



REPORT: Planning Proposal - Operational Review of the Wellington Local Environmental Plan 2012

AUTHOR: Manager City Strategy Services
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EXECUTIVE SUMMARY

The Wellington Local Environmental Plan 2012 was gazetted by the Minister for Planning and on 23 November 2012. The Dubbo Local Environmental Plan 2011 was gazetted on 11 November 2011. Both LEPs were prepared in accordance with the Standard Instrument (Local Environmental Plans) Order 2006.

The former Wellington and Dubbo City councils were amalgamated by proclamation on 12 May 2016. Following the amalgamation and in accordance with the requirements of the NSW Department of Premier and Cabinet, Council is required to prepare a new comprehensive Local Environmental Plan for the Dubbo Regional Local Government Area by September 2017. However, given the work involved, including the preparation of land use strategies for land subject to the provisions of the Wellington Local Environmental Plan 2012, Council has undertaken an Operational Review of the LEP as an initial first step in the harmonisation of planning controls across the Dubbo Regional Local Government Area.

Concurrently, Council is also undertaking an Operational Review of the Dubbo Local Environmental Plan 2011. The Operational Review in respect of the Dubbo Local Environmental Plan 2011 forms a separate report for the consideration of the Planning and Development Committee.

The objectives of the Operational Review are to amend/address any administrative concerns with the operation of the Wellington Local Environmental Plan 2012 and to provide a level of parity between the provisions of the Wellington LEP 2012 and the Dubbo Local Environmental Plan 2011. It should be noted that this review process and the resultant Planning Proposal are purely of an administrative nature only.

The Planning Proposal includes a number of administrative and other minor amendments to the Wellington Local Environmental Plan 2012 incorporating the following:

- Permissible land use activities;
- Subdivision controls;
- Clause 5.4 Controls relating to permissible uses;
- Part 6 Local provisions;
- Schedule 5 Environmental heritage; and
- Minor amendments to land use zoning.

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

This report is provided to the Planning and Development Committee for consideration and it is recommended that the Planning Proposal be submitted to the Department of Environment and Planning seeking a Gateway Determination if endorsed.

As a component of this Operational Review, Council staff have also considered the emerging need for developable residential land in Wellington in an attempt to meet the potential growing demand for housing associated with the new Wellington Gaol.

Progress of this Planning Proposal will ensure a smooth transition period for both Local Environmental Plans until the new comprehensive LEP for the Dubbo Regional Local Government Area is developed.

ORGANISATIONAL VALUES

Customer Focused: The Operational Review will provide cohesion between the use of the Wellington Local Environmental Plan 2012 and the Dubbo Local Environmental Plan 2011 for professionals and the community alike.

Integrity: The Operational Review will provide professionals with a local planning instrument that meets the requirements of the new Dubbo Regional Council.

One Team: Input and comments from across Council have been included in the report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

The Planning Proposal is provided for consideration and endorsement to seek a Gateway Determination. Receipt of the Gateway Determination from the Department of Planning and Environment will allow Council to further the proposed amendments to the LEP including consultation with the community and state agencies.

RECOMMENDATION

1. That Council support the proposed amendments contained in the Operational Review of the Wellington Local Environmental Plan 2012.
2. That Council support a minimum 28 day public exhibition period for the Planning Proposal.
3. That Council resolve to not use its delegation under Section 59 of the Environmental Planning and Assessment Act, 1979 to draft the amendments to the Wellington Local Environmental Plan 2012.
4. That following the completion of the public exhibition period, a further report be provided to Council detailing the results of the public exhibition and for further consideration of the Planning Proposal.

Steven Jennings
Manager City Strategy Services

BACKGROUND

The Wellington Local Environmental Plan 2012 was gazetted by the Minister for Planning on 23 November 2012. The Dubbo Local Environmental Plan 2011 was gazetted on 11 November 2011. Both LEPs were prepared in accordance with the Standard Instrument (Local Environmental Plans) Order 2006.

The former Wellington and Dubbo City councils were amalgamated by proclamation on 12 May 2016. Following the amalgamation and in accordance with the requirements of the NSW Department of Premier and Cabinet, Council is required to prepare a new comprehensive Local Environmental Plan for the Dubbo Regional Local Government Area by September 2017. However, given the work involved, including the preparation of land use strategies for land subject to the provisions of the Wellington Local Environmental Plan 2012, Council is undertaking this Operational Review of the LEP as an initial first step in the harmonisation of planning controls across the Dubbo Regional Local Government Area.

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The objectives of the Operational Review are to amend/address any administrative concerns with the operation of the Wellington Local Environmental Plan 2012 and to provide a level of parity between the provisions of the Wellington LEP 2012 and the Dubbo Local Environmental Plan 2011. It should be noted that this review process and the resultant Planning Proposal are of an administrative nature only.

This report contains the results of the Operational Review of the Wellington LEP 2012 and the proposed amendments to be undertaken. This report has been provided to the Planning and Development Committee for consideration and is recommended that the Planning Proposal be submitted to the Department of Environment and Planning (DPE) to seek a Gateway Determination.

