



REPORT: Planning Proposal - Operational Review of the Dubbo Local Environmental Plan 2011

AUTHOR: Manager City Strategy Services
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TRIM REFERENCE: ID17/374

EXECUTIVE SUMMARY

The Dubbo Local Environmental Plan 2011 was gazetted by the Minister for Planning on 11 November 2011. The Wellington Local Environmental Plan 2012 was gazetted on 23 November 2012. 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 Dubbo Local Environmental Plan 2011 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 Wellington Local Environmental Plan 2012. The operational review in respect of the Wellington Local Environmental Plan 2012 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 Dubbo Local Environmental Plan 2011 and to provide a level of parity between the provisions of the Dubbo LEP 2011 and the Wellington Local Environmental Plan 2012. 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 Dubbo Local Environmental Plan 2011 incorporating the following:

- Permissible land use activities;
- Subdivision controls;
- Clause 5.4 Controls relating to permissible uses;
- Part 7 Local provisions;
- Schedule 5 Environmental heritage;

- Minor amendments to land use zoning; and
- Minor amendments to biodiversity mapping.

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

As a component of the Operational Review process, staff have also considered the significant uptake of dual occupancy development in the R2 Low Density Residential zone. Dual occupancy development is now recognised by the community and the Dubbo Development Industry as a form of development that encourages housing choice and density.

With the significant take-up of dual occupancy development across the City comes the requirement to ensure the overall development of housing in the City is managed in a holistic manner so as to continue to encourage housing choice and diversity whilst maintaining the intent of the R2 Low Density Residential zone. No changes have been proposed to the Dubbo Local Environmental Plan 2011 in respect of dual occupancy development. Accordingly, this report recommends that Council undertake further consideration of a suite of proposed measures to guide the provision of dual occupancy development across the Dubbo Regional Local Government Area, including appropriate guidance in Council's Development Control Plans.

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.

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 Dubbo Local Environmental Plan 2011 and the Wellington Local Environmental Plan 2012 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 from the Department of Planning and Environment. Receipt of the Determination 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 Dubbo Local Environmental Plan 2011.**
- 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 Dubbo Local Environmental Plan 2011.**
- 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.**
- 5. That a further report be provided to Council for consideration that includes a suite of proposed measures Council could consider to guide the provision of dual occupancy development across the Dubbo Regional Local Government Area.**

Steven Jennings
Manager City Strategy Services

BACKGROUND

The Dubbo Local Environmental Plan 2011 was gazetted by the Minister for Planning on 11 November 2011. The Wellington Local Environmental Plan 2012 was gazetted on 23 November 2012. 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.

Concurrently, Council is also undertaking an Operational Review of the Wellington Local Environmental Plan 2012. The Operational Review in respect of the Wellington Local Environmental Plan 2012 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 Dubbo Local Environmental Plan 2011 and to provide a level of parity between the provisions of the Dubbo LEP 2011 and the Wellington Local Environmental Plan 2012. It should be noted that this review process and the resultant Planning Proposal are purely of an administrative nature only.

This report contains the results of the Operational Review of the Dubbo LEP 2011 and the proposed amendments to be undertaken. 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 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

