

# Planning Proposal

## Administrative Amendments to the Dubbo Regional Local Environmental Plan 2022

### Acknowledgement:

Dubbo Regional Council wish to acknowledge the Wiradjuri People who are the Traditional Custodians of the Land. Council pay respect to the Elders past, present and emerging of the Wiradjuri Nation and extend that respect to other First Nations peoples who are present.

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# ABOUT THIS PLANNING PROPOSAL

The Dubbo Regional Local Environmental Plan (LEP) 2022 regulates planning decisions in the Dubbo Regional Local Government Area through land and development controls such as zoning, minimum lot sizes, development standards and land use permissibility. To ensure it continues to deliver intended outcomes and meets the requirements of our community, Council is seeking to make administrative amendments.

This planning proposal aims to amend and address administrative matters in the Dubbo Regional LEP 2022, and allow new development types to be permitted with consent in certain zones. It has been prepared in accordance with the NSW Government Department of Planning and Environment – Local Environmental Plan Making Guideline, and identifies:

- Objectives and intended outcomes;
- Explanation of the provisions;
- Justification of strategic and site-specific merit;
- Justification of the proposed changes to the Dubbo Regional LEP 2022; and
- Project timeline.

A planning proposal must be endorsed by Council and the NSW Government Department of Planning and Environment in order to take effect. This process must be undertaken in accordance with Division 3.4 of the Environmental Planning and Assessment Act 1979.

## PART 1 OBJECTIVES AND INTENDED OUTCOMES

The objective of this planning proposal is to amend the Dubbo Regional LEP 2022 to:

- 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; and
- Introduce a new clause in Part 4 to provide clarity in relation to subdividing land in certain split zones.

This planning proposal aims to provide additional development opportunities for the community, and provide clarity for the subdivision of land in certain split zones.

## PART 2 EXPLANATION OF PROVISIONS

The planning proposal aims to make the following changes to the Dubbo Regional LEP 2022, and will be applicable throughout the entire Dubbo Regional Local Government Area:

### Amendments to Land Use Tables

Amend the C3 Environmental Management zone to make Information and education facilities permitted with consent.

The Dubbo Regional LEP 2022 currently prohibits Information and education facilities on land zoned C3 Environmental management, but they were permitted with consent under the former Wellington Local Environment Plan 2012.

Permitted Information and education facilities will enhance the objectives of the C3 Environmental management zone and allow visitors to learn about special ecological, environmental, cultural or aesthetic

values of a site. It may also facilitate Indigenous Elders being able to teach emerging Elders about their culture whilst remaining on ancestral lands.

#### Amend the R5 Large Lot Residential zone to make Dual occupancies (detached) permitted with consent

The Dubbo Regional LEP 2022 currently permits with consent a dual occupancy (attached), but prohibits a dual occupancy (detached), on land zoned R5 Large lot residential. Permitting a dual occupancy (detached) will be consistent with the zone objectives as it will provide housing in rural setting, allow for greater housing diversity and choice, not increase impacts on environmentally sensitive areas, and not increase the demand for public services or facilities.

## Amendments to Part 4 – Principal development standards

#### Introduce a new clause for minimum lot size for certain split zones

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. The objectives of this clause are to provide for the subdivision of lots that cannot be subdivided under clause 4.1 or 4.1AA, and to ensure that the subdivision occurs in a manner that promotes suitable land use and development.

The 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.

The intent of the clause is to ensure the resulting lots comprise of only one land use zone and minimum lot size area. The exact wording of the clause has not been determined, but it would be similar to the Bathurst Regional Local Environmental Plan 2014 and the Orange Local Environmental Plan 2011. The wording of these clause are:

#### Bathurst Regional LEP 2014

- (1) The objective of this clause are as follows—
  - (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1, 4.1AA or 4.1A,
  - (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.
- (2) This clause applies to each lot (an **original lot**) that contains –
  - (a) land in Zone RU5 Village, Zone C4 Environmental Living or a residential employment, special purpose or recreation zone, and

- (b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone C1 National Parks and Nature Reserves, Zone C2 Environmental Conservation or Zone C3 Environmental Management
- (3) Despite clauses 4.1 and 4.1AA, development consent may be granted to subdivide an original lot to create other lots (the **resulting lots**) if –
  - (a) one of the following results will contain—
    - (i) land in Zone RU5 Village, Zone C4 Environmental Living or a residential employment, special purpose or recreation zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and
    - (ii) all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone C1 National Parks and Nature Reserves, Zone C2 Environmental Conservation or Zone C3 Environmental Management that was in the original lot, and
  - (b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

Orange LEP 2011

- (1) The objectives of this clause are—
  - (a) to provide for the subdivision of lots that are within more than 1 zone but cannot be subdivided under clause 4.1, and
  - (b) to ensure that subdivision occurs in a manner that promotes suitable land use and development.
- (2) This clause applies to each lot (an original lot) that comprises land in more than 1 zone.
- (3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if—
  - (a) one of the resulting lots comprises all of the land in the original lot that is not in a relevant zone, and
  - (b) each other resulting lot comprises only land in 1 relevant zone.
- (4) The resulting lot specified in subclause (3)(a) may be smaller than the minimum lot size for the land as shown on the Lot Size Map.
- (5) A resulting lot specified in subclause (3)(b) must not be—
  - (a) subject to more than 1 minimum lot size as shown on the Lot Size Map, or
  - (b) smaller than the minimum lot size for the land as shown on the Lot Size Map.
- (6) Development consent must not be granted for the erection of a dwelling house on the resulting lot specified in subclause (3)(a).
- (7) In this clause—

relevant zone means Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R5 Large Lot Residential.

