

## Planning and Assessment

IRF19/6970

### Gateway determination report

<b>LGA</b>	Dubbo Regional
<b>PPA</b>	Dubbo Regional Council
<b>NAME</b>	4L Camp Road
<b>NUMBER</b>	PP_2018_DREGI_003_00
<b>LEP TO BE AMENDED</b>	Dubbo LEP 2011 (LEP)
<b>ADDRESS</b>	4 L Camp Road, Dubbo
<b>DESCRIPTION</b>	Lot 8 DP 1063425
<b>RECEIVED</b>	29/10/2019
<b>FILE NO.</b>	IRF19/6970
<b>POLITICAL DONATIONS</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The intent of the Planning Proposal is to facilitate the subdivision of 130 ha of land into possibly 20 lots (subject to detailed design) for dwelling house purposes on the subject site whilst maintaining provision for small-scale rural-based tourist activity along Camp Road. Additional LEP amendments are proposed to create a revised minimum lot size regime, mitigate the impacts of localised light on the surrounding dark skies and restrict residential development in areas of the site impacted by noise from the Morris Park Speedway.

As a result of the Dubbo Employment Lands Strategy (ELS) and Camp Road Structure Plan (CRSP) the original Planning Proposal has changed and will need to be amended prior to public exhibition. For example the original proposal included the use of zone RU6 Transition which was not supported whereby an Additional Permitted Use is now being proposed.

## 1.2 Site description and surrounding land

The site is located to the south of Dubbo within the Camp Road Precinct. The subject land is bounded by the Taronga Western Plains Zoo to the north, and existing tourist related uses to the west (within the Camp Road Precinct – see figure 1 below). To the south and east is predominantly rural agricultural uses such as grazing.

Currently the subject land is used for grazing with a single dwelling located on the site. There is a significant stand of vegetation in the south eastern corner of the site.



Figure 1 – Camp Road precinct.



