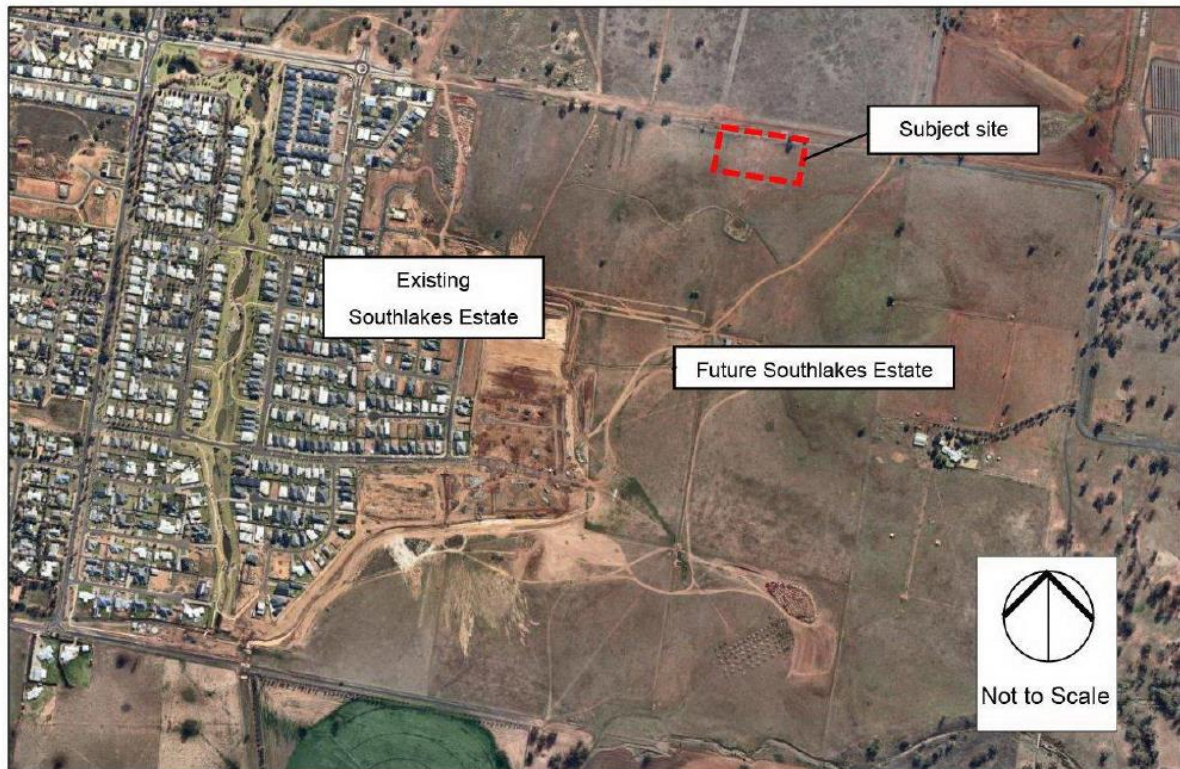


Figure 1 Subject land map: Source- MAAS Planning Proposal report, 2020

### 1.3 Existing planning controls

The site is zoned B1 Neighbourhood Centre in the Dubbo Local Environmental Plan 2011.

