



REPORT: Planning Proposal R23-007 - Minimum Lot Size Area Amendments at 20L Rocky Road, Dubbo

DIVISION: Development and Environment
REPORT DATE: 8 January 2024
TRIM REFERENCE: ID23/2545

EXECUTIVE SUMMARY

Purpose	Seek endorsement	
Issue	<ul style="list-style-type: none">A Planning Proposal was lodged by Premise Australia, on behalf of Sam and Jacqui Martel, to amend the Dubbo Regional Local Environmental Plan by changing the existing minimum lot size area at part of 20L Rocky Road, Dubbo (Lot 13 DP258406).The Planning Proposal seeks to amend the minimum lot size area from 20ha to 8ha for approximately 51.26ha of the site. There are no other changes associated with the Planning Proposal.Council's assessment indicates the proposal has strategic merit and should be submitted to NSW Department of Planning and Environment for a Gateway Determination. If issued, the determination will require community and stakeholder consideration.	
Reasoning	<ul style="list-style-type: none">Environmental Planning and Assessment Act 1979Local Environmental Plan Making Guidelines	
Financial Implications	Budget Area	Growth Planning
	Funding Source	Application fees
	Proposed Cost	Council received \$13,000 upon lodgement, and will receive a further \$7,000 if a Gateway Determination is issued, as part of the application fees
	Ongoing Costs	Nil
Policy Implications	Policy Title	Dubbo Regional Local Environmental Plan 2022
	Impact on Policy	The Planning Proposal will amend the minimum lot size area at part of 20L Rocky Road, Dubbo

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:	1.1.1 A variety of housing types and densities are located close to appropriate services and facilities
Theme:	1 Housing
CSP Objective:	1.2 An adequate supply of land is located close to community services and facilities
Delivery Program Strategy:	1.2.1 Land is suitably zoned, sized and located to facilitate a variety of housing types and densities

RECOMMENDATION

1. That Council endorse the Planning Proposal (attached in Appendix 1) to amend the Dubbo Regional Local Environmental Plan 2022 by changing the minimum lot size area at part of 20L Rocky Road, Dubbo (Lot 13 DP258406) from 20ha to 8ha.
2. That Council submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
3. 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.
4. That Council support a minimum 28 days public exhibition period for the Planning Proposal, subject to the conditions of a Gateway Determination.
5. That following the completion of the public exhibition period, a further report be presented to Council for consideration, including the results of public exhibition.

Darryll Quigley
Manager Building and Development Services

LN
Graduate Growth Planner

BACKGROUND

1. 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. It can be prepared by a proponent or Council, 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 a LEP and are as follows:

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

REPORT

1. Details of the Planning Proposal

Applicant:	Premise Australia
Site:	20L Rocky Road (Lot 13 DP258406)
Proposed LEP Amendment:	Amend the minimum lot size area from 20ha to 8ha for approximately 51.26ha of the site.

The objective and intent of the Planning Proposal is to amend the Dubbo Regional LEP 2022 by changing the minimum lot size area from 20ha to 8ha.

The land subject to this Planning Proposal had a minimum lot size of 8ha under the provisions of the former Dubbo Local Environmental Plan 1997 – Rural Areas. This Planning Proposal will again provide the same minimum lot size for subdivision of the land.

The proposed amendments are shown in **Figure 1**.