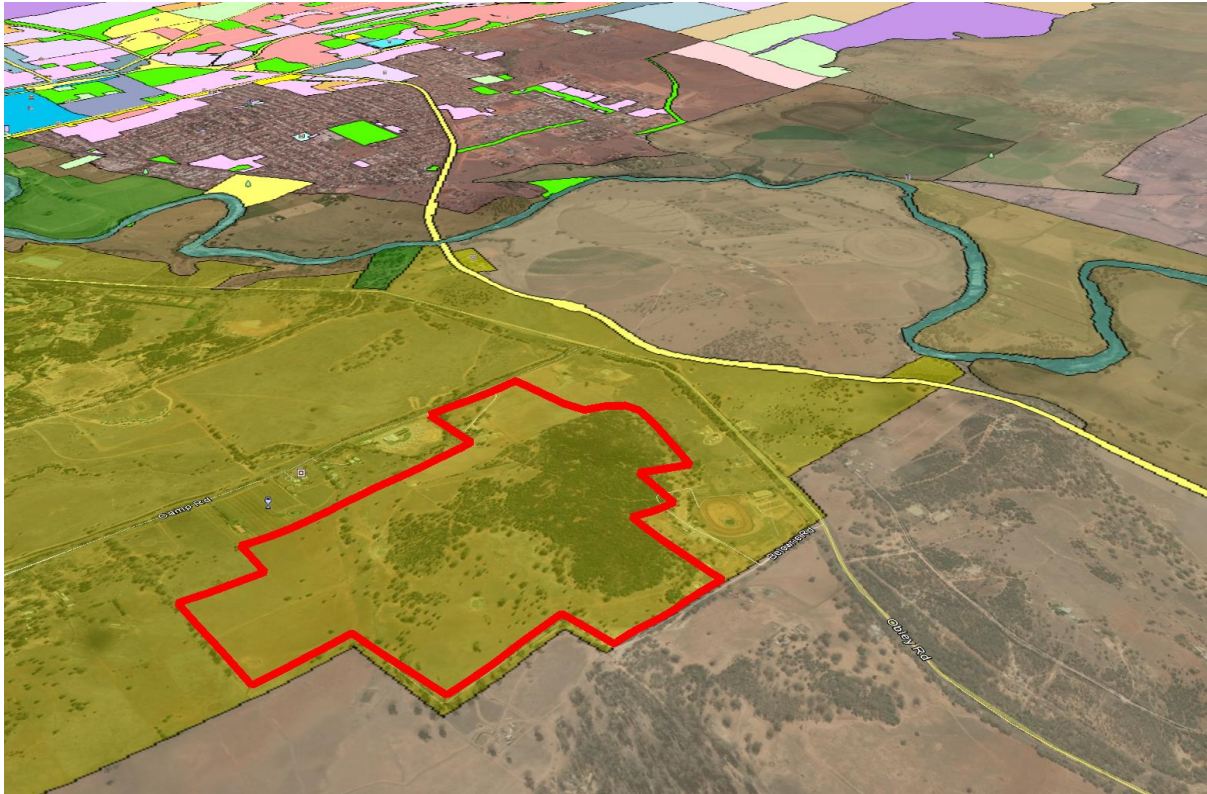


Figure 2– Subject Land

### 1.3 Existing planning controls

The subject land is currently zoned SP3 Tourist with no minimum lot size under the Dubbo LEP 2011. Currently zone SP3 Tourist land use table does not permit dwelling houses.

### 1.4 Summary of recommendation

Proceed with condition – the submitted planning proposal demonstrates strategic and site merit. However the following key points need to be resolved and can be done so through the conditional Gateway determination:

- Split MLS will result from the proposed LEP amendment with portion of land having 5 and 2ha MLS. It is being recommended the planning proposal be amended to reflect the intent to allow for subdivision to occur.
- Mitigate acoustic impacts through an LEP local clause and map. The Planning Proposal is to be revised to show this intent prior to public exhibition. DPIE EPA and Planning is to be provided with the revised acoustic mitigation intent prior to the public exhibition.
- The planning proposal is to be amended prior to public exhibition to include the intent for the APU to contain specifications for a buffer management plan. The APU is to reflect requirement of the buffer management plan to be provided prior to consent authority issuing development application for subdivision.
- Consultation required with agencies during public consultation as follows:
  - Taronga Dubbo Western Plains Zoo
  - DPIE – EPA

- DPIE – DPI Agriculture
- DPIE – Biodiversity and Conservation
- DPIE - NRAR
- Transport – RMS
- NSW RFS

## **2. PROPOSAL**

---

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

The intent of the Planning Proposal is to facilitate subdivision for the development of dwelling houses on the subject site whilst maintaining provision for small-scale rural-based tourist activity.

### **2.2 Explanation of provisions**

The proposed amendments to the Dubbo LEP 2011 are as follows:

- a) Include an additional permitted use to allow the erection of dwelling houses in the SP3 Tourist zone, exclusive to the subject land only.
- b) Include an additional local provision to mitigate impacts on adjoining and nearby tourist uses, exclusive to the subject land and identified by a new clause application map.
- c) Amend Lot Size Map – Sheet LSZ\_008 to provide a range of minimum lot sizes including no MLS, two (2) hectares and five (5) hectares, in respect of the subject land only.
- d) Include an additional local provision to prohibit habitable residential development in areas of the subject site impacted by acoustic levels greater than 55dBA from the existing Morris Park Speedway and acoustic treatment of dwellings within the 45dBA and 55 dBA level

These mechanisms are supported and will allow for the planning proposal's intended outcomes to be achieved.

Additional LEP provisions that will need to be incorporated into the planning proposal prior to public exhibition include:

- Split minimum lot size clause will result from the proposed LEP amendment with portion of land having 5ha and 2ha. Recommend the planning proposal be amended to reflect the intent to allow for subdivision to occur.
- Acoustic mitigations controls to be implemented through an LEP local clause and map. The Planning Proposal to be revised to show this intent prior to public exhibition. DPIE EPA and Planning to be consulted during the drafting of the revised acoustic mitigation clause and map.
- The planning proposal is to be amended prior to public exhibition to include the intent for the APU to contain specifications for a buffer management plan. The APU to reflect requirement of the buffer management plan to be provided prior to consent authority issuing subdivision determination.

## 2.3 Mapping

The planning proposal requires the amendment of the MLS map (sheet LSZ\_008) and the creation of 2 new local development standard maps to support the restriction of dwelling houses in the 55 dBA area and also a map to identify land subject to acoustic mitigation controls. An Additional Permitted Use map will also be required.

## 3. NEED FOR THE PLANNING PROPOSAL

---

The planning proposal is required to achieve the intent of the proposal. The proposal is consistent with the Dubbo Employment Lands Strategy (endorsed by the Department on 18 September 2019)(ELS) and the Camp Road Structure Plan (CRSP) that is concurrently being assessed.

## 4. STRATEGIC ASSESSMENT

---

### 4.1 State

The planning proposal is consistent with strategic direction at a state level.