Following the issue of a Gateway Determination from the DPE, Council will undertake consultation with the community. Following the conclusion of the public exhibition period, a further report including any issues raised in submissions will be provided to Council for consideration.

REPORT

1. Amendments to Local Environmental Plans

The Department of Planning and Environment (DPE) 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 commences with Council's consideration of a Planning Proposal. The Planning Proposal process is shown in Figure 1.

PLANNING PROPOSAL PROCESS

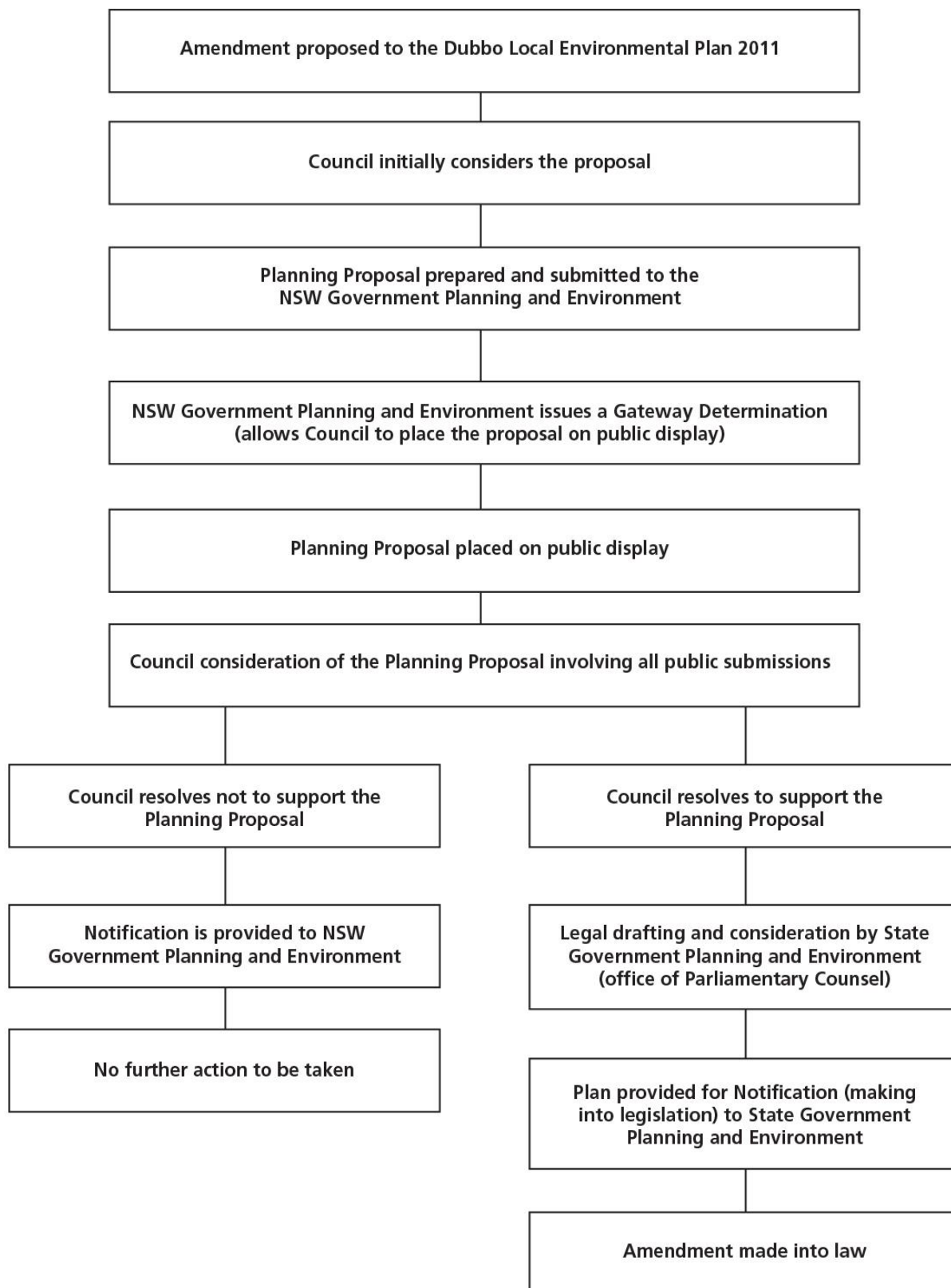


Figure 1. Planning Proposal Process

The role of a Planning Proposal is to explain the intended effects of a proposed Local Environmental Plan amendment and the justification for undertaking the amendment. Council has the role of considering the Planning Proposal. If Council resolves to continue with the Planning Proposal, the amendment is provided to the DPE to seek a Gateway Determination.

The Gateway Determination 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, any matters that require additional information, the level of public consultation required and state government agencies to be consulted. After all the additional matters have been addressed and the required consultation has been carried out, a report is provided to Council for further consideration.

It is noted that the Planning Proposal would be considered by the Department for delegation of powers to make the amendment back to Council following receipt of the Gateway Determination. This could allow the Planning Proposal to be finalised by Council without further consideration by the Department following public exhibition. In this circumstance, Council is required to liaise with Parliamentary Counsel for legal drafting and finalisation of the Plan.

