

## Planning and Assessment

IRF19/6166

### Submissions Report – Planning proposal – “Daisy Hill”, Dubbo.

**JRPP No:** 2016WES006/PP\_2016\_DUBBO\_005\_03

**Local government area:** Dubbo Regional Council

**Proposal:** To reduce the minimum lot size of land to facilitate the creation of 222 lots with a range of minimum lot sizes on land known as “Daisy Hill” and “Firgrove”, Dubbo

**Site Description:** The proposal applies to land known as “Daisy Hill” Estate, Dubbo being the following land (**Attachment A1 - Locality Map** and **Attachment A2 - Lot Map**):

- Lot 661 DP 565756 (approx. 54 ha)
- Lot 662 DP 565756 (approx. 10 ha)
- Lot 64 DP 754287 (approx. 130 ha and has a dwelling house known as “Peachville Park.
- Lot 65 DP 754287 (approx. 65 ha) and has a local heritage item thereon.
- Lot 316 DP 754308 (approx. 62 ha)
- Lot 317 DP 754308 (approx. 62 ha) and
- Lot 200 DP 825059 (approx. 47 ha) - “Firgrove” - this lot is included in the planning proposal however forms part of the existing “Firgrove Estate”. This land is currently zone R5 Large Lot Residential with a minimum lot size (MLS) of 1.5ha and has the potential to yield 26 lots. There is no change in zone or MLS proposed. This land contains a dwelling house known as “Firgrove Homestead”

The “Daisy Hill” component of the land has an area of about 383 ha. It is proposed to subdivide this land into 196 lots having a varying lot MLS of 6000m<sup>2</sup>, 1.5 ha and 3 ha.

The total lot yield proposed for “Daisy Hill” (196 lots) and “Firgrove” (26 lots) is 222 lots.

**Applicant/Owner:** Bourke Securities

**Number of Submissions:** 17 submissions: 13 in objection (including one petition with 38 signatures), one in support, 2 from agencies (Biodiversity Conservation Division (BCD) and Roads and Maritime Services (RMS). Dubbo Regional Council (Council) on 16 August 2019 also made a submission as an objection to the proposal. Council made an additional submission on 14 October 2019 in relation to the draft Development Control Plan (DCP). The NSW Rural Fire Service (RFS) was previously consulted to satisfy condition 1 of the Gateway determination and to provide consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection. RFS in a letter dated 29 November 2016 (**Attachment B - RFS**) did not raise objection to the proposal subject to complying with Planning for Bushfire Protection 2006.

**Recommendation:** Proceed to finalising the LEP with site specific LEP clauses to control lot size and lot yield, acknowledge the Salinity Management Strategy (SMS) and adopt the draft Development Control Plan (DCP).

## 1. EXECUTIVE SUMMARY

### Purpose.

The purpose of this report is to provide a summary of and address key issues raised by members of the public, Council, BCD and RMS. The format of this report is as follows:

Section 1 - Executive Summary

Section 2 - Summary of the exhibition submissions.

Section 3 - Response to the issues raised.

Section 4 - Development Control Plan; and

Section 5 - Recommendation.

### Subject land

The subject land known as “Daisy Hill” is located approximately 8 km east of Dubbo. (**Attachment A1 - Locality Map** and **Attachment A2 - Lot Map**). The proposal contains two (2) components being the “Daisy Hill” area that has an area of about 383 ha. The “Firgrove” (Lot 200) portion has an area of about 47 ha already with a minimum lot size (MLS) of 1.5 ha that provides the opportunity for 26 lots.

The land is currently zoned R5 – Large Lot Residential under the Dubbo LEP 2011 with a minimum lot size of 8ha and 1.5ha that has the potential to yield 40 lots at “Daisy Hill” and “Firgrove” with 26 x 1.5 ha lots. The existing zoning and MLS are underpinned by the work contained in the Department endorsed Dubbo Residential Areas Development Strategy where the land is identified for large lot residential purposes.

The land is in the upper reaches of Troy Gully catchment that is known to be affected by salinity. The Dubbo City Urban Salinity Management Strategy and Implementation Plan (**Attachment C - Dubbo Salinity Strategy**) applies to the land and the catchment in which “Daisy Hill” is located.

### Planning proposal

The planning proposal (**Attachment D - Planning Proposal**) seeks to reduce the minimum lot size of land to facilitate the creation of a maximum of 222 lots with a range of lot sizes of 6,000m<sup>2</sup>, 1.5ha and 3ha on land known as “Daisy Hill” (196 lots) and “Firgrove” (26 lots), Dubbo. The existing zone of R5 – Large Lot Residential is to be maintained. There is no change to the “Firgrove” (Lot 200) which is currently zone R5 – Large Lot Residential with an MLS of 1.5 ha.