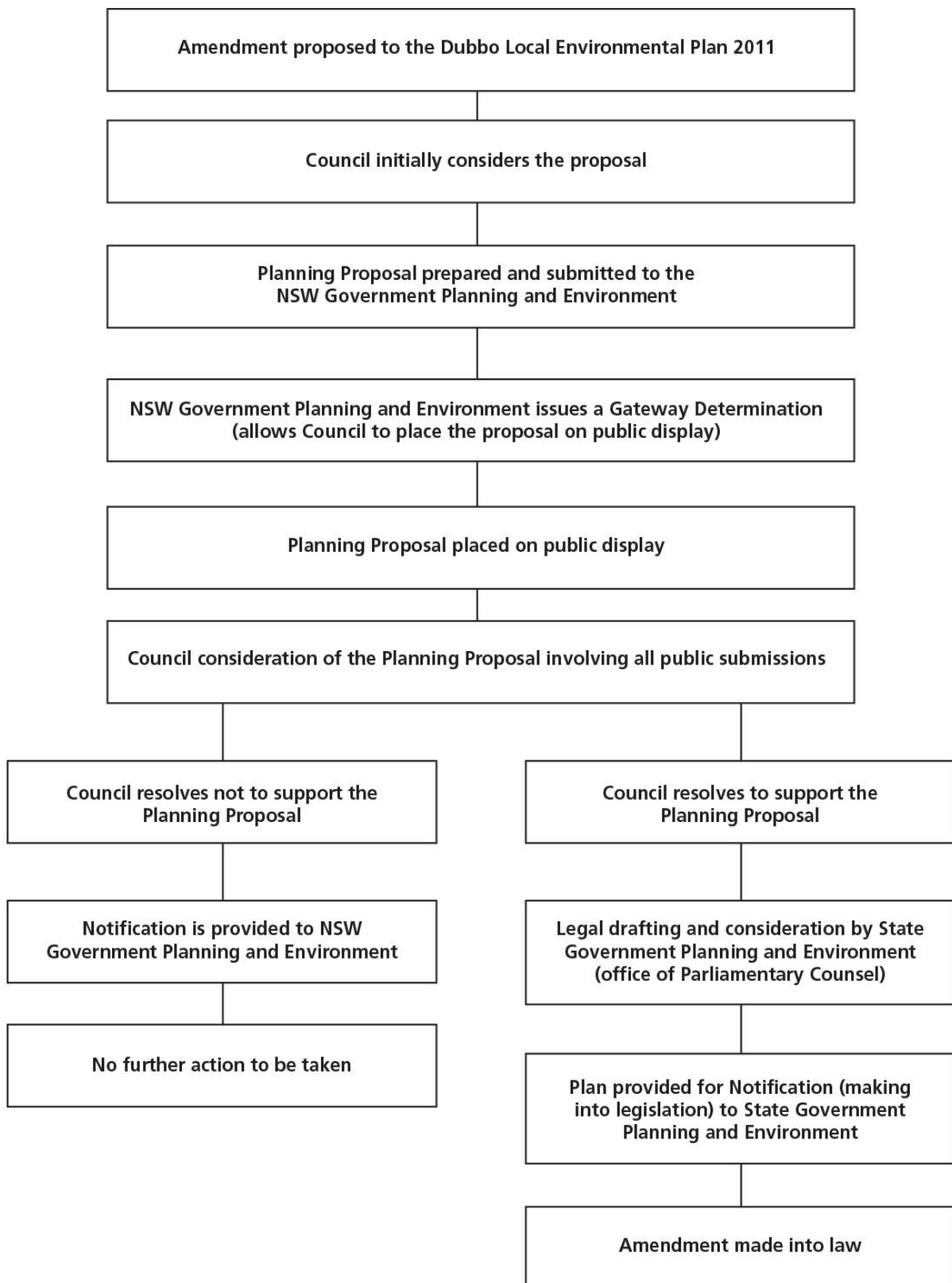


Figure 1. Planning Proposal Process

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 a Planning Proposal. If Council resolves to continue with the Planning Proposal, the amendment is provided to the Department of Planning and Environment 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 Dubbo Local Environmental Plan 2011, incorporating the following:

- Changes to permissible land use activities;
- Subdivision controls;
- Clause 5.4 Controls relating to permissible uses;
- Part 7 Local provisions;
- Schedule 5 Environmental heritage;
- Minor amendments to land use zoning; and
- Minor amendments to biodiversity mapping.

(a) Changes to Permissible Land Use Activities

(i) Farm Stay Accommodation in zone R5 Large Lot Residential

The Dubbo LEP 2011 allows farm stay accommodation in the R5 Large Lot Residential zone. Farm stay accommodation was originally permitted in the zone to encourage tourist and visitor accommodation and diversified income streams. Over time, Council has had a number

of proposals for farm stay accommodation that have been unable to adequately justify the extent of farming activities being undertaken on the land.