## PART 3 JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

The planning proposal has been assessed against the following 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.

- Central West and Orana Regional Plan 2040
- Dubbo Regional Council – Towards 2040 Community Strategic Plan
- Dubbo Regional Council – Local Strategic Planning Statement
- Dubbo Urban Areas Development Strategy
- Dubbo Rural Areas Development Strategy
- Ministerial Directions
- State Environmental Planning Policies

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

### Section A – Need for the Planning Proposal

Question	Considerations
Is the planning proposal a result of an endorsed LSPS, strategic study or report?	The planning proposal is the result of a report adopted by Dubbo Regional Council on 8 December 2022 that required a planning proposal be prepared for an operational review of the Dubbo Regional LEP 2022.
Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>A planning proposal is the best way to achieve these goals as they involve modifying development controls in the Dubbo Regional LEP 2022.</p> <p>The addition of the split zones clause will remove the need for some developments to be assessed under Clause 4.6 Exceptions to development standards.</p>

### Section B – Relationship to the Strategic Planning Framework

Question	Considerations
Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?	<p><b><u>Central West and Orana Regional Plan 2041</u></b></p> <p>The planning proposal is consistent with the Central-West and Orana Regional Plan 2041's (CWORP 2041) objectives. The relevant objectives are:</p> <ul style="list-style-type: none"> <li>• Objective 5: Identify, protect and connect important environmental assets</li> <li>• Objective 6: Support connected and healthy communities</li> <li>• Objective 9: Ensure site selection and design embraces and respects the region's landscape character and cultural heritage</li> </ul>

Question	Considerations
	<ul style="list-style-type: none"> <li>• Objective 13: Provide well located housing options to meet demand</li> <li>• Objective 15: Manage rural residential development</li> <li>• Objective 19: Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities</li> </ul> <p><u>Information and education facilities</u></p> <p>Permitting with consent Information and education facilities on land zoned C3 Environmental Management would enhance Objectives 5, 6 and 9 by allowing visitors to gain a greater appreciation of the land and what they can to protect it for the future.</p> <p>These facilities could also enable Indigenous Elders to teach emerging Elders about their culture whilst remaining on ancestral lands, and share that culture with the broader community.</p> <p><u>Dual occupancy (detached)</u></p> <p>Making Dual occupancy (detached) permissible in R5 Large Lot Residential zones would enhance Objectives 13 and 15. This change would not impact the character of the zone as Dual occupancy (attached) are currently permitted with consent. Furthermore, it would provide more housing options for people who want to enjoy the rural residential lifestyle.</p> <p><u>Minimum lot size for certain split zones</u></p> <p>This clause would enhance Objectives 5, 13, 15 and 19.</p>
Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?	<p><b><u>Dubbo Local Strategic Planning Statement</u></b></p> <p>The planning proposal is consistent with the Planning Priorities of the Dubbo Local Strategic Planning Statement (LSPS). The relevant Planning Priorities are:</p> <ul style="list-style-type: none"> <li>• Priority 5: Protect and enhance our agricultural industries and agribusiness</li> <li>• Priority 10: Improve the affordability of housing</li> <li>• Priority 13: Manage R5 zoned land</li> <li>• Priority 15: Protect areas of high environmental value and significance</li> <li>• Priority 16: Recognise, protect and celebrate our heritage</li> <li>• Priority 17: Acknowledge and embrace Aboriginal culture</li> <li>• Priority 20: Protect and enhance rural lands</li> </ul>