### Process so far

- 25 October 2013 - Planning proposal submitted to Dubbo City Council.
- 30 November 2015 - Council did not determine the proposal in the specified time and the Proponent made application for a Rezoning Review (PGR\_2015\_DUBBO\_001\_00). On 30 November 2015 the Western Joint Regional Planning Panel (Panel) recommended that the proposal should proceed to Gateway determination.
- 18 March 2016 - The Panel was appointed as the Relevant Planning Authority – now Planning Proposal Authority (PPA) by the Minister for Planning. (**Attachment E - Planning Proposal Authority**)

- 9 June 2016 - A conditional Gateway determination (**Attachment F - Gateway determination**) was issued in support of the proposal, which required among other things the preparation of a Salinity Management Strategy (SMS), Development Control Plan (DCP), community consultation and consultation with Council and Office of Environment and Heritage (now Biodiversity Conservation Division - BCD), Roads and Maritime Services (RMS) and the NSW Rural Fire Service (RFS).
- 1 December 2016, 14 March 2017 and 17 November 2017 – Salinity workshops - the key issue with the proposal has been salinity impacts. Salinity technical workshops were held between the Departments of Planning, Water, Primary Industries, Dubbo Regional Council and the Proponent. The purpose of these meetings was to agree on methodology and data inputs. The Proponent provided further information in accordance with the outcome of these meetings.
- 14 June 2018 - the Department engaged EMM Consulting to undertake an independent review having regard to the additional work by the Proponent and comments by Council. EMM Consulting report dated 14 June 2018 (**Attachment G - EMM 2018**) found the proposal could proceed subject to appropriate vegetation plantings, appropriate water and landscaping engineering along roads and near buildings to mitigate against water logging, staging the development and ongoing monitoring and response regime.
- 15 April 2019 - The matter was reconsidered by the Panel. On 15 April 2019 the Panel agreed to amend the description of the proposal from 284 lots to 222 lots, amend condition 2 regarding salinity management strategy, extend timeframe until 16 March 2020 and allow the matter to proceed to community consultation. (**Attachment H - Panel Record of Decision 2019**).
- 13 May 2019 - Alteration of Gateway determination issued (**Attachment I - Gateway Alterations**).
- 15 July 2019 – 16 August 2019 - The planning proposal (with the draft SMS and DCP) was publicly exhibited in accordance with the Gateway determination.
- A total of 17 submissions were received. 13 public submissions were against the proposal including one (1) petition with 38 signatures (**Attachment J – Redacted Submissions**) Agency submissions were received from BCD (**Attachment K**) and RMS (**Attachment L**) who did not object to the proposal but raised matters to be addressed in the SMS and at Development Application stage. One public submission supported the proposal that raised issues for consideration. Dubbo Regional Council made a submission opposing the proposal (**Attachment M – Council submissions**)
- 24 March 2020 - The Proponent was requested to respond to the submissions and amend the draft SMS and DCP as required. This work was submitted to the Department on 24 March 2020. (**Attachments N - Proponent – Response to Submissions; O- Proponent – SMS - Salinity Management Strategy; P - Proponent – DCP - Development Control Plan; Q – Proponent – VMP- Vegetation Management Plan; R – Proponent - Onsite Effluent Management Study**).
- 17 April 2020 - A further independent review was undertaken by EMM Consulting (**Attachment S - EMM 2020**) on the revised draft SMS and draft DCP after amendments were made by the proponent as a result of the exhibition process. This review was completed by EMM Consulting on 17 April 2020 and recommended that the draft SMS and draft DCP were adequate in terms of modelling, the proposed mitigation and monitoring methods although could be improved by detailed Groundwater Monitoring Plan and Vegetation Management Plan.

## **Recommendation**

Having assessed all the information and the matters raised during community consultation and the final EMM Consulting review it is recommended that the proposal proceed to finalisation.

## **2. SUMMARY OF SUBMISSIONS**

The following section provides a summary of the key issues raised by members of the public and public authorities.

### **2.1. APPROACH TO PUBLIC SUBMISSIONS**

Most submissions raised multiple issues of similar nature. Therefore, rather than addressing each submission individually, the issues raised have been grouped into categories.