It is proposed that farm stay accommodation be removed from the LEP as a permissible land use in the R5 Large Lot Residential zone. It is proposed that farm stay accommodation be replaced by the provision of a new clause for Rural and Nature-Based Tourist Facilities. The intent and operation of such a provision is further discussed later in this report.

(ii) Water Storage Facilities in the W2 Recreational Waterways zone

The Dubbo LEP 2011 currently prohibits water storage facilities in the W2 Recreational Waterways zone. Further consideration of the W2 Recreational Waterways zone has shown that a weir would be defined as a water storage facility. Given the existence of weirs in the Macquarie River, it is considered that water storage facilities should be permissible activities in the W2 zone.

(iii) Aquaculture in the RE2 Private Recreation zone

The Dubbo LEP 2011 currently allows for the provision of aquaculture on land zoned RE2 Private Recreation. Under the provisions of the Standard Instrument (Principal Local Environmental Plans) Order 2006, aquaculture is a component of the agriculture group term, which is as follows:

“Agriculture means any of the following:

- (a) aquaculture,*
- (b) extensive agriculture,*
- (c) intensive livestock agriculture,*
- (d) intensive plant agriculture.”*

Under the provisions of a number of State Environmental Planning Policies, the permissibility of aquaculture on the land could potentially allow for the possible development of other land use activities that are incompatible with the intent of the RE2 Private Recreation zone, including mining and extractive industry activities. It is proposed that aquaculture be removed as a permissible land use activity in the RE2 Private Recreation zone.

(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 zoned RU1 Primary Production, RU2 Rural Landscape, 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. The intent and justification for the proposed change to the LEP is further discussed in the report.

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

The Dubbo LEP 2011 allows subdivision of a lot below the minimum lot size on the Lot Size Map for dual occupancy development situated on land zoned RU5 Village and R2 Low Density Residential. Following gazettal of the LEP, Council has received a number of representations that similar provisions are not available for development undertaken on land zoned R1 General Residential.

It is proposed to generally amend Clause 4.1A to include land zoned R1 General Residential and to include multi-dwelling housing as an applicable development type 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 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,*
 - (ii) *Multi-dwelling housing.”*

It is proposed to amend the clause to require the dual occupancy or multi-dwelling housing development to be constructed on the land prior to any Torrens title subdivision being undertaken. The intent and justification for the proposed change to the LEP is further discussed in the report.

(c) **Clause 5.4 Controls Relating to Miscellaneous Permissible Uses**

- (i) **Bed and Breakfast Accommodation**

Clause 5.4 (1) permits bed and breakfast accommodation up to a maximum of four bedrooms. It is proposed to increase the maximum allowable number of bedrooms under the Dubbo LEP to five. It is considered that the proposed increase from four to five bedrooms is unlikely to present any negative effects that cannot be regulated by Council's normal development assessment procedures.

(d) Proposed Changes to Part 7 Additional Local Provisions

(i) Proposed New Clause for Rural and Nature-Based Tourist Facilities

To ensure small scale rural and nature based tourist facilities can be undertaken on land zoned RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential, it is proposed to include a new clause in Part 7 of the Dubbo LEP 2011 as follows:

"Clause 7.14 Rural and nature-based tourist facilities

- (1) The objective of this clause is to ensure that tourism development in rural and natural areas is low scale and does not adversely impact on the agricultural production, scenic or environmental values of the land.*
- (2) This clause applies to land in the following zones:*
 - (a) Zone RU1 Primary Production,*
 - (b) Zone RU2 Rural Landscape,*
 - (c) Zone R5 Large Lot Residential.*
- (3) Development consent must not be granted for development for the purpose of tourist facilities on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) adequate access exists or will be provided to service the development from a road other than a classified road, taking into account the scale of the development, and*
 - (b) the development will not create a land use conflict, and*
 - (c) the development is a small tourist facility that is complimentary to the rural or environmental attributes of the land and its surrounds, and*
 - (d) the development will not have a significant adverse impact on agricultural production, the scenic amenity of the locality or significant features of the natural environment, and*
 - (e) if the development is located in an unsewered area, adequate on-site wastewater systems will service the land without having an adverse impact on the water quality of the area.*
- (4) In this clause:*

small tourist facility means a tourist facility that is managed and operated solely by the owner or a site manager who resides on the land.

tourist facility means any development where services or facilities are provided for visitors to the area and includes, but is not limited to, camping grounds, eco-tourist facilities, hotel or motel accommodation, information and education facilities and restaurants or cafes."