### 4.2 Regional / District

The Central West and Orana Regional Plan 2036 is applicable to the Planning Proposal. The Planning Proposal is considered to be broadly consistent with the vision, goals, directions and actions of the Plan. In particular it is consistent with the following:

- **Direction 1: Protect the region's diverse and productive agricultural land.** The land subject to the Planning Proposal adjoins RU1 Primary Production to the south which currently hosts existing agricultural uses. The Planning Proposal seeks to minimise potential land use conflict by providing a 50m buffer to the south of the subject site as well as the proposed 2 hectare minimum lot size regime. This has been considered in the Camp Road Structure Plan and in consultation with DPI Agriculture. The Camp Road Structure Plan assists in facilitating housing and tourism.
- **Direction 4: Promote and diversify regional tourism markets.** The Planning Proposal seeks to continue to facilitate tourist-related activities on the subject land with larger lot sizes proposed to areas of the subject site immediately adjoining Camp Road.
- **Direction 25: Increase housing diversity and choice.** A preliminary undertaking of a supply and demand analysis in the Dubbo Regional LGA would indicate there is limited availability of vacant two (2) hectare lots. The Planning Proposal seeks to provide additional two (2) hectare allotments aimed at facilitating semi-rural style lifestyle housing options for the Dubbo LGA. The Proposal is therefore consistent with this Direction as it is increasing housing diversity and choice.

### 4.3 Local

#### Dubbo Employment Lands Strategy (ELS)

The ELS was adopted by Council on 11 March 2019 and endorsed by the Department on 18 September 2019. The time taken for endorsement was delayed

while the CRSP was being finalised. The ELS guides the development of employment land and ensures adequate supply is maintained to facilitate a diverse range of job opportunities for the Dubbo community. Camp Road Structure Plan (CRSP) has been identified to include sustainable housing development while allowing tourist development.

The proposal is consistent with the ELS and CRSP.

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

The additional information requested from Dubbo Regional Council on 13 February 2018 included a request to justify inconsistencies with the following s9.1 Directions:

- 1.2 Rural Zones
- 1.5 Rural Lands,
- 2.1 Environmental Protection Zones,
- 3.1 Residential Zones,
- 3.4 Integrating Land Use and Transport,
- 4.4 Planning for Bushfire Protection and
- 5.10 Implementation of Regional Plans.

In undertaking of the endorsed ELS and the CRSP, the inconsistencies identified earlier have been resolved. At this time the proposal still remains inconsistent with the following section 9.1 Direction 4.4 Planning for Bushfire Protection.

The Gateway determination will require consultation with the NSW RFS to assist in resolving this inconsistency.

#### **4.5 State Environmental Planning Policies (SEPPs)**

The original proposal was inconsistent with the SEPP Rural Lands 2008 (now superseded by SEPP (Primary Production and Rural Development) 2018) through the fragmentation of the land and increased potential for rural land use conflict with adjoining land uses. The strategic work undertaken in the endorsed ELS and CRSP has resolved this inconsistency in that there are adequate buffers in place to minimise conflict with adjoining rural land uses.

A 50m buffer is proposed along the southern boundary of the subject land to reduce potential land use conflicts including noise, odour and visual impacts between dwellings and agriculture. This distance has been established in consultation with DPI Agriculture. With the agreed buffer any negative impacts to the adjoining agricultural activities to the south of the subject land will be minimised.

Additionally, the lot size proposed allows adequate separation distance to reduce conflict with existing rural land within the Camp Road Precinct. The proposed lot size of 2ha or 5ha is adequate to ensure future dwelling houses can be located the required distances from adjoining agricultural land and tourist developments. In addition, a buffer management plan will be required to be engrained in the planning proposal intent prior to being placed on public exhibition.

The planning proposal is therefore generally consistent with the relevant SEPPs.

The preliminary contamination investigation (SEPP 55 – Remediation of Land) is adequate at this stage and concluded that the land was suitable for residential development. The proponent will be required to undertake further detailed



consideration of issues in respect of contamination at the development application stage for subdivision and resultant development of the land.

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

---

### **5.1 Social**

There are no known social impacts from the proposal proceeding. The ELS and CRSP has been on public exhibition and residents in the vicinity of the proposal raised issue with impact on existing businesses. Council has adequately addressed these concerns. Should the noise impact from surrounding developments is not mitigated then there will impact on the resident's amenity living in this area.

### **5.2 Environmental**

#### **Biodiversity**

The subject site is mapped as containing moderate and high levels of biodiversity. A Biodiversity Development Assessment Report (BDAR) was provided with the Planning Proposal.

The BDAR concludes that while there will be impact on species and ecosystems, the impact can be offset through a mixture of onsite offsetting and payment into the BCT fund.

The site is currently mapped under the LEP as both moderate and high biodiversity. The LEP biodiversity maps, the BDAR and the planning proposal are consistent. Consultation with DPIE Biodiversity and Conservation Division will provide further guidance before LEP amendment is finalised.