### **2.2. SUBMISSIONS OF OBJECTION**

#### **Public Submissions**

There were 13 public submissions (including 1 Petition with 38 signatories) against the proposal raising the following issues (**Attachment J – Redacted Submissions**):

- Loss of amenity
- Small lots incompatible with rural area
- Demand for additional lots in area
- Traffic generation and road network capacity
- Impact on agricultural land
- Surface water flooding/overland flow
- Salinity impacts on the site and downstream
- Servicing, telecommunications and low water pressure already in the area for adjacent rural residential housing estate
- Lack of public space provision
- Social impacts from increased population i.e. crime
- Decreased home values and increase rental occupation in the area
- No parcel post service to the area

### **2.3. Submission in support**

There was one submission in support of the proposal. This submission supported the opportunity for development in this area however raised issues for consideration about increased traffic and impact on amenity from more people living in the area.

### **2.4. Submissions by agencies**

Two (2) agency submissions were received.

BCD (**Attachment K – BCD**) made a submission, raising the following issues:

- Require ongoing salinity and groundwater monitoring and response program within the Salinity Management Plan; and
- Identified that the impact of clearing native vegetation and potential biodiversity offsets needed to be addressed at Development Application stage.

This submission has been addressed in the SMS, DCP and furthermore in the EMM Consulting Review dated 17 April 2020. The enhanced Groundwater Monitoring Plan

and Vegetation Management Plan can be incorporated in the SMS and DCP or can be undertaken at the Development Application stage.

RMS submission was received on 5 November 2019 (**Attachment L - RMS**) and did not raise an objection to the proposal. RMS identified that any future development application for the subdivision of the land at the site will require a Traffic Impact Assessment in accordance with Schedule 2 of the RTA Guide to Traffic Generating Development 2002. This matter will be addressed in detail at the Development Application stage.

## **2.5. Submissions by Dubbo Regional Council (Attachment M - Council submissions)**

Dubbo Regional Council made a submission dated 16 August 2019 objecting to the proposal. Council raised the following issues in relation to salinity and the DCP:

- Proposal represents unacceptable salinity impacts to the development site and downstream in the Troy Gully catchment area.
- Draft Salinity Management Strategy has not been prepared in accordance with condition 2 of the Gateway determination (dated 16 March 2017), and previous versions were based on incorrect modelling and is therefore not effective.
- Council engaged a salinity consultant to review the salinity and groundwater management strategy on Council's behalf. Council's consultant is not satisfied with the Strategy. This is discussed further in the following section in relation to salinity investigations.
- Recommend that 10 years between stages is appropriate to allow monitoring.

Council did not initially make detailed comment on the draft Development Control Plan (DCP) in its submission dated 16 August 2019 and sought an extension of time to review the document. Council will be the planning authority responsible for implementing the DCP. Council's comments relating to the DCP dated 14 October 2019 are summarised as follows:

- Council requested that the draft DCP be updated to be consistent with the structure and content of the existing Urban Release Area Development Control Plans. Council provided detailed comments on these items; and
- Council is seeking clarification how the draft DCP is to be progressed, as it was not prepared by Council.

## **3. RESPONSE TO KEY ISSUES**

The Proponent was given the opportunity to address the public and Agency submissions and provided a response package on 24 March 2020. This package contained:

- a covering letter from Duffy Elliot Lawyers dated 16 March 2020 (**Attachment N - Proponent – Response to Submissions**),
- Envirowest Salinity Management Strategy dated March 2020 (**Attachment O - Proponent – SMS - Salinity Management Strategy**),
- amended draft DCP (**Attachment P - Proponent – DCP – Development Control Plan**),
- Soilwater Report dated 1 April 2019 (Vegetation Management Plan) (**Attachment Q - Proponent – VMP-Vegetation Management Plan**), and

- Onsite effluent management study dated 1 April 2019 (**Attachment R - Proponent – On-site Effluent Management Study**).

The following provides details of the issues raised in submissions identified in section 2 and assessment by the Department of Planning Industry and Environment (Department) having regard to the further information provided by the Proponent.

### 3.1. Traffic

#### Issues raised in public submissions

Traffic generation has been a key concern raised in the public submissions with the additional traffic flow impacting on the existing local road network particularly access from Eulomogo Road onto the Mitchell Highway and entry and exit points from Eulomogo Road into the “Daisy Hill” development.