Further consultation will be required to be undertaken with the DPE to ensure the LEP can be appropriately amended to allow for tourist facilities in accordance with the intent of the proposed clause. The intent and justification for the proposed change to the LEP is further discussed in the report.

(e) Schedule 5 Environmental Heritage

(i) Lot 8 DP 1205114, 63L Burraway Road, Dubbo

The subject land contains the Terramungamine Homestead and the Terramungamine Woolshed which are listed heritage items in Schedule 5 of the Dubbo LEP 2011. The land has been recently subdivided and as such, the new property details do not reflect the current heritage listings.

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

Suburb	Item Name	Address	Property Description	Significance	Item No
Dubbo	Terramungamine Homestead	63L Burraway Road, Dubbo	Lot 8 DP 1205114	Local	I65
Dubbo	Terramungamine Woolshed	63L Burraway Road, Dubbo	Lot 8 DP 1205114	Local	I66

(ii) Lot 303 DP 1216045, 24 Keswick Parkway, Dubbo

The subject land contains a communications bunker which is a listed heritage item in Schedule 5 of the Dubbo LEP 2011. The surrounding land has undergone development in the form of a residential subdivision and associated housing development. As a result of this development, the property details for the land containing the heritage item have changed.

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

Suburb	Item Name	Address	Property Description	Significance	Item No
Dubbo	Communications Bunker	24 Keswick Parkway, Dubbo	Lot 303 DP 1216045	Local	I135

(f) Minor Amendments to Land Use zoning

(i) Transport Drive, Brocklehurst

The southern edge of lots 2, 3, 4 and 5 in DP 285340 Transport Drive, Brocklehurst and Lot 1 DP 1001551, Burraway Road, Brocklehurst are zoned E3 Environmental Management under the provisions of the Dubbo LEP 2011. It is proposed to zone these areas of land IN2 Light Industrial which is consistent with the zoning and use of land to the north of this land.