2. Planning Proposal

The subject Planning Proposal includes a number of administrative and other minor amendments to the Wellington Local Environmental Plan 2012, incorporating the following:

- Permissible land use activities;
- Subdivision controls;
- Clause 5.4 Controls relating to permissible uses;
- Part 6 Local provisions;
- Schedule 5 Environmental heritage; and
- Minor amendments to land use zoning.

(a) Changes to Permissible Land Use Activities

- (i) Secondary Dwellings in zone RU1 Primary Production

The Wellington Local Environmental Plan 2012 does not currently allow the development of secondary dwellings on land zoned RU1 Primary Production. It is proposed to amend the Wellington LEP 2012 to allow for the development of secondary dwellings in the RU1 Primary Production zone.

It is considered that secondary dwellings will provide the opportunity for assisted accommodation in situations where there is a relationship between the occupants of the main dwelling and the secondary dwelling, without any impact to agricultural land use activities.

(ii) Detached Dual Occupancies in zone R5 Large Lot Residential

The Wellington Local Environmental Plan 2012 currently allows both attached and detached dual occupancy development on land zoned R5 Large Lot Residential. To ensure land in the R5 zone is developed at an appropriate density having regard to the intentions of the zone and the associated zone objectives, it is proposed to prohibit detached dual occupancy development in the R5 zone. The intent and justification for the proposed change to the LEP is further discussed in this report.

(b) Subdivision Controls

(i) Clause 4.1AA (2) Minimum Subdivision Lot Size for Community Title Schemes

Clause 4.1AA regulates the minimum lot size provisions for community title subdivisions. The Clause currently applies to land zone RU1 Primary Production, RU4 Primary Production Small Lots and E3 Environmental Management. The Clause does not include residential zones as contained in the LEP.

To ensure greenfield land zoned primarily for residential development is not subject to Community Title subdivision prior to the consideration of development on the land, it is proposed that the clause be extended to also include the following zones:

- R1 General Residential;
- R2 Low Density Residential;
- R5 Large Lot Residential; and
- RU5 Village.

It is proposed to amend the clause to require the approved dual occupancy or multi-dwelling housing development to be constructed on the land prior to any community title subdivision being undertaken. This amendment is also proposed to be undertaken to the Dubbo Local Environmental Plan 2011 which will provide parity between both LEPs.

The intent and justification for the proposed change to the LEP is further discussed in this report.

(ii) Clause 4.1A Minimum Subdivision Lot Size for zones RU5 and R2

The Wellington LEP 2012 does not currently allow for the subdivision of an approved residential development, including dual occupancies or multi-dwelling housing below the minimum allotment size for subdivision in the relevant zone. Often in these situations a proponent will not have the ability to undertake a Torrens Title subdivision of an approved development.

It is proposed to include a new clause 4.1 as provided below:

“Despite clause 4.1, the size of any lot resulting from a subdivision of land in Zone RU5 Village, R1 General Residential or Zone R2 Low Density Residential, may be less than the minimum lot size shown on the Lot Size Map in relation to that land, if:

- (a) The land is connected to a sewerage reticulation system, and*
- (b) Development consent has been granted in respect of the subdivision for the purpose of a:*
 - (i) Dual occupancy, or*
 - (ii) Multi-dwelling housing.”*

In addition, it is also proposed to include a separate provision in the clause that will require the dual occupancy or multi-dwelling housing development to be constructed on the land prior to any Torrens Title subdivision being undertaken. This amendment is also proposed to be undertaken to the Dubbo Local Environmental Plan 2011 which will provide parity between both LEPs.

The intent and justification for the propose change to the LEP is further discussed in the report.

(iii) Clause 4.2A Lot Size Exceptions for Certain Rural zones

It is proposed to include a new clause in the Wellington LEP 2012 which will enable rural land to be subdivided for a purpose other than to allow for residential development or tourist and visitor accommodation. This clause would allow the subdivision of rural land to be undertaken for another approved activity such as a highway service centre or the like.

The proposed wording of the clause is provided below:

“4.2A Land in a Zone to which clause 4.2 applies may, with development consent, be subdivided to create a lot size that is less than the minimum size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that the use of the land after the subdivision will be the same as permitted under an existing development for the land (other than for the purpose of a dwelling house, rural worker’s dwelling, secondary dwelling or tourist and visitor accommodation.”

This clause is currently included in the Dubbo Local Environmental Plan 2011. The intent and justification for the proposed change to the LEP is further discussed in this report.

(c) Clause 5.4 Controls Relating to Miscellaneous Permissible Uses

(i) Farm Stay Accommodation

The Wellington LEP 2012 currently permits a maximum of 12 bedrooms for the purpose of farm stay accommodation. The Planning Proposal proposes to increase the maximum number

of permitted bedrooms within farm stay accommodation to 15 bedrooms. This would increase the capacity for additional guests and allow for a secondary income stream for rural land owners. This provision is also currently included in the Dubbo Local Environmental Plan 2011.