#### Roads and Maritime Services views (**Attachment L - RMS**)

The RMS did not raise an objection to the proposal, however, identified that traffic generation from the future development of the site will be required to be considered at the development application stage through a Traffic Impact Assessment (TIA). The TIA should address:

- An assessment of the Level of Service and Degree of Saturation at the intersection of Eulomogo Road and Mitchell Highway.
- Assessment of the cumulative traffic generation from surrounding residential subdivisions, other developments, crash history, traffic generation during AM and PM peaks, existing and future traffic modelling at the Mitchell Highway/Eulomogo Road intersection.
- Traffic volumes and pedestrian safety in relation to the bus stop at the corner of Eulomogo Road and Railway Lane.

These assessments and considerations will inform any road upgrade and treatment that may be required.

The RMS also noted that the proposal should consider the *Movement and Place Framework from Regional NSW Services and Infrastructure Plan* in relation to the design of the proposed subdivision and its interconnectivity with the wider catchment (i.e. neighbouring residential subdivision) in the DCP and Masterplan.

The draft DCP includes traffic requirements and considerations for future development.

#### Proponent comments

The Proponent has acknowledged the need to prepare a TIA in accordance with the RMS and Council requirements at the development application stage, and upgrades/treatments may be required to the existing road network to facilitate additional traffic generation..

#### Department of Planning Industry and Environment assessment

There will be an increase in traffic generation and a change in traffic volume in the locality in terms of additional vehicular movements as a result of the proposal particularly when compared to the current situation. Additional traffic generation and the impact on the existing road network will be considered in detail by Council and RMS at the development application stage, when the final lot layout, density and vehicular access points are known. There is an adequate road network surrounding the development site. There is adequate road reserve area to allow road upgrades to the appropriate standards as required by Council and RMS.

## **3.2. RURAL CHARACTER, AMENITY AND ADDITIONAL DENSITY**

### Background information/context

The maintenance of the rural character and amenity of the precinct was cited in many submissions as a reason for objection to the proposal.

### Issue raised in public submission

The submissions raised concern about the impact of the increased residential development will have on the low scale rural amenity currently enjoyed by the residents of the area. There was also an expectation when purchasing in this area that the rural character of the area would be maintained and that the proposed 6000m<sup>2</sup> lots identified on the draft subdivision concept plan will be out of character with the area.

There are also concerns about the suitability of the proposed density of the development (being a maximum of 196 lots in “Daisy Hill”) that the proposal will result in three large housing estates in this area (others include “Firgrove” and “Richmond Estates” both having a MLS of 1.5ha), which could result in the character and amenity changing from rural to urban.

### Issue raised in agency submission

The agencies consulted did not raise concern with the density, rural character or amenity.

### Issue raised in Council submission

Council did not raise density, rural character or amenity in its submission, however it is acknowledged that Council has not supported the proposal throughout the Gateway process on the basis of its strategic justification and salinity impacts.

### Proponents view

The Proponent has reiterated that the land is currently zone R5 Large Lot Residential and has been identified for residential purposes.. Lot sizes are not the same size as those in surrounding areas, however, “Daisy Hill” is a separate development and is not directly adjoining other areas. The range in lot sizes demonstrates consistency with the intent of the R5 zone.

The low density character will be maintained through the larger lot sizes near the perimeter and retention and provision of enhanced vegetation. Road widths are proposed to be a minimum of 20m, allowing for significant vegetation plantings required for salinity mitigation. It is proposed to increase the level of plantings in the area, rather than reduce it. The lots sizes are sufficient to provide adequate separation between dwellings and for onsite waste disposal.

### Department of Planning Industry and Environment assessment

The concept subdivision plan shows lot sizes ranging in size from 6000m<sup>2</sup> to 1.5 ha to 3ha as the land is developed from west to east. The R5 Large Lot Residential zone is primarily a residential zone with larger land sizes for rural amenity that can be used as a lifestyle purposes, however, are not of a size intended for farming/primary production purposes.

The draft concept subdivision and staging plan proposes 55 x 6000m<sup>2</sup> lots. These lots are proposed to be located and mixed throughout the western portion of the site, closest to Dubbo, and surrounded by larger 1.5ha lots. The location of the 6,000m<sup>2</sup> lots on the western portion of the site demonstrates a progression of lots from smaller, to larger, as the distance from the Dubbo urban area increases.

The 6000m<sup>2</sup> lots are smaller than lots within the existing “Firgrove” and “Richmond Estates” (MLS 1.5ha) which are nearby, however, are in keeping with a rural residential lifestyle

expectation. These lots are larger than lots within the zone R5 closer to the urban area of Dubbo. As a result of the planning proposal process and the salinity and groundwater investigations, the total lot yield has been reduced from the initial 284 lots to 222 lots. The final location and number of the 6000m<sup>2</sup> lots maybe subject to change and will be considered at the development application stage, however it will be limited to a maximum yield of 222 lots (196 lots on “Daisy Hill” and 26 lots on Lot 200 “Firgrove”). The draft concept lot layout, configuration and variation has responded to the salinity management work.