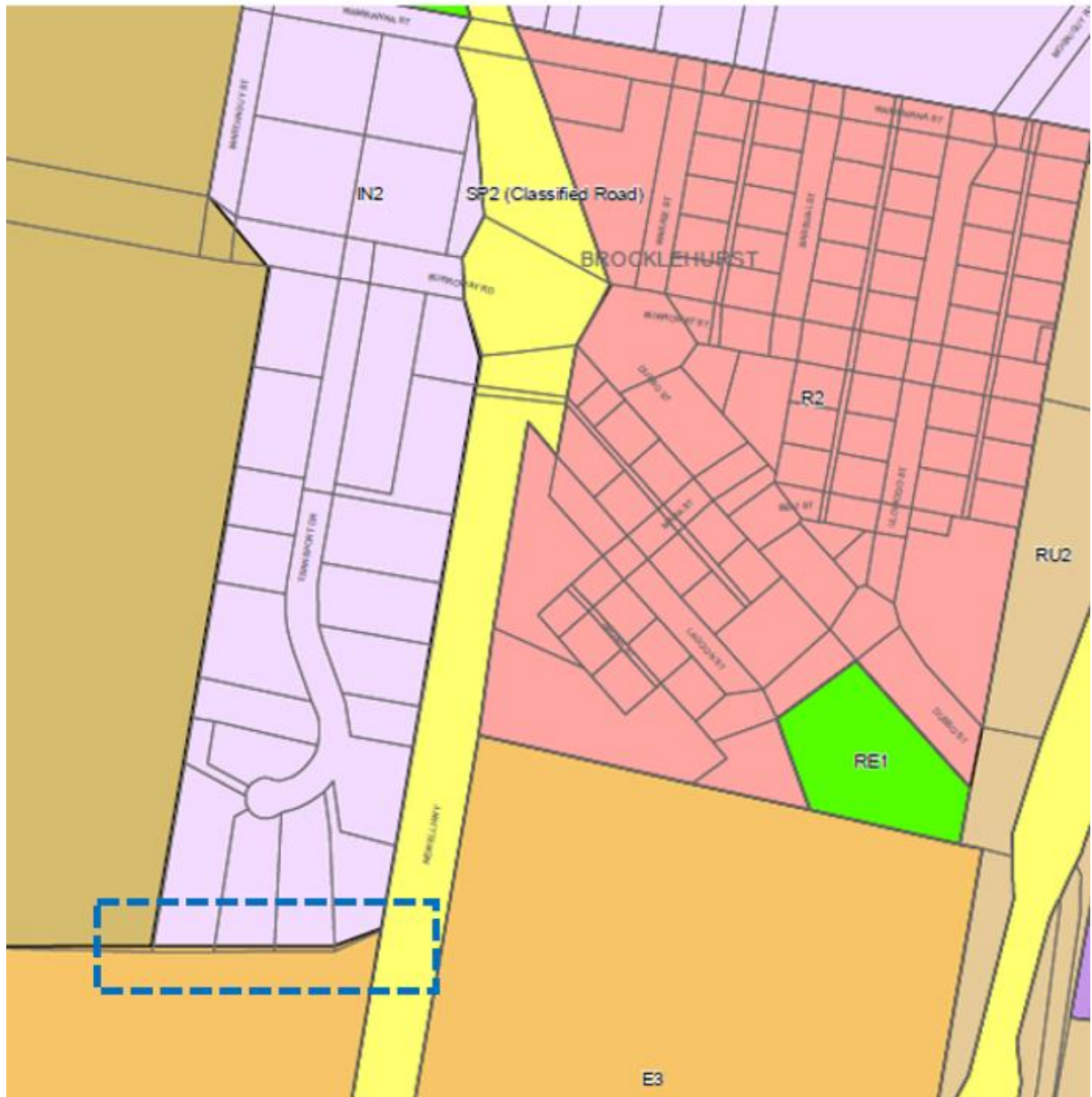


Figure 2. Current Land Use Zoning Transport Drive, Dubbo and Burraway Road, Dubbo

(ii) Lady Barron Circuit, Dubbo

As shown in Figure 3, the majority of Lot 2018, Lot 2030 and Lot 2031 DP 1197970, Lady Barron Circuit, Dubbo is currently zoned R2 Low Density Residential under the provisions of the Dubbo LEP 2011. The western edge of the subject land is currently zoned R2 Low Density

Residential. It is proposed to amend the zone boundary to reflect the lot boundaries for the subject lands.