Question	Considerations
	<p><u>Information and education facilities</u></p> <p>Permitting with consent Information and education facilities on land zoned C3 Environmental Management would enhance Planning Priorities 15, 16 and 17.</p> <p><u>Dual occupancy (detached)</u></p> <p>Permitting with consent Dual occupancies (detached) would enhance Planning Priority 13.</p> <p><u>Minimum lot size for certain split zones</u></p> <p>This clause would enhance Planning Priorities 5, 15 and 20.</p>
Is the planning proposal consistent with other local government strategies?	<p><b><u>Urban Areas Strategy</u></b></p> <p>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.</p> <p><b><u>Rural Areas Strategy</u></b></p> <p>The Planning Proposal is considered to be broadly consistent with the Dubbo Rural Areas Development Strategy.</p>
Is the planning proposal consistent with any other applicable State and regional studies or strategies?	<p><b><u>Other State or Regional Strategies</u></b></p> <p>There are no other relevant State or regional studies or strategies.</p>
Is the planning proposal consistent with applicable SEPPs?	<p><b><u>State Environmental Planning Policies</u></b></p> <p>The Planning Proposal is considered to be consistent with the following SEPPs:</p> <ul style="list-style-type: none"> <li>• Biodiversity and Conservation 2021</li> <li>• Housing 2021</li> <li>• Primary Production 2021</li> </ul>
Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?	<p><b><u>Ministerial Directions</u></b></p> <p>The planning proposal is generally consistent with the following Ministerial Directions:</p> <ul style="list-style-type: none"> <li>• 1.1 – Implementation of Regional Plans</li> <li>• 1.3 – Approval and Referral Requirements</li> <li>• 1.4 – Site Specific Provisions</li> <li>• 3.1 – Conservation Zones</li> <li>• 3.6 – Strategic Conservation Planning</li> <li>• 4.1 – Flooding</li> <li>• 4.3 – Planning for Bushfire Protection</li> <li>• 4.4 – Remediation of Contaminated Land</li> <li>• 6.1 – Residential Zones</li> </ul>



Question	Considerations
	<ul style="list-style-type: none"> <li>• 9.1 – Rural Zones</li> <li>• 9.2 – Rural Lands</li> </ul> <p><u>Information and education facilities</u></p> <p>Ministerial Direction 3.1</p> <p>The planning proposal is consistent with this direction as it will facilitate the protection and conservation of environmentally sensitive areas. The proposal will not reduce conservation standards in C3 zones as potential developments will be assessed against the objectives of the zone, and as such will need to be consistent with the goals of environmental management. The development of Information and education facilities will increase public understanding of the ecological value of the area which will make them more likely to value the conservation of the environment.</p> <p>Ministerial Direction 9.2</p> <p>The planning proposal is consistent with this direction it will protect the environmental values of the zone, including maintaining biodiversity, the protection of native vegetation, cultural heritage and the importance of water resources. This proposal also promotes opportunities for investment in productive, diversified, innovative and sustainable rural economic activities.</p> <p><u>Dual occupancy (detached)</u></p> <p>6.1 Residential Zones</p> <p>The planning proposal is consistent with this direction as it will broaden the choice of building types and locations available in the housing market, make more efficient use of existing infrastructure and services, and reduce the consumption of land for housing on the urban fringe.</p> <p><u>Minimum lot size for certain split zones</u></p> <p>There are no additional relevant Ministerial Directions relating to this amendment. Ministerial Direction 9.2 Rural Lands is not applicable as this proposed amendment will not alter the minimum lot size for any form of development, nor will it change the boundary of any existing rural or conservation zones.</p>

## Section C – Environmental, Social and Economic Impacts

Question	Considerations
Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	The planning proposal will have minimal environmental impact.  Permitting Information and education facilities in the C3 Environmental management zone will have a positive environmental impact. These facilities will help the public recognise and understand the environmental significance of the protected area which will aid in the preservation of the area for future generations.
Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	The planning proposal will have no other negative environmental effects.
Has the planning proposal adequately addressed any social and economic effects?	This planning proposal will have positive economic and social impacts.

## Section D – Infrastructure

Question	Considerations
Is there adequate public infrastructure for the planning proposal?	The planning proposal will not create additional demand for public infrastructure as it is not site-specific, and it will enhance the relevant zone objectives. Access to public infrastructure will still be assessed at the development application stage.

## Section E – State and Commonwealth Interests

Question	Considerations
What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?	State and Commonwealth public authorities will be consulted in accordance with the Gateway determination and will be given at least 30 days to comment on the proposal.

## PART 4 MAPS

The planning proposal would not make any changes to map.

## PART 5 COMMUNITY CONSULTATION

Community consultation will occur in accordance with the requirements of the Gateway Determination. The planning proposal will be on public exhibition for a minimum of 28 days, and it will be notified in the following ways:

- NSW Planning Portal
- Council's Customer Experience Centres – Dubbo and Wellington
- Macquarie Regional Library - Dubbo and Wellington branches
- Council's website
- Local newspapers
- Email to development stakeholders

Council will undertake consultation with the following State agencies:

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

## PART 6 PROJECT TIMELINE

The below estimated timeline provides a mechanism to monitor and resource the various steps required to progress the planning proposal:

Key date	Explanation
27 July 2023	Consideration by Council
Early August	Submit the planning proposal to the Department of Planning and Environment for Gateway Determination
September 2023	Gateway determination issued
October 2023	Post-gateway review and amendments (if necessary)
November 2023	Public exhibition period
December 2023	Consideration of submissions
January 2024	Consideration by Council
February 2024	Submit the planning proposal to the Department of Planning and Environment for finalisation
April 2024	Gazettal of the LEP amendment