(ii) Neighbourhood Shops

The Wellington LEP 2012 currently allows the development of neighbourhood shops with a maximum retail floor area of 100 square metres. The Planning Proposal seeks to increase the maximum allowable retail floor space area for neighbourhood shops to 150 square metres. The amendment will provide flexibility to business owners to expand current retail operations and improve the economic viability of neighbourhood shops.

It is proposed to amend the clause as follows:

*“(7) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 150 square metres.”*

This provision is included in the Dubbo Local Environmental Plan 2011.

(d) Proposed Changes to Part 6 Additional Local Provisions

(i) Clause 6.1 Flood Planning

It is considered that the flood planning clause does not currently provide suitable controls and clarification for other land that is not mapped as flood prone land in the LEP and that is known to be subject to flooding.

It is proposed to amend the clause as follows:

“(1) The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impact on flood behaviour and the environment.*

(2) This clause applies to:

- (a) land that is shown as “Flood planning area” on the Flood Planning Map, and*
- (b) other land at or below the flood planning level.*

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is compatible with the flood hazard of the land, and*
 - (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*
- (4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.*
- (5) *In this clause:*
flood planning level *means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*
Flood Planning Map *means the Wellington Local Environmental Plan 2011 Flood Planning Map."*

This clause is also included in the Dubbo LEP 2011 which will provide parity across both LEPs.

(e) Schedule 5 Environmental Heritage.

- (i) Lot 1, DP 770849, 2531 Euchareena Road, Euchareena

The subject land contains the Nubrygyn Inn and Cemetery which was listed on the NSW State Heritage Register as an item of State Significance on 20 May 2016.

It is proposed that Schedule 5 of the LEP be amended to include the subject site, as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Euchareena	Nubrygyn Inn & Cemetery	2531 Euchareena Road, Euchareena	Lot 1, DP 770849	State	I159

- (ii) Lot 92 DP 1226962, 68 Maughan Street, Wellington

The subject land contains the Reinhard building which is a listed heritage item in Schedule 5 of the Wellington LEP 2012. The property has recently undergone a boundary realignment. As a result the property details for the heritage item have changed.

It is proposed that Schedule 5 of the LEP be amended as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No
Wellington	Reinhard Building	68 Maughan Street	Lot 92, DP 1226962	Local	I110

(iii) Wellington Clock, 1A Nanima Crescent Heritage Listing

The Wellington Clock is a listed heritage item in Schedule 5 of the Wellington LEP 2012. The clock is currently housed in the Dubbo Regional Council, Wellington Office, situated at 1A Nanima Street, Wellington. Ordinarily, a moveable clock, whilst having historical significance, moveable heritage is not ordinarily listed in a Local Environmental Plan as it is not actually a type/form of land use or development.

It is proposed that the Wellington Clock be removed as a heritage item from Schedule 5 of the LEP as provided below:

Suburb	Item Name	Address	Property Description	Significance	Item No
Wellington	Wellington Clock	1A Nanima Crescent	Lot 5, Section 76, DP 759073	Local	I114

(f) Other Changes

(i) Proposed amendment to Clause 2.8 (2) Temporary use of land

The Wellington LEP 2012 currently allows for the temporary use of land for a total of 28 days in any period of 12 months.

It is proposed to increase this provision to 182 days (whether or not consecutive days) in any period of 12 months. This would include all weekends, public holidays and school holidays.

It is proposed that Clause 2.8 (2) Temporary use of land be amended to read as follows:

- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 182 days (whether or not consecutive days) in any period of 12 months.*

This provision is also included in the Dubbo LEP 2011 which will provide parity across both LEPs.

(g) Amendments to Land Use zoning

(i) E3 Environmental Management zoning

The Wellington LEP 2012 Land Zoning Maps – Sheet LZN_004C and Sheet LZN_004D currently zone the area adjacent to the Bell and Macquarie Rivers as E3 Environmental Management.

The Planning Proposal seeks to amend these maps to reflect the existing residential land use on the subject lands shown in accordance with Figure 2.

The intent of the E3 Environmental Management zone is to provide appropriate protection of flood prone land from incompatible development. However, it is considered that the provision of the E3 zoning in the Wellington urban area extends beyond flood prone land in some instances and in other circumstances has zoned existing residential streets. The Planning Proposal intends to rezone a number of E3 zoned areas to either R1 General Residential or R2 Low Density Residential.

Figure 2 shows the subject lands that are proposed to be rezoned from E3 Environmental Management. The lands proposed to be rezoned have been selected based on the extent of the 1 in 200 year flood event and also provide a reasonable curtilage around existing dwellings.