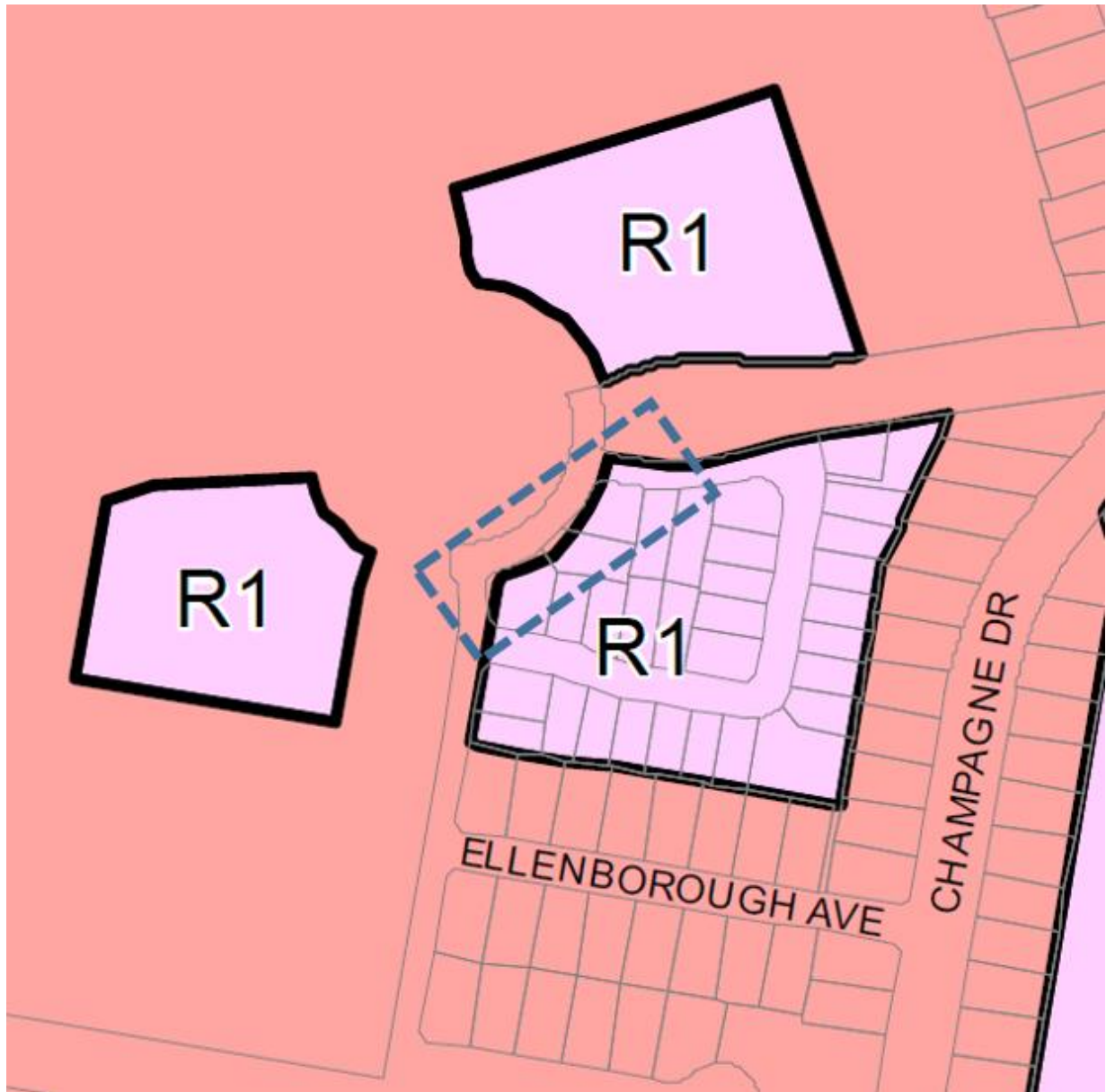


Figure 3. Current Land Use Zoning Lady Barron Circuit, Dubbo

(g) Minor Amendment to Biodiversity Mapping

(i) Biodiversity Mapping Keswick Estate

An area of the subject land has been approved for residential subdivision and development and as such has been cleared of vegetation. It is proposed to amend the biodiversity map to remove the area shown in blue, below.



Figure 4. Dubbo Local Environmental Plan 2011 - Biodiversity Mapping, Keswick Estate

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 DPE.

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) Dubbo Urban Areas Development Strategy

The Dubbo Urban Areas Development Strategy forms the basis of the land use zonings and planning controls provided in the Dubbo Local Environmental Plan 2011.

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

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

At the core of the Residential Areas Development Strategy is the significant emphasis of further residential development being undertaken in west Dubbo which will ensure the Central Business District is situated at the centre of the Dubbo urban area. The Strategy also provides for further infill development to be undertaken in the south-east area of the City.

The Strategy was reviewed by Council in 2007 as part of the review of the Dubbo Urban Areas Development Strategy with the preparation of the Dubbo Urban Areas Development Strategy Discussion Paper. The Strategy was also reviewed by Council with preparation of the Dubbo Local Environmental Plan in 2011.

It is considered that the Planning Proposal is consistent with the overall objectives and intent of the Dubbo Residential Areas Development Strategy. It is also considered that the Planning Proposal is consistent with the other applicable components of the Dubbo Urban Areas Development Strategy.

