



REPORT: Planning Proposal R23-005 - Administrative Amendments to the Dubbo Regional Local Environmental Plan 2022

DIVISION: Development and Environment
REPORT DATE: 18 July 2023
TRIM REFERENCE: ID23/1619

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none">• Seek endorsement• Fulfil legislated requirement	
Issue	<ul style="list-style-type: none">• The Dubbo Regional Local Environmental Plan (LEP) 2022 regulates planning decisions in the Local Government Area through land and development controls such as zoning, minimum lot sizes, development standards and land use permissibility.• The Dubbo Regional LEP 2022 was gazetted by the Minister for Planning and Environment on 25 March 2022.• A planning proposal to undertake a number of administrative amendments to the Dubbo Regional Local Environmental Plan 2022 has been prepared.• The planning proposal seeks to make the following changes to the Dubbo Regional LEP 2022:<ul style="list-style-type: none">○ Make Information and education facilities permitted with consent in the C3 Environmental management zone.○ Make Dual occupancies (detached) permitted with consent in the R5 Large lot residential zone.○ Introduce a new clause for the minimum lot size for certain split zone lots.	
Reasoning	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• NSW Government – Local Environmental Plan Making Guidelines	
Financial Implications	Budget Area	Growth Planning
	Funding Source	Growth Planning Branch Budget
	Proposed Cost	The proposed cost will be accounted for in the Growth Planning Budget if amendments are operational in nature.
	Ongoing Costs	Nil
Policy Implications	Policy Title	Dubbo Regional Local Environmental Plan 2022
	Impact on Policy	Additional development types would be permitted with consent, and a new clause 4 would be added.

STRATEGIC DIRECTION

The Towards 2040 Community Strategic Plan is a vision for the development of the region out to the year 2040. The Plan includes six principle themes and a number of objectives and strategies. This report is aligned to:

Theme:	1 Housing
CSP Objective:	1.1 Housing meets the current and future needs of our community
Delivery Program Strategy:	1.1.5 Development opportunities are communicated to the community
Theme:	6 Environmental Sustainability
CSP Objective:	6.3 Land use management sustains and improves the built and natural environment
Delivery Program Strategy:	6.3.3 Endangered ecological communities, threatened species, habitats and environmental assets are protected

RECOMMENDATION

1. That Council note the process and key steps for amending the Dubbo Regional Local Environmental Plan 2022 (attached in Appendix 1).
2. That Council endorse the Planning Proposal (attached in Appendix 2) to amend the Dubbo Regional Local Environmental Plan 2022.
3. That Council submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
4. That Council request the Chief Executive Officer (or delegate) be authorised as the Local Plan Making Authority under Section 3.36 of the Environmental Planning and Assessment Act 1979.
5. That Council support a minimum 28 days public exhibition period for the Planning Proposal, subject to the conditions of a Gateway Determination.
6. That following the completion of the public exhibition period, a further report be presented to Council for consideration, including the results of public exhibition.

Steven Jennings
Director Development and Environment

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Graduate Growth Planner

BACKGROUND

What is a Planning Proposal

A planning proposal is a document that explains the intended effect of, and justification for, a proposed amendment to the Dubbo Regional Local Environmental Plan (LEP) 2022. A planning proposal can be prepared by a proponent, however, it must be endorsed by Council and the NSW Government Department of Planning and Environment (DPE) in order to take effect. This process must be undertaken in accordance with Division 3.4 of the Environmental Planning and Assessment Act, 1979.

The six key stages for amending an LEP are attached in **Appendix 1** and are as follows:

- Stage 1 – Pre-lodgement;
- Stage 2 – Lodgement and assessment (current stage);
- Stage 3 – Gateway determination;
- Stage 4 – Post Gateway;
- Stage 5 – Public exhibition and assessment; and
- Stage 6 – Finalisation.

Council as a separate process is also undertaking an Operational Review of the Dubbo Regional Local Environmental Plan 2022, which will include consultation with the development industry and stakeholders. Preparation of a program for the review is underway with consultation to be undertaken in the coming months.