The objectives of the zone set the expected character of the area.

The proposal is consistent with the objectives of the zone R5 Large Lot Residential as follows:

- *“To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality”*. – Comment: the proposal is consistent with this objective as it proposes to provide housing and has regard to the salinity investigations.
- *“To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future”*- Comment: the strategic merit of the proposal has been demonstrated and consistent with the Department endorsed Dubbo Urban Areas Development Strategy and the proposal has been supported by the Panel.
- *“To ensure that development in the area does not unreasonably increase the demand for public services or public facilities”*. Comment: the land can be serviced at full cost to the developer and will extend the existing infrastructure currently available in the area.
- *“To minimise conflict between land uses within this zone and land uses within adjoining zones”*. Comment: the proposed lot sizes are of a size to allow separation between dwellings and other development and consistent with zone R5. The DCP provisions will also assist in ensuring separation and regard to neighbouring development.

Strategically the land is located within an urban/residential zone and adjacent to existing rural lifestyle developments. The land is proposed to be serviced with reticulated water. The proposal is broadly consistent with the Dubbo City Council Urban Development Strategy (a) Residential Areas Development Strategy, 1996 (the Strategy), which identifies the land as suitable for residential subdivision for small acre/lifestyle focus. The land is appropriately zoned for that purpose. “Richmond” and “Firgrove” Estates are nearby.

The Panel supported the change in density when the Rezoning Review was considered and the Gateway Determination was issued. The strategic merit of the proposal was established at that time. With the range in lot size, proposed landscaping with adequate separation between dwellings as specified in the site specific DCP will mitigate against adverse impacts.

Land to the north, west and south is zone R5 with larger lot sizes, whereas land to the east is zone RU1 with a MLS of 100ha. Due to the proposed lot sizes and location of larger lots around the perimeter the potential impact on surrounding land is not considered to be significant.

It is acknowledged that the current situation will change however the land is appropriately zoned and the strategic merit has been established to allow this change.

### 3.3 SALINITY MANAGEMENT

#### Background information/context

The key issue for the proposed development is salinity. Conditions 2 and 3 of the Gateway determination reflect this concern. The draft SMS (**Attachment O- Proponent – SMS- Salinity Management Strategy**), Vegetation Management Plan (**Attachment Q - Proponent – VMP - Vegetation Management Plan**) and DCP were placed on public exhibition. As a result of the community and agency submissions the SMS and DCP have been amended.

Strategically the land has been identified suitable for residential subdivision for lifestyle purposes. The Proponent in conjunction with Agencies and Council has undertaken significant investigations into the salinity issues on the site. Council and Agencies have reviewed this information. The Department engaged EMM Consulting on two occasions to independently review the salinity investigations. EMM found the proposal could proceed.

#### Issue raised in public submission

Public submissions raised salinity issues in relation to impacts the additional density of the proposal would have on the land, in relation to additional septic tanks, road location through high salinity areas, and the impact of the density change (from lot size 8 ha and 1.5 ha and increase from 66 lots to 222 lots) on the downstream Troy Gully catchment.

#### Issue raised in Agency submission

BCD made a submission (**Attachment – BCD**), raising the following issues:

- Require ongoing salinity and groundwater monitoring and response program within the Salinity Management Strategy
- Salinity Management Strategy should include the following:
  - Who is responsible for the proposed monitoring program;
  - Type of monitoring required;
  - Reporting periods;
  - Thresholds/triggers
  - Actions to be taken when thresholds/triggers are reached or exceeded; and
  - Who is responsible for actions and mitigation if these are required?

#### Issue raised in Council submission (**Attachment M – Council Submissions**)

Council engaged consultant Sustainable Soils Management (SSM) to review the Groundwater and Salinity Study and Management Study on its behalf. SMM made the following comments:

- The salinity management strategy does not address deep drainage that is likely to occur from low salinity areas or the off-site impact of this deep drainage.
- A depiction of the contact zone between the Pilliga Sandstone and Purlewaugh Formation of soil is an important omission from the suite of documents that support the salinity management strategy, as it will predict the effectiveness of the management actions proposed in the document.
- It is likely that actions recommended in the salinity management strategy will reduce salinity within the Daisy Hill estate compared to development without these actions. However, it is also likely that there will be groundwater flow from the proposed Daisy Hill Estate into downslope areas such as Troy Gully.
- The salinity management strategy does not propose staging of the development or groundwater monitoring that was recommended in the EMM peer review (dated 2018). It is recommended that the strategy be amended to reflect this.