(iii) Dubbo Rural Areas Development Strategy

The Dubbo Rural Areas Development Strategy 1995 - 2015 forms the basis of the rural land use zonings and planning controls provided in the Dubbo Local Environmental Plan 2011.

The Planning Proposal seeks to include a new local provision in respect of Rural and Nature-Based Tourist Facilities. The proposed local provision will apply to land zoned RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential. The local provision will permit appropriate small scale tourist development, subject to development consent. It is considered that the proposed amendment will facilitate additional business opportunities on the subject lands and is unlikely to impact agricultural activities.

It is considered that the Planning Proposal is consistent with the Dubbo Rural Areas Development Strategy.

(iv) Section 117 Directions

The following Section 117 Directions are matters for consideration as a component of the Planning Proposal process.

Direction	Requirement	Consistency
1.2 Rural Zones	The Direction applies to this Planning Proposal as the proposal affects land within the existing rural zones.	The Planning Proposal is considered to be consistent with the Direction as it does not propose to rezone rural land. The Planning Proposal includes an additional local provision that will guide the undertaking of rural and nature-based tourist facilities on rural and other lands.
1.5 Rural Lands	The 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 introduce a new Clause Rural and Nature-Based Tourist Facilities.	It is considered that the proposed provisions of the new clause are consistent with the Rural Planning Principles contained within State Environmental Planning Policy (Rural Lands) 2008.

Direction	Requirement	Consistency
2.1 Environmental Protection Zones	The Direction is applicable to the Planning Proposal as it intends to remove the biodiversity designation from a number of areas located in the Keswick Estate. The Planning Proposal also includes a proposal to adjust a zone boundary on Transport Drive, Brocklehurst, changing the zone from E3 Environmental Management to IN2 Light Industrial. This will allow a minor anomaly to be rectified.	The Planning Proposal is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the area has previously been cleared of vegetation to accommodate residential development, pursuant to the recommendation of flora and fauna assessments and in accordance with previous development consents. It is also considered that the proposed zone boundary adjustment on Transport Drive, Brocklehurst is inconsistent with the Direction. The inconsistency is considered to be of minor significance as the zone boundary is proposed to reflect the existing lot boundaries.
2.3 Heritage Conservation	The Direction applies to the Planning Proposal as the Proposal intends to alter the heritage listing for the land surrounding the Terramungamine Homestead and Woolshed on Burraway Road. Additionally, the Proposal intends to alter the heritage listing for the communications bunker within the Keswick on the Park Estate.	The Planning Proposal is considered to be consistent with the Direction.

Direction	Requirement	Consistency
3.1 Residential Zones	The Direction applies to the Planning Proposal as it will affect land within an existing or proposed residential zone or (including the alteration of any existing residential zone boundary) any other zone in which significant residential development is permitted or proposed to be permitted.	The Planning Proposal will assist in facilitating a broader choice of building types and increase residential densities to utilise existing infrastructure and services. The Planning Proposal is considered to be inconsistent with the Direction as the proposal does not broaden the choices of housing types, does not reduce the consumption of land for housing and does not promote good design. It is considered that the inconsistency with the Direction is of minor significance as the Planning Proposal includes the provision of greater flexibility for land zoned R5 Large Lot Residential and the proposal does not impact any other provisions for development on residential land.
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.

Direction	Requirement	Consistency
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 the Planning Proposal as it intends to create, remove or alter a zone or a provision that affects flood prone land. The Direction is applicable to this Planning Proposal as it intends to introduce water storage facilities in the W2 Recreational Waterways zone as a permissible form of development.	The Proposal is inconsistent with the Direction as it permits development in a floodway area. The inconsistency is considered to be of minor significance as the amendment proposed is to permit further development of weirs within the Macquarie River.
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 for Rural and Nature-Based Tourist Facilities.	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 development consent and assessment against any potential bush fire hazard imposed on the development.