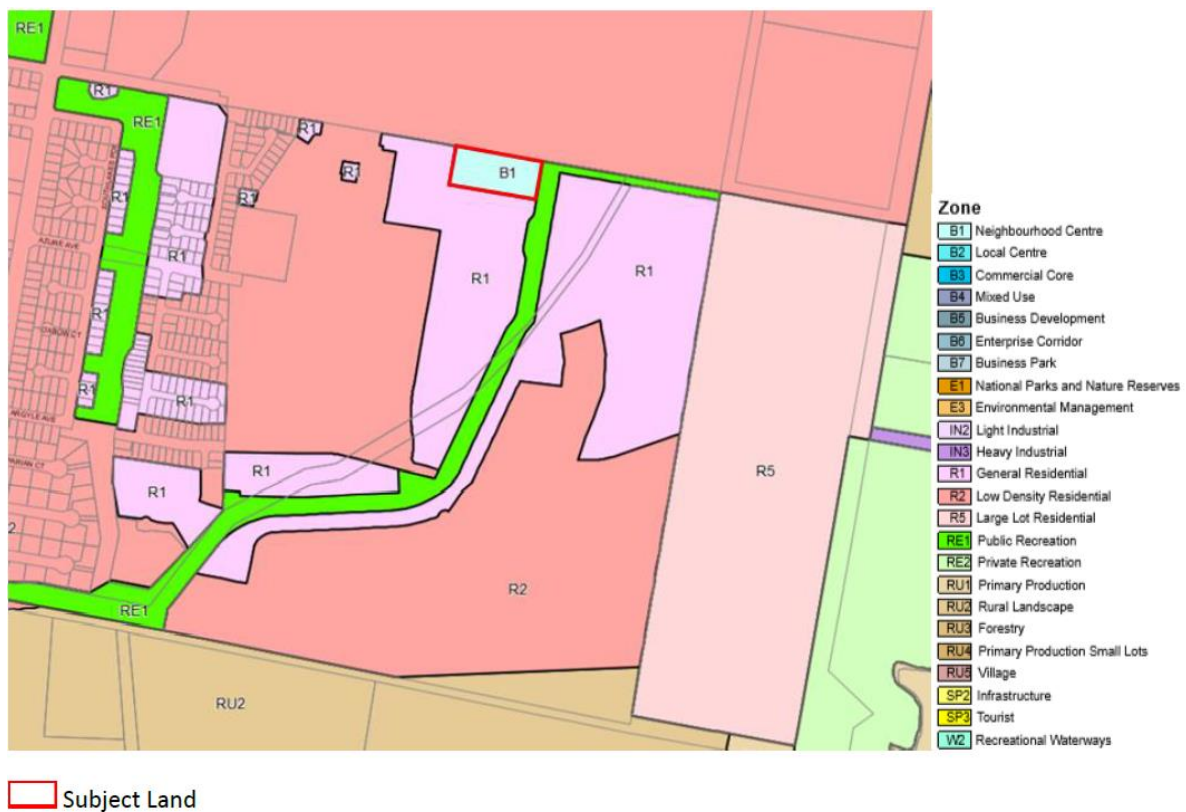


Figure 2: Existing zoning. Source- Dubbo Regional Council Planning Proposal report, 2020

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives of the proposal are contained in section 2.2.5, Page 10 of the planning proposal. They clearly articulate the intended outcome of the planning proposal is to facilitate the development of a pub, within the planned neighbourhood centre.

### **2.2 Explanation of provisions**

The explanation of provisions is contained in Part 3.2, page 15 of the planning proposal. The proposal will achieve its objectives by amending Schedule 1(5) Additional permitted uses under Dubbo Local Environmental Plan 2011 (LEP).

This proposal should also amend Schedule 1(5) to insert updated property details, as a result of more recent land subdivision of the subject land. This amendment is not included in the planning proposal as it was identified during assessment of the proposal. The Gateway determination has been conditioned to require the planning proposal to be updated prior to public exhibition to reflect this intent.

### **2.3 Mapping**

The proposal will not require a mapping amendment as the subject land is currently identified on the Additional Permitted Uses Map APU\_008B as (5).

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal seeks to permit the development of a pub on the site, as part of the development of a neighbourhood centre. The amendment will support the Southlakes Estate Master Plan, which includes the establishment of a neighbourhood centre precinct in the centre of the Southlakes Estate. The neighbourhood centre will provide community services, including a supermarket, space for specialty stores, restaurants and cafes. It is agreed that a planning proposal is the best means for achieving the intended outcomes.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

There are no State strategies applicable to the proposal.

### **4.2 Regional / District**

The planning proposal is consistent with the objectives of the Central West and Orana Regional Plan 2036 by providing for growth in Dubbo, an identified strategic centre. Section 4.2, page 17, of the planning proposal provides detailed justification which adequately demonstrates that the proposal is consistent with the relevant directions of the Regional Plan.