- The salinity management strategy is not considered to be a strategy, and therefore condition 2 of the Gateway determination has not been completed.

### Proponent's view

The Proponent responded to the concerns raised in the submissions. Throughout the Gateway process, the Proponent has maintained that salinity impacts on the site has been modelled and as a result will be minimal with proposed mitigation methods. This position has not changed and has been supported by the Envirowest SMS dated 20 March 2020 (**Attachment O**), Soilwater Vegetation Management Plan dated 1 April 2019 (**Attachment Q**) and DCP dated March 2020 (**Attachment P**).

The Proponent has objected to the proposed recommendation of staging the development at 10-year intervals, as demand will be based on market forces. The development is proposed to be staged and salinity impacts are monitored. The Proponent has included a monitoring regime that will identify that if there is impact during the construction of certain stages the rectification methods can be activated.

### Department of Planning Industry and Environment assessment

The Department facilitated three (3) technical workshops with Council, Agencies (DPI Water and Primary Industries) and the Proponent to resolve the technical issues relating to salinity assessment and impacts. The Department engaged an independent consultant (EMM 14 June 2018) (**Attachment G - EMM 2018**) to review the technical work, with the result being the proposal could proceed subject to vegetation, design and monitoring being addressed with the draft SMS. Council and the Agencies have been party and advised of all this work.

Council in a submission dated 16 August 2019 objected to the findings of the draft Salinity Management Strategy and questioned whether it was completed in accordance with condition 2 of the Gateway determination and therefore the proposal should not have been exhibited.

A draft Salinity Management Plan was prepared as part of the planning proposal process in 2015. Gateway condition 2 required the draft be prepared in consultation and with approval from Council and DPI. There was concern about the adequacy and accuracy of the 2015 draft and was therefore subject to reviews and revisions, in relation to the methodology, inputs and outputs. To resolve these issues three (3) technical workshops were convened by the Department and attended by agencies, Council and the Proponent to resolve methodology, modelling, inputs and outputs.

Despite the technical workshops the opposing views between Council and the Proponent remain. The project was unable to move forward and was presented to the Panel for direction. Subsequently, on 19 March 2019, (**Attachment H**) the Panel revised condition 2 to remove the requirement for Council's agreement to the draft Strategy and to proceed to public exhibition. Having regard to the community consultation and Council's submission of 16 August 2019 the draft SMS has since been revised. A second independent review undertaken by EMM Consulting (dated 17 April 2020) found that the work was sound and could proceed (**Attachment S - EMM 2020**).

It is also to be noted that the draft SMS has been completed using the format of and consistent with the existing Dubbo City Urban Salinity Management Strategy and Dubbo City Urban Salinity Implementation Plan (**Attachment C**) as a framework.

The EMM report dated 17 April 2020 considered that the SMS and DCP is 'fit for purpose', using appropriate methodology and modelling for this type and scale of development. Some enhancements to the Groundwater Monitoring Plan Vegetation Management overlay can be considered at the development application stage. Additional modelling may be required subject to Stage 1 reporting and monitoring triggers. The Department and EMM review consider the work to be a Strategy, and condition 2 of the Gateway determination has been satisfied.

The proposed lot layout responds to the salinity impacts – previous lot layouts had shown a greater lot density on the higher-risk salinity area of the western portion of the site. The conceptual lot layout has been amended to reduce the density and potential salinity impacts on areas with highest salinity risk. It is acknowledged that the lot layout may change, however has been used in the preparation of the draft SMS and draft DCP. The larger lots are in areas where there is a higher salinity risk, to spread the density and reduce the impact on the site.

It is the Department's view that extensive review and consultation has been completed in relation to the salinity impacts on the site. It is considered the amended draft SMS dated 20 March 2020 and DCP dated March 2020 has incorporated the issues raised by Council, Agencies and the community. While it acknowledged that the climatic conditions change there is adequate safeguards in the monitoring regime to enable the LEP amendment to proceed.