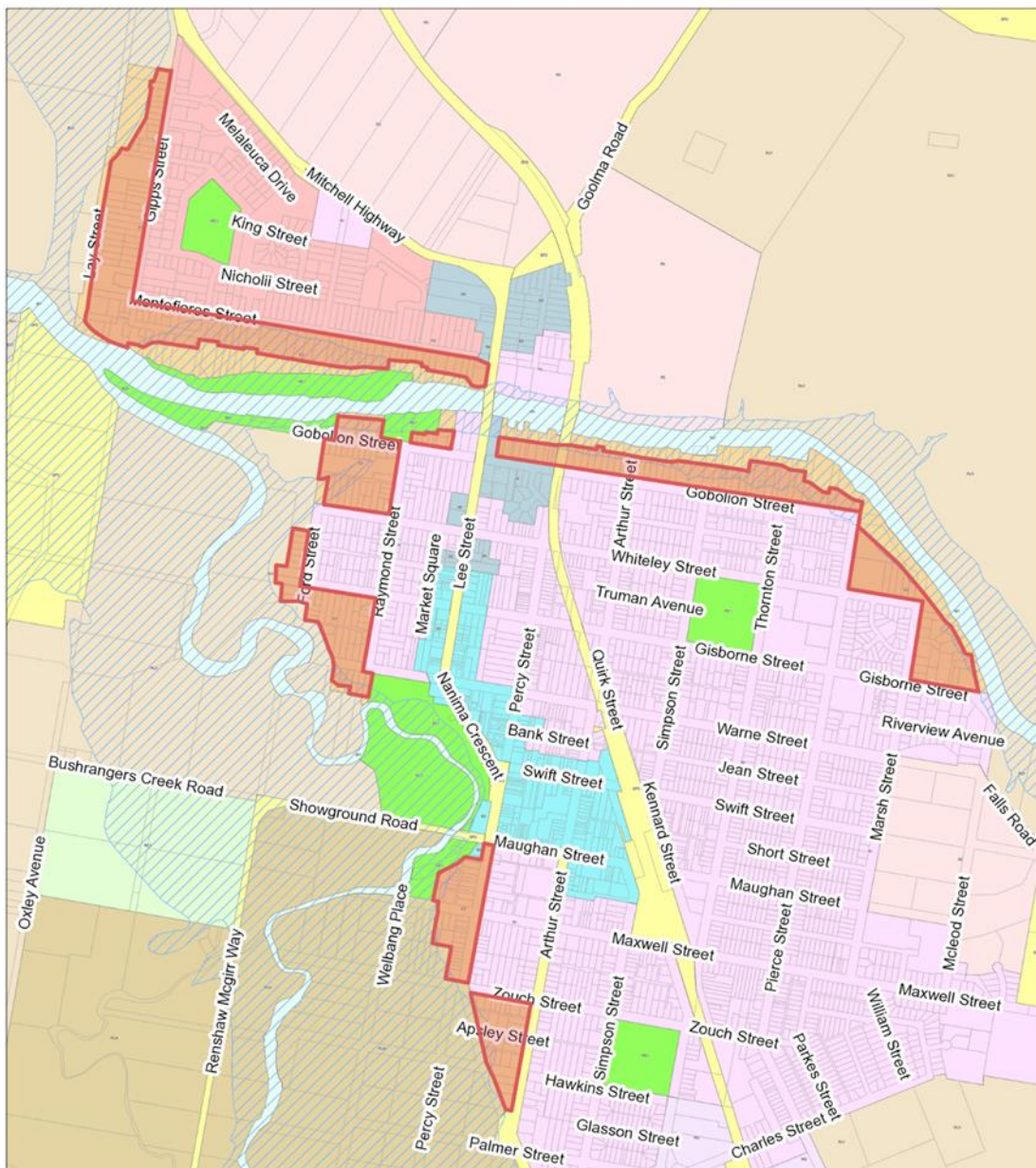


Figure 2. Areas proposed for removal from the E3 Environmental Management zone

(ii) B6 Enterprise Corridor zoning, Montefiores

Land situated at Montefiores as shown in Figure 3 is currently zoned B6 Enterprise Corridor under the provisions of the Wellington LEP 2012.

Lot 11 DP 844379 and Lot 1 DP 130724 are held in the same ownership as the adjoining Lot 2 DP 1115930 and Lot 1 DP 1115930, 24 Jasmine Place, Montefiores. Lot 22 DP 658633 is owned by Council.

The current owners of Lot 11 DP 844379 and Lot 1 DP 130724 have discussed with Council the rezoning of Lot 11 DP 844379 and Lot 1 DP 130724 from B6 Enterprise Corridor to R2 Low Density Residential, with a minimum lot size for subdivision of 600 square metres. The

current zoning of the land is not considered suitable as vehicular access from the Mitchell Highway would be difficult to achieve given its location. In addition, it is also considered that the development of the land in accordance with the provisions of the current zone is unlikely to be achieved given the location of the land. Rezoning of the land to R2 Low Density Residential could allow for a residential development which will have the ability to be accessed through Jasmine Place and Montefiores Street. This would provide further land in Montefiores that could be developed for residential purposes as there is a potential growing demand for residential housing associated with the new Wellington Gaol.

It is also proposed to rezone Lot 22 DP 658633 which is owned by Council. Again, access and development of this land for commercial uses is unlikely to be achieved given the location of the Mitchell Highway and the characteristics of adjoining lands. In addition, given the characteristics of the land and the restricted access from the Mitchell Highway, it is considered that this land could further add to the residential land supply as a component of the adjoining residential zoned land to the west.

