



REPORT: Results of Public Exhibition - Keswick RSL Planning Proposal

AUTHOR: Growth Planning Projects Leader -
Digital Futures
REPORT DATE: 5 July 2021
TRIM REFERENCE: ID21/1088

EXECUTIVE SUMMARY

Council at its meeting of 22 March, 2021 considered a report in respect of a Planning Proposal pertaining to a 3.3 ha parcel of land at part Lot 500, DP 1260295, Boundary Road, Dubbo. Council, (in part) resolved as follows:

- "2. That the Planning Proposal provided here in Appendix 1 and supporting information, be submitted to the NSW Department of Planning, Industry & Environment for a Gateway Determination, to identify registered clubs and outdoor recreation facilities as additional permitted uses on part Lot 500 DP 1260295 Boundary Road, Dubbo.*
- 3. That Council seek authority from the Department of Planning Industry and Environment to exercise its Delegations in relation to the plan making functions under Section 3.36 of the Environmental Planning & Assessment Act 1979.*
- 4. That subject to issue of a Gateway Determination, 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."*

A conditional Gateway Determination was issued by the Department of Planning, Infrastructure and Environment (DPIE) on 24 May 2021 (**Appendix 1**). A minor change to the Planning Proposal (**Appendix 2**) was made identifying an additional permitted use on the opposite side of Boundary Road in accordance with the Gateway Determination.

Gateway correspondence advised that following consideration of the nature of the Planning Proposal, DPIE decided that Council should not be authorised as the local plan making authority in this case.

The Planning Proposal (**Appendix 2**) was exhibited from Wednesday 2 June 2021 to Friday 2 July 2021. Landowners in the vicinity of the proposal and relevant Government agencies were also consulted in accordance with the Gateway Determination. No submissions were received in relation to the proposal.

The purpose of this report is to provide Council with a post exhibition report and to seek Council's approval to instruct the DPIE to finalise the Planning Proposal.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

The Planning Proposal, if gazetted will amend Schedule 1 of the Dubbo Local Environmental Plan (LEP) 2011 and the corresponding Additional Permitted Uses Map.

RECOMMENDATION

1. That the report of the Growth Planning Project Leader – Digital Futures, dated 5 July 2021, be noted.
2. That Council approve the Planning Proposal applying to part lot 500 DP 1260295, Boundary Road, Dubbo as shown at Appendix 2 to be made as an amendment to the Dubbo LEP 2011.
3. That Council request the Department of Planning, Industry and Environment to make arrangements with the Parliamentary Counsel's Office to prepare the draft instrument under section 3.36(1) of the Act and provide Council with an Opinion that the Plan be made.
4. That Council request gazettal of the Plan following receipt of the Opinion from the Department that the Plan be made.

Carmel O'Connor

Growth Planning Projects Leader - Digital Futures

Council at its meeting of 22 March 2021, considered a Planning Proposal in respect of part Lot 500 DP 1260295, Boundary Road, Dubbo. The Planning Proposal sort to retain the existing R2 Low Density Residential Zoning of the subject site under Dubbo Local Environmental Plan (LEP) 2011 and to identify registered clubs and recreation facilities (outdoor) as additional permitted uses under the provisions Schedule 1 of the Dubbo LEP 2011.

In consideration of the Proposal, Council resolved at its meeting of 22 March 2021, as follows:

- “1. That the report of the Growth Planning Projects Leader – Digital Futures, dated 8 March 2021, be noted.*
- 2. That the Planning Proposal provided here in Appendix 1 and supporting information, be submitted to the NSW Department of Planning, Industry & Environment for a Gateway Determination, to identify registered clubs and outdoor recreation facilities as additional permitted uses on part Lot 500 DP 1260295 Boundary Road, Dubbo.*
- 3. That Council seek authority from the Department of Planning Industry and Environment to exercise its Delegations in relation to the plan making functions under Section 3.36 of the Environmental Planning & Assessment Act 1979.*
- 4. That subject to issue of a Gateway Determination, 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.”*