In addition, it is recommended the intent of the planning proposal and salinity work undertaken is reinforced by insertion of a site-specific clause in the Dubbo LEP 2011. The intent of the clause is to ensure lot yield is limited and the SMS (which includes reference to a Vegetation Management Plan, draft lot layout and draft DCP) to be considered at the development application stage, where Council is the consent authority. The site-specific clause has been drafted and approved by the Departments Legal Branch and Parliamentary Counsel (**Attachment T – PCO – Parliamentary Counsel Opinion**)

Notwithstanding the proposed draft LEP clause, exempt and complying development may be undertaken on the subject site utilising the *State Environmental Planning Policy (Exempt and Complying Development) Codes 2008*, as land subject to salinity and salinity management is not identified as environmentally sensitive land.

It is considered that the SMS has been prepared consistent with the Dubbo Salinity Management Strategy and Implementation Plan with an accepted methodology with appropriate inputs. Information provided indicates that the salinity impacts can be managed without impacting Troy Gully downstream. The SMS also includes a vegetation management plan and monitoring program that can be enhanced as suggested by EMM to ensure impacts are monitored and mitigated. The monitoring program will be designed to connect into the Dubbo Salinity Monitoring Network and consistent with the reporting and triggers to indicate impact. It is important to acknowledge this work as it has been extensive and needs to be formally recognised in the LEP.

#### **4. DEVELOPMENT CONTROL PLAN (Attachment P - Proponent – DCP - Development Control Plan)**

##### Background information/context

Condition 4 of the Gateway determination required the preparation of a development control plan (DCP) for the proposed development. Condition 4 required that the draft DCP be

prepared prior to community consultation and be placed on public exhibition for comment. A draft DCP was placed on exhibition.

#### Issue raised in public submissions

The contents of the DCP were not raised as a stand-alone issue in the public submissions. However, issues such as traffic, servicing and amenity have been included in the DCP.

#### Issue raised in Agency submission

The RMS requested that the draft DCP consider should consider the *Movement and Place Framework from Regional NSW Services and Infrastructure Plan* in relation to the design of the proposed subdivision and its interconnectivity with the wider catchment (i.e. neighbouring residential subdivision) in the DCP and Masterplan.

BCD and NSW Rural Fire Service did not comment on the draft DCP.

#### Issue raised in Council submission

Council identified that the draft DCP was inconsistent in development controls and layout with existing DCPs currently in force. In a letter dated 14 October 2019 Council provided detailed comments on the proposed development controls in the DCP. These have been incorporated in draft DCP dated March 2020.

Council also raised concerns about the adoption of the draft DCP as it was not prepared by Council. Section 2.4 of the *Environmental Planning and Assessment Act 1979* provides the Minister for Planning and Public Spaces with the authority to delegate planning powers to a Regional Planning Panel to undertake any of the Minister's planning functions. This includes the adoption of a DCP. As Council is not the Planning Proposal Authority for this proposal, the Panel can advise that the draft DCP be adopted. As part of the Rezoning review process Council was offered and did not accept the Planning Proposal Authority role.

#### Proponent's view

The Proponent has amended the draft DCP dated March 2020 to be consistent with the existing Council DCP's and in accordance with comments from Council, Agencies and included relevant issues raised by the community.

#### Department of Planning Industry and Environment assessment

The draft DCP has been amended having regard to the comments from Council, Agencies and the public and can be supported in the format now submitted.

The draft DCP has been prepared and exhibited in accordance with Division 3.6 of the *Environmental Planning and Assessment Act, 1979* and Part 3 of the *Environmental Planning and Assessment Regulation 2000* and is suitable for adoption.

Notwithstanding the proposed DCP, development within the Daisy Hill area may also be undertaken as Complying development, under Part 3A Rural Housing Code of the *State Environmental Planning Policy (Exempt and Complying Development) Codes 2008* (Codes SEPP), if the requirements are met. This would be assessed on a site-by-site basis, subject to the individual dwellings and other structures proposed. Provisions of the Code SEPP prevail over the LEP and DCP requirements.

#### **Independent Review**

On 15 April 2019 the Panel (**Attachment H - Panel Record of Decision 2019**) agreed to amend the description of the proposal from 284 lots to 222 lots (lot yield adjusted to reflect the salinity work undertaken, amend condition 2 regarding salinity management strategy,

extend the timeframe until 16 March 2020 and allow the matter to proceed to community consultation.

The Proponent agreed to these amendments and a revised draft Salinity Management Strategy was publicly exhibited as part of the community consultation package of the planning proposal from 15 July 2019 to 16 August 2019.

Submissions made during the exhibition period highlighted further issues with the draft salinity management plan. The Proponent revised the draft, and subsequently, the Panel requested a further independent review of the draft SMS and the DCP. The Department engaged EMM Consulting to undertake the review. This review was completed on 17 April 2020 (**Attachment S - EMM 2020**) and found that the draft SMS and draft DCP were sufficient to allow the proposal to proceed on salinity impact grounds. EMM Consulting recommended that the SMS could be enhanced and provided specifications for a Groundwater Monitoring Plant and a vegetation overlay plan.