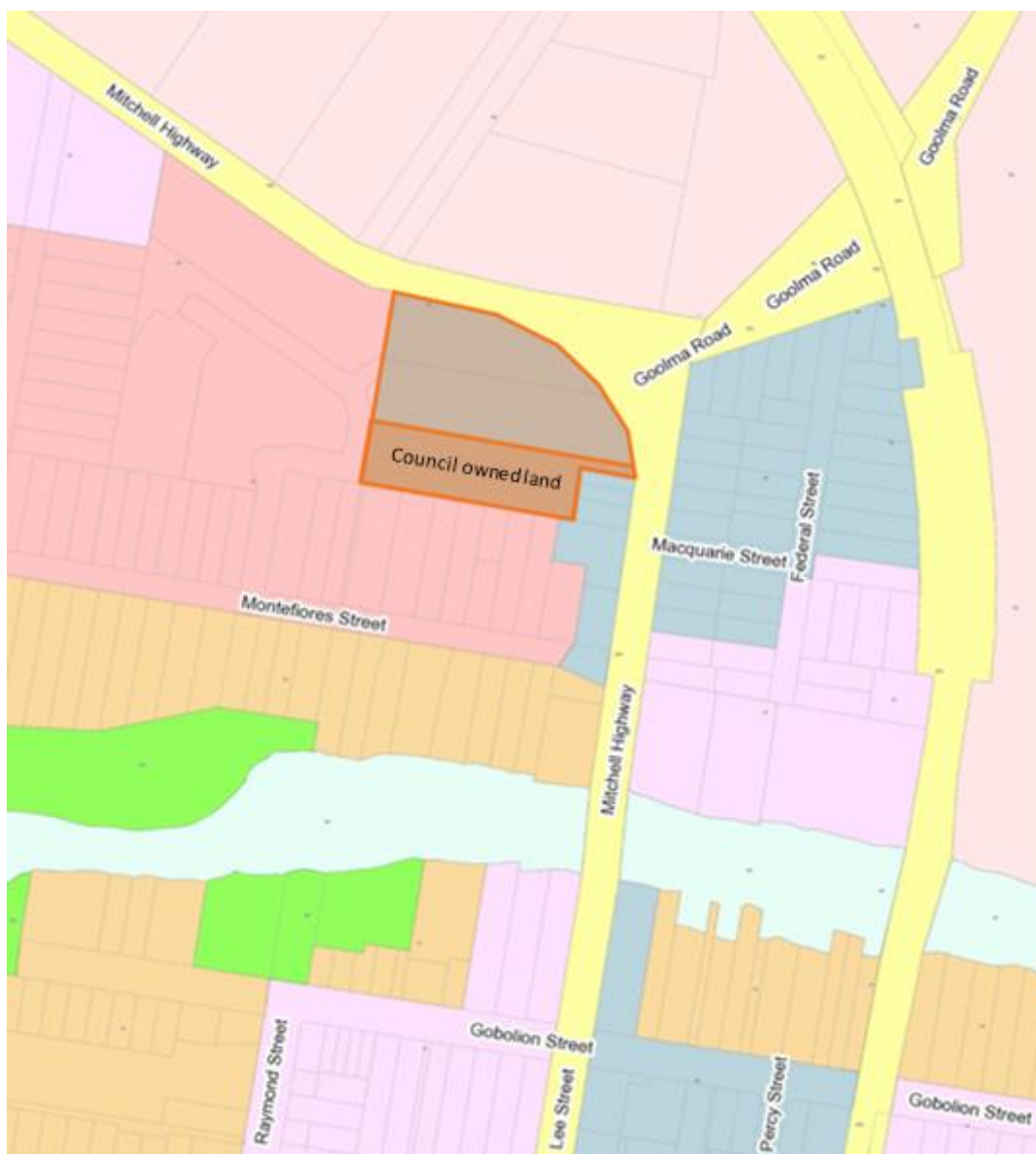


Figure 3. Subject land at Montefiores

3. Planning Considerations

This section of the report provides an analysis against the planning considerations Council is required to consider in the Planning Proposal process. The information below provides an analysis of all planning considerations associated with the Planning Proposal.

The purpose of this section is to explain any significant matters for consideration in the Planning Proposal process.

(i) Draft Central West and Orana Regional Plan

The draft Central West and Orana Regional Plan has been prepared by the Department of Planning and Environment.

The draft Plan has the following Goals:

- Goal 1: A growing and diverse regional economy;
- Goal 2: A region with strong freight transport and utility infrastructure networks that support economic growth;
- Goal 3: A region that protects and enhances its productive agricultural land, natural resources and environmental assets; and
- Goal 4: Strong communities and liveable places that cater for the region's changing population.

The Planning Proposal is considered consistent with the provisions of the draft Central West and Orana Regional Plan.

(ii) Section 117 Directions

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

Direction	Requirement	Consistency
1.1 Business and Industrial Zones	The Direction applies to this Planning Proposal as the proposal will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	It is considered that the Planning Proposal is not consistent with the Direction. However it is considered that this inconsistency is of minor significance. The Planning Proposal includes the proposed rezoning of land at Montefiores from B6 Enterprise Corridor to R2 Low Density Residential.