Action 10.6 of the Regional Plan specifically relates to proposals for retail development:

*Accommodate future commercial and retail activity in existing commercial centres, unless there is a demonstrated need or social and economic benefits to locating this activity elsewhere.*

A social impact assessment has been included in the planning proposal which supports the development of the site, including a pub. The amendment will allow for the development of a pub within a planned neighbourhood centre.

The proposal satisfactorily addresses action 10.6 of the Regional Plan.

#### **4.3 Local**

##### 2040 Community Strategic Plan

The Council report accompanying the proposal identifies consistency with the 2040 Community Strategic Plan, strategic objectives 1.5 and 3.2. The proposed pub is intended to be a local meeting place that is within walking distance for residents living in Southlakes Estate. It is anticipated that the pub will provide up to 26 ongoing, full time jobs and an additional 8 short-term construction jobs.

##### Dubbo Employment Lands Strategy 2019 (ELS)

The planning proposal does not reference its alignment with the ELS. However, the Council report identifies the proposal's consistency with the ELS. Page 10 of the report identifies that the proposed gastropub will provide an estimated 580m<sup>2</sup> of additional floorspace (Dubbo is projected to have an undersupply of 7,185m<sup>2</sup> by 2031).

As identified in the Council report, the subject land is located within the Southlakes Neighbourhood Centre Precinct under the ELS. The proposed centre has been identified to have an estimated trade area of 10,000 residents by 2031 and has a gross floor area (GFA) requirement of up to 5,000m<sup>2</sup>. The proposed pub will have an estimated GFA of 580 m<sup>2</sup> which is not anticipated to have any significant impact on retail in the Dubbo Central Business District.

The Planning Proposal is considered consistent with the Dubbo Employment Lands Strategy.

##### South East Dubbo Residential Urban Release Area Structure Plan

As identified on page 11 of the Council report, the pub is intended to address the current undersupply for restaurants, take away food and drink premise, hotels and clubs in Dubbo. In addition, it is anticipated that the small scale of the proposed development is unlikely to result in any detrimental impacts on existing venues, given the current and anticipated growth in Dubbo. The proposal is considered consistent with this Plan.

##### Dubbo City Planning & Transportation Strategy 2036 (Transport Strategy)

In line with the Transport Strategy, the pub will have direct access to Boundary Road, with parking available as part of the Neighbourhood Centre development. A traffic study has also been prepared to support the amendment. The proposal has adequately addressed the strategy and is consistent with the provisions.



## Dubbo Regional Council Local Strategic Planning Statement (LSPS)

The planning proposal does not reference its alignment with the Dubbo Regional LSPS. The Council report addresses the alignment with the LSPS. On assessment of the planning proposal, it is not inconsistent with the LSPS. The planning proposal gives effect to Planning Priority 8: Ensure supply of employment generating land and Planning Priority 12: Create sustainable and well-designed neighbourhoods.

Maintaining economic diversity within B1 Neighbourhood zoned land and continuing to promote a range of employment and business opportunities is a key priority in the LSPS.

### **4.4 Section 9.1 Ministerial Directions**

Assessing the proposal, it is determined to be consistent with the following section 9.1 Directions:

- 1.1 Business and Industrial Zones.
- 2.3 Heritage Conservation
- 2.6 Remediation of Contaminated Land
- 3.4 Integrating Land Use and Transport
- 5.10 Regional Plans
- 6.1 Approval and Referral Requirements.

The proposal is inconsistent with the following Section 9.1 Ministerial Directions:

#### Direction 4.3 Flood Prone Land

The subject land is within a lot, which, at its southern extremity is mapped under the Dubbo LEP 2011 as being within a flood planning area. The Direction states that a planning proposal must not permit a significant increase in the development of that land.

Given the subject land is not within the flood planning area it is a minor inconsistency and is justified in accordance with the terms of the direction.