REPORT

1. Details of the Planning Proposal

The objective of the planning proposal (attached in **Appendix 2**) is to address a number of administrative items that have been experienced during operation of the Dubbo Regional LEP 2022.

The proposed amendments to the Dubbo Regional Local Environmental Plan 2022 are as follows:

- Make Information and education facilities permitted with consent in the C3 Environmental Management Zone;
- Make Dual occupancies (detached) permitted with consent in R5 Large lot residential zone; and
- Introduce a new clause for minimum lot sizes for certain split zone lots.

The amendments are considered minor in nature and will not alter any other provisions of the Dubbo Regional LEP 2022. The following sections of the report further explains each of the proposed amendments.

(i) Information and education facilities in the C3 Environmental Management Zone

The Dubbo Regional LEP 2022 currently prohibits Information and education facilities on land zoned C3 Environmental Management.

An information and education facility is defined as follows:

“a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.”

The objectives (in part) of the C3 Environmental Management Zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To recognise the environmental significance of certain areas.

Land zoned C3 Environmental Management in the Dubbo Regional LEP 2022 is zoned for cultural or aesthetic attributes and/or may be subject to an environmental hazard such as flooding.

It is considered that permitting Information and education facilities in the C3 Environmental Management Zone will enhance the objectives, and allow visitors to learn about the special ecological, environmental, scientific, cultural or aesthetic values of the site on which it is located.

(ii) Dual occupancy (detached) in the R5 Large lot residential zone

The Dubbo Regional LEP 2022 currently permits dual occupancy (attached) on land zoned R5 Large Lot Residential, however, detached dual occupancy is a prohibited form of development. A dual occupancy is defined as:

“a dual occupancy (attached) or a dual occupancy (detached).”

A dual occupancy (attached) and a dual occupancy (detached) are defined as:

“Dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.”

“Dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.”

The objectives of the R5 Large lot residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.

- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

It is considered that permitting dual occupancy (detached) in the R5 Large lot residential zone will enhance the objectives, and allow for greater housing diversity and choices without increasing the demand for public services or facilities.

(iii) Minimum lot size for certain split zones lots

The Dubbo Regional LEP 2022 does not contain objectives or controls that provide for the subdivision of land that contains more than one land use zone. Introducing a minimum lot size clause for certain split zones aims to clarify subdivision controls and ensure subdivision occurs in a manner that promotes sustainable land use and development.

This clause would be applicable to land in the following split zones:

- Residential zones
- Employment zones
- Environmental zones
- Rural zones
- Special purpose zones

Council currently utilises section 4.6 Exceptions to development standards of the Dubbo Regional LEP 2022 to deal with subdivision in split zones. Adding a clause that outlines how lots with split zones can be subdivided will allow developers to effectively identify development opportunities in these areas and expedite the development application process.

2. Planning assessment and consideration

The planning proposal has been assessed against relevant Council strategies, policies and guidelines, the NSW Department of Planning and Environment's Local Environmental Plan Making Guidelines, State Environmental Planning Policies, and Ministerial Directions.

The assessment indicates the proposal has strategic merit and should be submitted to the NSW Department of Planning and Environment for a Gateway Determination.

3. Consultation and Planned Communications

If Council supports the planning proposal and receives a Gateway determination from the Department of Planning and Environment, it will be placed on public exhibition for a minimum of 28 days in accordance with the Local Environmental Plan Making Guidelines.

Council will engage with state agencies and the public as per the Gateway determination. This will include a notice on Council's website and Customer Experience Centres, the NSW Planning Portal, and notification to relevant community members and state agencies.

The following state agencies would be consulted as part of the Gateway Determination:

- NSW Department of Primary Industries (Agriculture)
- NSW Environment, Energy and Science (Biodiversity, and Flooding and Water)
- Rural Fire Service
- Heritage NSW
- Water NSW

A further report will be presented to Council for consideration following the completion of public exhibition and consultation processes.

4. Resourcing Implications

There are no resourcing implications arising from this report as it forms part of the work program of the Growth Planning branch.

APPENDICES:

- 1 Planning proposal flowchart
- 2 Planning proposal - Administrative Amendments to the Dubbo Regional LEP 2022