Direction	Requirement	Consistency
		It is considered that provision of the B6 zone on the land is not appropriate as access is likely to be difficult to achieve from the Mitchell Highway. In addition and given the location of the land, it is considered that use of the land for commercial purposes would be difficult to achieve.
1.2 Rural Zones	The Direction applies to this Planning Proposal as the proposal affects land within the existing rural zones. The Direction applies to the Planning Proposal as it intends to include secondary dwellings as permissible development in the RU1 Primary Production zone.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the proposal to include secondary dwellings as permissible development in the RU1 Primary Production zone would have no significant impact on rural land.
1.5 Rural Lands	This Direction applies to the Planning Proposal as it will affect land within an existing or proposed rural or environmental protection zone (including the alteration of any existing rural or environmental protection zone boundary). The Direction is applicable to the Planning Proposal as it intends to rezone areas along the Macquarie and Bell Rivers zoned E3 Environmental Management to R1 General Residential and R2 Low Density Residential.	It is considered that the proposed rezoning is consistent with the Rural Planning Principles contained within State Environmental Planning Policy (Rural Lands) 2008.
2.1 Environment Protection Zones	The Direction is applicable to the Planning Proposal as it	The Planning Proposal is inconsistent with the

Direction	Requirement	Consistency
	intends to rezone areas zoned E3 Environmental Management along the Macquarie and Bell Rivers to R1 General Residential and R2 Low Density Residential.	Direction. The inconsistency is considered to be of minor significance as the land affected by the Planning Proposal already contains existing residential dwellings. In addition, it should be noted that part of the subject lands are not classified as flood prone land under the provisions of the Wellington LEP 2012.
2.3 Heritage Conservation	The Direction applies to the Planning Proposal as the Proposal intends to include Nubrygyn Inn and Cemetery as a heritage item in Schedule 5 of the Wellington Local Environmental Plan 2012. Additionally, the Planning Proposal intends to amend the property details of the Reinhard Building in Schedule 5. The Planning Proposal intends to remove the Wellington Clock from Schedule 5.	It is considered that the Planning Proposal is inconsistent with the Direction as it is proposed to remove heritage item I114 from the Wellington LEP 2012. The item is proposed to be removed from the LEP as the clock is best classified as an item of moveable heritage, which is not ordinarily listed in Schedule 5 of the LEP. The remaining components of the Planning Proposal are considered to be consistent with the Direction.
3.1 Residential Zones	The Direction applies to the Planning Proposal as it will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary) or any other zone in which significant residential development is permitted or	The Planning Proposal will assist in facilitating a broader choice of building types and increase residential densities to utilise existing infrastructure and services. This is especially in respect of the proposed rezoning of land at Montefiores for the

Direction	Requirement	Consistency
	proposed to be permitted.	purposes of residential development.
3.2 Caravan Parks and Manufactured Home Estates	The Direction applies when a Planning Proposal is prepared.	The Planning Proposal is consistent with the Direction as the proposal does not alter or remove any provisions in respect of caravan parks and manufactured home estates.
3.4 Integrated Land Use and Transport	The Direction applies to the Planning Proposal as it will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	The Planning Proposal is consistent with the Direction and the aims, objectives and principles of: (a) Improving Transport Choice – Guideline for Planning and Development; and (b) The Right Place for Business and Services – Planning Policy.
4.3 Flood Prone Land	The Direction applies to this Planning Proposal as it intends to create, remove or alter a zone or a provision that affects flood prone land. Additionally, the Planning Proposal intends to rezone areas that are partially affected by flooding and zoned E3 Environmental Management to R1 General Residential and R2 Low Density Residential.	The Proposal is inconsistent with the Direction as it permits development in a flood planning area. The inconsistency is considered to be of minor significance as the areas subject to the proposed rezoning will reflect the existing residential land use. In addition, these areas are situated in low hazard areas.
4.4 Planning for Bushfire Protection	The Direction applies to this Planning Proposal as it will affect, or is in proximity to land mapped as bushfire prone land. The Direction applies to the Planning Proposal as it intends to introduce a new Clause 4.2A	The Planning Proposal is considered to be inconsistent with the Direction. The inconsistency is considered to be of minor significance as each development will be subject to

Direction	Requirement	Consistency
	Lot size exceptions for certain rural zones. Additionally, secondary dwellings are proposed to be included as a permissible form of development in the RU1 Primary Production zone.	development consent and assessment against any potential bush fire hazards on the subject land.
6.1 Approval and Referral Requirements	The Direction applies when a Planning Proposal is prepared.	The Planning Proposal is consistent with the Direction as it will not create additional provision for concurrence, consultation or referral of a development application to a Minister or public authority.

(iii) State Environmental Planning Policies

Two (2) 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:

- SEPP (Rural Lands) 2008; and
- SEPP (Affordable Housing) 2009.