Source: The Planning Hub, 2021

Figure 2: Subject Site



Source: The Planning Hub, 2021

REPORT

1. Planning Proposal

A Planning Proposal request applying to part Lot 500 DP: 1260295, Boundary Road, Dubbo was submitted to Council by the Dubbo RSL in October 2020 (**Appendix 3**). The Planning Proposal request sort to retain the existing R2 Low Density Residential zoning of the subject site, and to also identify 'registered clubs' and 'recreation facilities (outdoor)' as permitted uses with consent under the provisions of Schedule 1 of the Dubbo LEP 2011 on the site.

Council prepared a Planning Proposal accordingly and a report regarding the Proposal was considered by Council on 22 March 2021. Council resolved amongst other things, to forward the Planning Proposal to the Department of Planning, Industry and Environment (DPIE) for Gateway Determination.

2. Gateway Determination

A conditional Gateway Determination was issued by the DPIE on 24 May 2021 (**Appendix 1**). The Planning Proposal was updated in accordance with the Gateway Determination to identify the additional permitted use ((a) a single pub, (b) a single recreation facility (indoor) on the opposite side of Boundary Road (**Appendix 2**).

The Gateway Determination required consultation with the NSW Police Force and Liquor and Gaming NSW as well as public exhibition for a minimum of 28 days.

Gateway correspondence advised that the Planning Proposal's inconsistency with Section 9.1 Direction 3.1 Residential Zones is a minor inconsistency in accordance with the terms of the Directions and no further approval is required in relation to these Directions.

Gateway Correspondence also advised that due to the nature of the Proposal, Council is not the local plan making authority in this case.

3. Public Exhibition

The amended Planning Proposal was placed on public exhibition from Wednesday 2 June 2021 to Friday 2 July 2021. Advertisements were placed in the local newspaper, Council website, the Dubbo Library and Council's Administration Building. Adjoining neighbours were also invited to make a submission.

The NSW Police Force and Liquor and Gaming NSW were also invited to make a submission. No submissions were received from members of the public or Government agencies.

4. LEP Amendment

The Gateway Determination does not authorise Council to exercise Delegation of the Minister's functions under Section 3.36 of the *Environmental Planning and Assessment Act 1979*. As such the DPIE is the local plan making authority and will need to finalise the LEP Amendment.

The Planning Proposal documentation will be forwarded to the DPIE to instruct Parliamentary Counsel to make the draft amendment. The DPIE will then discuss the amendment with Council. Once the content of the draft LEP amendment is finalised, an Opinion will be issued by Parliamentary Counsel's Office that the Plan can be made, the DPIE will then request the subject amendment to be notified.

Development consent from Council is still required for the development of a registered club and/or an outdoor recreation facility.

SUMMARY

In response to a request from Dubbo RSL and a subsequent Council resolution, Council has prepared a Planning Proposal regarding, part Lot 500 DP 1260295, Boundary Road, Dubbo. The Planning Proposal seeks to amend the Dubbo LEP 2011 to retain the existing R2 Low Density Zone and to allow registered clubs and outdoor recreation facilities as additional permitted uses under Schedule 1 of the Dubbo LEP 2011.

The DPIE has issued a conditional Gateway Determination and correspondence advising that Council is not the local plan making authority in this case. The Proposal was amended and also publicly exhibited in accordance with Gateway Determination. Neighbours in the

immediate vicinity of the subject site and the NSW Police Force and Liquor and Gaming NSW were invited to make a submission. No submissions were received.

The recommendation of staff is to request DPIE to proceed with the finalisation of the Planning Proposal. This will involve an amendment Schedule 1 of the Dubbo LEP 2011 and the corresponding additional permitted uses map.

Appendices:

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| 1 | Gateway Determination | |
| 2 | Council's Planning Proposal - Amended for Gateway | |
| 3 | Planning Proposal | Excluded |