This enhancement can form part of the SMS or be undertaken at development application stage.

## **SUMMARY**

The planning proposal was placed on public exhibition for 33 days, 5 days longer than required by the Gateway determination. A total of 17 submissions were received. 13 of these were objections to the proposal including one petition with 38 signatures, with one submission in support of the proposal. Two Agency submissions were received from BCD and RMS. Dubbo Regional Council objected to the proposal.

It has been assessed that the submissions in objection did not raise matters which would prevent the proposal from progressing and those matters have been adequately addressed by the Proponent in the SMS and DCP. Responses from the RMS, RFS and BCD did not raise any objections to the proposal, subject to local planning considerations which will be required to be considered at the development application stage. There are no agency objections to the proposal. For this reason, it is not recommended that a public hearing be held nor was one requested.

The proposal has strategic merit as it is consistent with the Dubbo City Council Urban Development Strategy (a) Residential Areas Development Strategy, 1996 (the Strategy), which identifies the land as suitable for residential subdivision for small acre/lifestyle purpose and is zone R5 Large Lot Residential accordingly.

The draft SMS and draft DCP have been prepared in accordance with the Gateway determination. The proposed change to minimum lot size has been addressed and justified by the salinity work undertaken.

The SMS has been prepared with the agreed modelling and methodology with vegetation and monitoring key components. The salinity management work has been developed in three (3) technical workshops. Two (2) peer reviews by EMM Consulting determined that the modelling and methodology are acceptable to form the basis of the SMS and that the proposal could proceed. The SMS is consistent with the Dubbo City Urban Salinity Management Strategy and Implementation Plan.

The DCP has been prepared in accordance with the requirements of Gateway condition 4. It has met the statutory requirements and has incorporated comments from Dubbo Regional Council. The DCP is suitable for adoption.

It is for these reasons that it is considered appropriate that the planning proposal proceed to finalisation.

## 5. RECOMMENDATION

It is recommended that the Western Regional Planning Panel, as the Planning Proposal Authority:

- **Notes** the key issues raised in the submissions from the public, Dubbo Regional Council, BCD and RMS; and
- **Notes** that the submissions in objection did not raise points which would prevent the proposal from progression on substantial planning grounds and such issues are addressed in the planning proposal, Salinity Management Strategy, Vegetation Management Plan and Development Control Plan; and
- **Notes** that the draft Salinity Management Strategy and agree that it should form a significant consideration for the Development Application and be acknowledged in the site specific LEP clause; and
- **Notes** the Department of Planning Industry and Environment's position that the proposal should proceed to finalisation subject to the following:
  1. Insert a site-specific local clause into the Dubbo LEP 2011 (**Attachment T - PCO**) with the following intent:
    - a. Permit "Daisy Hill" to be subdivided to a MLS of 6000m2 with a maximum yield of 196 lots and this will be linked to a Lot Size Map (proposed clause 7.15);
    - b. Acknowledge the Salinity Management Strategy and publish it on the Planning Portal that covers "Daisy Hill" and "Firgrove".(proposed clause 7.16);
  2. **Agree** that the Draft DCP has been prepared in accordance with the EPA Act and Regulation and **adopt** the DCP.
  3. **Delegate** to the Executive Director, Local and Regional Planning to proceed to draft and finalise the planning proposal.



23.4.20

**Wayne Garnsey**  
Team Leader, Western



23.4.20

**Damien Pfeiffer**  
Director, Western Region  
Local and Regional Planning

Assessment officer: Jenna McNabb  
Planning Officer, Western Region  
Phone: 5852 6811

## Attachments

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Attachment	Title
A1	Locality Map
A2	Lot Map
B	RFS – Rural Fire Service
C	Dubbo Salinity Strategy
D	Planning proposal
E	Planning Proposal Authority
F	Gateway determination
G	EMM 2018
H	Panel Record of Decision 2019
I	Gateway Alterations
J	Redacted Submissions
K	BCD
L	RMS
M	Council submissions
N	Proponent – Response to submissions
O	Proponent – SMS - Salinity Management Strategy
P	Proponent – DCP - Development Control Plan 2020
Q	Proponent – VMP - Vegetation Management Plan
R	Proponent –On-site effluent management study
S	EMM 2020
T	PCO – Parliamentary Counsel Opinion