State Environmental Planning Policy (Rural Lands) 2008

The SEPP aims to guide the sustainable use of rural lands through the provision of specific rural planning principles. The SEPP requires a Planning Proposal to be consistent with the following rural planning principles:

- The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;
- 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;
- 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;
- In planning for rural lands, to balance the social, economic and environmental interests of the community;
- 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;
- The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;

- The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing; and
- Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

In respect of rural lands, secondary dwellings are proposed to be a permissible form of development in the RU1 Primary production zone. In addition, it is also proposed to increase the size limitation for farm stay accommodation to 15 bedrooms.

It is considered that the Planning Proposal is unlikely to impact agricultural land use activities and is consistent with the rural planning principles as contained in the SEPP. The Proposal will not significantly impact agricultural activities and is considered to be consistent with the Rural Planning Principles as included in the SEPP.

State Environmental Planning Policy (Affordable Housing) 2009

The aims of the Policy are as follows:

- “(a) To provide a consistent planning regime for the provision of affordable rental housing,*
- (b) To facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanding zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) To facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) To employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) To facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) To support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) To facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.”*

The Planning Proposal is seeking to permit secondary dwellings in the RU1 Primary Production zone. The provision will create opportunity for property owners to provide affordable housing to family members.

The Planning Proposal also intends to rezone land at Montefiores from B6 Enterprise Corridor to R2 Low Density Residential. The proposed rezoning will permit residential development on the land. The land is located in close proximity to Wellington CBD and appropriate infrastructure. The proposed R2 zoning is considered appropriate in relation to the surrounding land use activity.

It is considered that the Planning Proposal is consistent with the aims of the Policy and the associated provisions as contained in the SEPP.

(vi) Wellington Local Environmental Plan 2012

Detached Dual Occupancies in zone R5 Large Lot Residential

The LEP currently allows both attached and detached dual occupancy development on land zoned R5 Large Lot Residential. Land zoned R5 as included in the LEP is generally land situated on the outer edge of the Wellington and Geurie urban areas and also land situated adjacent to other villages including Elong Elong, Mumbil, Stuart Town and Yeoval. In addition, other lands situated in the rural areas are also zoned R5 Large Lot Residential.

To ensure the land in the R5 zone is developed at an appropriate density and does not contribute to fragmentation of rural/residential land having regard to the intentions of the zone and the associated zone objectives, it is proposed to remove detached dual occupancies as a permissible development activity in the R5 zone. However, it should be noted that attached dual occupancies are proposed to remain a permissible form of development on the land.

Residential Subdivision

The LEP includes specific minimum lot size mapping, which provides a minimum allotment size for subdivision for the majority of the land subject to the provisions of the Wellington Local Environmental Plan 2012. The LEP provides specific requirements associated with the subdivision of land under Community Title.

Clause 4.1AA regulates the minimum lot size provisions for Community Title subdivisions. The Clause aims to ensure speculative subdivision is not undertaken below the minimum lot size.

Council in recent time has had numerous representations from developers that have been seeking to undertake subdivision of a dual occupancy or multi-dwelling housing development that has not been completed in accordance with the requirements of an applicable development consent but which is reliant on the proposed development to ensure compliance with the subdivision objectives. In addition, Council has also had numerous representations from developers that have been seeking to undertake speculative Greenfield subdivision of land under Community Title.

It is proposed to suitably amend the LEP, as a component of the Planning Proposal, to ensure the subdivision of Greenfield land under Community Title meets the minimum allotment size for the land. It is also proposed that the LEP be amended to ensure subdivision of an approved dual occupancy or multi dwelling housing development is only allowable following the completion of the subject development.

In addition, the Wellington LEP 2012 does not currently allow for a Torrens Title subdivision of an approved and constructed dual occupancy or multi dwelling housing development as

provided for in the Dubbo LEP. It is also proposed to amend the LEP to include a new Clause 4.1A, that would allow such a subdivision to be undertaken. However, similar to the proposed subdivision controls as contained in Clause 4.1AA, it is proposed that Clause 4.1A would only allow for the subdivision of an approved and completed dual occupancy or multi dwelling housing development in the R1 General Residential zone, R2 Low Density Residential Zone or the RU5 Village zone.

Rural Subdivision

The controls for subdivisions undertaken on rural lands as contained in the LEP do not currently allow a subdivision below the minimum allotment other than for the purposes of agriculture.

It is considered that the addition of a new clause into the Wellington LEP 2012 will enable subdivision of rural land to be undertaken for another approved activity, such as for the purposes of a highway service centre, an electricity generating works, an extractive industry or the like. However, it should be noted that residential development and tourist and visitor accommodation will not be subject to this provision. Any subdivision of rural land, for the purposes of a dwelling or other accommodation is required to meet the respective minimum allotment size as contained in the LEP.

SUMMARY

Council has undertaken an Operational Review of the Wellington Local Environmental Plan 2012. This Review has resulted in a number of administrative and other minor amendments as included in the subject Planning Proposal.

It is recommended that the Planning Proposal be submitted to the Department of Planning and Environment to seek a Gateway Determination.

Appendices:

- 1 Draft Planning Proposal - Wellington Local Environmental Plan 2012