Direction	Requirement	Consistency
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.
6.3 Site Specific Provisions	The Direction applies when a Planning Proposal is prepared that will allow a particular development to be carried out. The Direction is applicable as the Planning Proposal intends to permit with consent, water storage facilities in the W2 Recreational Waterways zone.	The Planning Proposal is consistent with the Direction.

(v) 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 (Infrastructure) 2007.

The following provides information in respect of the Proposal's compliance with SEPP (Rural Lands) 2008.

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, the Planning Proposal includes a new local provision for the development of Rural and Nature-Based Tourism Facilities. 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 objectives of the SEPP (Rural Lands) 2008.

State Environmental Planning Policy (Infrastructure) 2007

The aims of the Policy are as follows:

- “(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of a development adjacent to particular types of infrastructure development, and*
- (f) providing for consulting with relevant public authorities about certain development during the assessment process or prior to development commencing.”*

The Planning Proposal intends to permit water storage facilities in the W2 Recreational Waterways zone. The proposal is considered to be consistent with the aims of the Policy and the associated provisions as contained in the SEPP.

(vi) Dubbo Local Environmental Plan

Dual Occupancy Development

The Dubbo Local Environmental Plan 2011 allows for the development of an attached or detached dual occupancy on land zoned R2 Low Density Residential. Dual occupancy development across the City has had a significant take-up following gazettal of the LEP in

2011 and is now recognised by the community and the Dubbo Development Industry as a form of development that encourages housing choice and density.

With the significant take-up of dual occupancy development across the City comes the requirement to ensure the overall development of housing in the City is managed in a holistic manner so as to continue to encourage housing choice and diversity whilst maintaining the intent of the R2 Low Density Residential zone. The most effective neighbourhoods are those that can function with a variety of lot sizes, housing types and styles which encourage the development of housing across a number of price points in the market. This can only be achieved through ensuring there is not a significant proliferation of one housing type in a neighbourhood.

It is not proposed to include any direct change in respect of dual occupancy development to the provisions of the Dubbo Local Environmental Plan 2011 as a component of this Planning Proposal as Council supports the provision of dual occupancy in a planned and sustainable manner however, it is considered appropriate for Council to undertake further research and consideration of how dual occupancy development is being managed in other local government areas. The results of these investigations will form a separate report to Council where further consideration can be given to the provision of appropriate guidance in Council's development control plan.

Residential Subdivision

The LEP includes specific minimum lot size mapping, which provides a minimum allotment size for subdivision for the majority of land subject to the provisions of the Dubbo LEP 2011. The LEP provides specific requirements associated with the subdivision of land under Community Title and Torrens 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. Clause 4.1A allows for the Torrens Title subdivision of an approved and constructed dual occupancy development on land zoned R2 Low Density Residential and land zoned RU5 Village.

Council in recent times 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 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.

Rural and Nature-Based Tourist Facilities

Council has received a number of development enquiries during the operation of the LEP to undertake the provision of farm stay accommodation on land zoned R5 Large Lot Residential. Farm stay accommodation is currently a permissible form of development in the zone. Whilst Council is supportive of alternative forms of income for rural lands, proponents have found it difficult to adequately justify compliance of a farm stay accommodation development with the permissibility requirements of the LEP.

To address this situation, the Planning Proposal includes two (2) key amendments. This includes removing farm stay accommodation as a permissible form of development in the R5 Large Lot Residential zone and to include a local provision in Part 7 of the LEP in respect of small scale rural and nature based tourist facilities. Inclusion of the new local provision in Part 7 of the LEP will allow for the development of small scale tourist facilities on land zoned RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential.

However, it should be noted that further consultation will be required to be undertaken with the DPE to ensure the LEP can be appropriately amended to allow for tourist facilities in accordance with the intent of the proposed clause.

SUMMARY

Council has undertaken an Operational Review of the Dubbo Local Environmental Plan 2011. This Review has resulted in a number of administrative and other minor amendments as included in the subject Planning Proposal.

The Planning Proposal is considered to be consistent with the provisions of the Dubbo Urban Areas Development Strategy and the provisions of the Dubbo Rural Areas Development Strategy.

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 - Operational Review of the Dubbo LEP 2011