#### 6.3 Site Specific Provisions

Direction 6.3 Site Specific Provisions is relevant to the planning proposal given site specific provisions are being applied to the land.

An assessment of this Direction demonstrates that the site-specific controls are minor in nature and are consistent with the objectives of zone B1 Neighbourhood Centre.

The planning proposal does not consider alternatives to the additional permitted use entry such as including the use as permissible across the B1 zone or rezoning the land to a zone where the use is permissible (eg. B2). In this case the inconsistency is considered minor however future planning proposals for APUs should assess alternatives.

### **4.5 State environmental planning policies (SEPPs)**

The planning proposal identifies the following SEPPs as applicable:

- SEPP Koala Habitat Protection

- SEPP No 55 – Remediation of Land
- SEPP No. 64 – Advertising and Signage
- SEPP (Infrastructure) 2007
- SEPP (Exempt and Complying Development Codes) 2008

The abovementioned SEPPs are not relevant to determining the strategic merit of the planning proposal and may be considered as part of any future development applications on the land.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

Page 8 of the Council report highlights that a Social Impact Assessment was prepared by Umwelt and submitted as part of the planning proposal. The anticipated social benefits include increasing social places and spaces, promoting appropriate development within a planned neighbourhood centre and increasing social amenity. The intent of the planning proposal is to allow the development of a pub, which has the potential to produce social issues. Making the proposal available to the public for comment for 28 days will provide the community with time to comment on the addition of a licensed premises in the community.

### **5.2 Environmental**

The site is currently cleared of major habitat. The site is zoned B1 Neighbourhood Centre. The site-specific environmental factors of the site will be considered at development application stage.

### **5.3 Economic**

The proposal will support the development of a planned neighbourhood centre, as part of the development of Southlakes Estate. The neighbourhood centre will provide community services, including a supermarket, space for specialty stores, restaurants and cafes. It is agreed that a planning proposal is the best means for achieving the intended outcomes. It is anticipated that the pub will provide up to 26 ongoing, full time jobs and additional 8 short-term construction jobs.

### **5.4 Infrastructure**

A Servicing Strategy has been included with the planning proposal. This Strategy provides details in relation to servicing the site for water supply, sewerage, power and communications. The Strategy identifies that the site is currently not serviced, however as part of the development of Southlakes Estate the site will be serviced in the short term. The planning proposal notes that the amendment is not considered to compromise the adopted Servicing Strategy and the previous requirements established for the neighbourhood centre zoning.

## **6. CONSULTATION**

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### **6.1 Community**

Section 5.1, page 20 of the planning proposal identifies that the proposal as low impact and therefore recommends that the proposal be placed on exhibition for 14 days.

The proposed period is noted and while the proposal is considered minor in nature, as the amendment will allow for the development of a licensed premises it is determined the community should be given more time to comment on the proposal. The Gateway determination will require the planning proposal be made publicly available for 28 days.

### **6.2 Agencies**

Agency consultation has not been proposed in the planning proposal. Consultation with agencies is not required.

## **7. TIME FRAME**

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The proposed time frame for completing the amendment, as proposed by Council, is 6 months. This is considered appropriate due to the minor nature of the proposal.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested not to be the local plan-making authority given it is the owner and developer of the adjoining land. It is considered, however, that Council be given delegation to finalise the plan.

## **9. CONCLUSION**

The planning proposal is recommended to proceed with conditions as it:

- Demonstrates strategic and site merit.
- Is consistent with relevant Regional Plan, local plans and strategies.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that the inconsistencies with section 9.1 direction 4.3 Flood Prone Land and direction 6.3 Site Specific Provisions are minor in nature and no further work is required.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the following is required:
  - (a) update the planning proposal to include reference to the correct property description (Part Lot 501 DP 1255115), and
  - (b) amend the planning proposal to include the intent to amend the existing property description in Schedule 1(5) to reflect the correct Lot and DP.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:

- (c) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (d) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
- 3. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act
  - 4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
  - 5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
    - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
    - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
    - (c) there are no outstanding written objections from public authorities.
  - 6. The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.



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12.11.20

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