Detailed assessment will need to be completed at the subdivision/DA stage to avoid/mitigate impact on biodiversity.

It is being recommended that the Planning Proposal and BDAR be reviewed by DPIE – Biodiversity and Conservation Division for confirmation of the suitability of the proposal regarding environmental constraints. This will be a condition of the Gateway determination.

#### **Noise**

The subject land adjoins Morris Park Speedway and will be subject to noise impacts. An acoustic report was submitted with the Planning Proposal. The key level of impact was proposed to be 55dBA level. The Department undertook further consultation with the Departments acoustic expert and EPA whereby both considered that noise impact mitigation should be extended to 45dBA. EPA formally advised in a submission to Council dated 11 September 2019 that 45dBA should be the level to be consistent with the former Environmental Noise Control Manual. Further work is required to establish the extent of this impact area. The Gateway determination will be conditioned to reflect this requirement.

### **5.3 Economic**

Council has justified that development and tourist investment along Camp Road has been mixed and has not reached its projected strategic objective. Council analysis of development and investment trends on Camp Road since 1998 shows the start of a

sharp downward trend around 2010-2012 which coincides with the Taronga Western Plains Zoo's move to branch into onsite accommodation options.

The Camp Road Precinct has experienced structural changes, the overarching role of the SP3 Tourist zoned land along Camp Road has been reconsidered through the ELS to increase options for the area. Noting that whilst it has been identified that tourist related development has stagnated, small-scale rural based tourist development still has a significant role to play along Camp Road and this focus will be maintained. The introduction of dwelling houses as a permissible form of development may potentially facilitate, enhance and support the development of small-scale rural based tourist development.

If the noise impact from surrounding developments is not mitigated then there may be an economic impact on the operation of those developments.

## **6. CONSULTATION**

---

### **6.1 Community**

28 days consultation is proposed in accordance with Councils Draft Community Participation Plan and DPIE guidelines.

### **6.2 Agencies**

The following agencies are to be consulted:

- DPIE NRAR
- DPIE B&C
- Transport – (RMS)
- DPIE – Taronga Dubbo Western Plains Zoo
- DPIE – EPA
- DPIE – DPI Agriculture
- NSW RFS

## **7. TIME FRAME**

---

12 months to finalise the LEP.

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

---

Due to the nature of the Proposal and there are unresolved matters and changes required prior to public and agency consultation it is being recommended plan-making delegations not be provided to Council at this time. This can be reconsidered after public and agency consultation.

## **9. CONCLUSION**

---

The Planning Proposal is supported to proceed subject to conditions. The Proposal is supported by the ELS and CRSP.



## 10. RECOMMENDATION

---

It is recommended that the delegate of the Secretary:

1. Agree that the following inconsistencies with section 9.1 Directions are minor and no further work is required.
  - 1.2 Rural Zones,
  - 1.5 Rural Lands,
  - 2.1 Environmental Protection Zones,
  - 3.1 Residential Zones,
  - 3.4 Integrating Land Use and Transport and
  - 5.10 Implementation of Regional Plans

Council still needs to obtain agreement of the Department of Planning, Industry and Environment's Secretary to comply with the requirements of section 9.1 Directions 4.4 Planning for Bushfire Protection is justified in accordance with the terms of the Direction prior to the LEP being finalised. Consultation with NSW Rural Fire Service will assist Council in this regard.

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

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - DPIE NRAR – waterways and ground water vulnerability.
  - DPIE B&C
  - Transport – (RMS)
  - DPIE – Taronga Dubbo Western Plains Zoo
  - DPIE – EPA
  - DPIE – DPI Agriculture
  - NSW RFS
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the Planning Proposal, Council should not be the local plan-making authority at this time.
6. Prior to the public consultation, the Planning Proposal must be amended to address following:
  - Identify the intent that there will be a split MLS will result from the land having MLS of 5ha and 2ha. The mechanism to be used may be a split MLS clause. The mechanism will be resolved in conjunction with Council, legal team of DPIE and PCO.

- Include acoustic mitigations controls to be implemented through an LEP local clause and map. DPIE EPA and Planning will be consulted during the drafting of the revised acoustic mitigation clause and map.
- Include the intent for the APU to contain specifications for a buffer management plan. The APU is to reflect requirement of the buffer management plan to be provided prior to consent authority issuing development determination.



26.11.19

**Wayne Garnsey**  
**Team Leader, Western Region**

Assessment officer: Tim Collins  
Senior Planner, Western Region  
Phone: 58526806