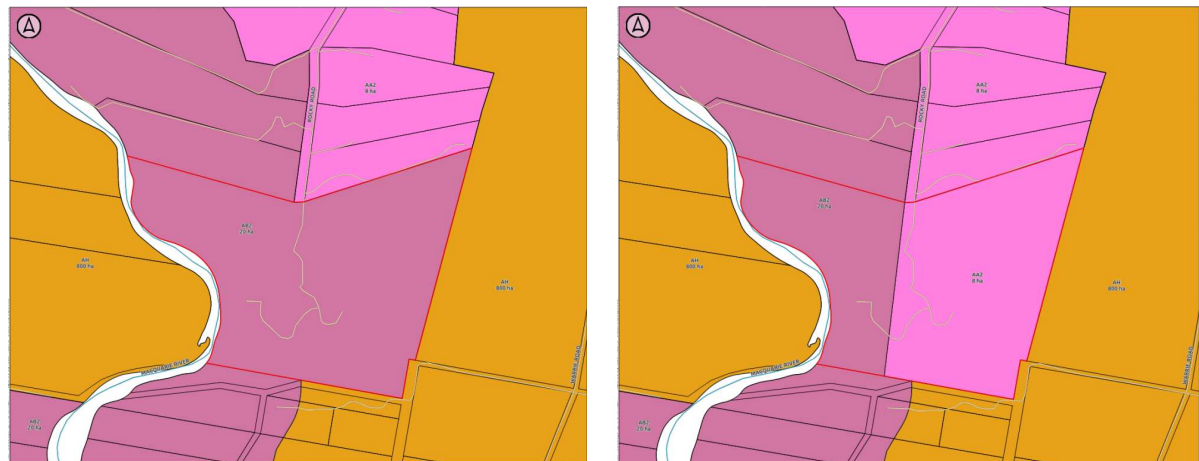


Figure 1: Existing and Proposed Minimum Lot Size

2. Site Characteristics

The site is approximately 10.5km south of Dubbo and at the southern end of Rocky Road. It is surrounded by large lot residential land to the north, agricultural land to the east, south and northwest, and the Macquarie River to the west. It has the following characteristics:

- It is zoned R5 Large Lot Residential and RU4 Primary Production Small Lots;
- It is potentially contaminated with buried waste and asbestos;
- It is not mapped as bushfire prone, but is mapped as bushfire prone on Council's draft bushfire prone land map;
- It is partly flood prone but has not received any flood modelling;
- It potentially contains terrestrial biodiversity and groundwater vulnerability; and
- The minimum lot size on adjoining R5 land is 8ha.

3. Planning assessment and considerations

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

(a) Strategic and site-specific merit

The proposal has been assessed against relevant regional strategies, Council strategies and policies, applicable State Environmental Planning Policies (SEPPs), and Section 9.1 Ministerial Directions. The Planning Proposal is consistent with all relevant strategies as it will provide more rural-residential housing options whilst protecting the character of the area, and the land is already fragmented and has limited ability to be used for agricultural purposes.

Strategy	Requirement	Consistency
Central West and Orana Regional Plan 2041	Objective 5 Identify, protect and connect importance environmental assets	The Planning Proposal is consistent with this Plan.
This Plan is the NSW Government strategy for	Objective 15	

Strategy	Requirement	Consistency
guiding land use planning priorities and decisions for the Central West and Orana Region over the next 20 years	Manage rural residential development	
Towards 2040 Community Strategic Plan This Plan is the highest level strategy that guides and influences the direction of Council, the communities and other levels of Government over the coming years	Strategy 1.1.1 A variety of housing types and densities are located close to appropriate services and facilities Strategy 1.2.1 Land is suitably zoned, sized and located to facilitate a variety of housing types and densities	The Planning Proposal is consistent with this Plan.
Local Strategic Planning Statement (LSPS) This Plan sets Council's land use planning priorities, including economic, social and environmental outcomes, for the next 20 years.	Priority 5 Protect and enhance our agricultural industries and agribusiness Priority 9 Providing diversity and housing choice to cater for the needs of the community Priority 13 Manage R5 zoned land	The Planning Proposal is consistent with this Plan.
Dubbo Rural Areas Development Strategy – Macquarie District Strategy This Strategy aims to preserve the land from degradation and fragmentation for ongoing agricultural production for future generations	7.4 Consolidate Clusters of Hobby Farms as an Alternative Farming Lifestyle	The Planning Proposal is consistent with this Strategy.

(b) State Environmental Planning Policies

The Planning Proposal is consistent with all relevant State Environmental Planning Policies (SEPPs). They key SEPPs are:

SEPP	Consistency
Primary Production Chapter 2 provides a state-wide framework for primary production lands, including reducing land-use conflict with residential	The Planning Proposal is consistent with the SEPP as it will only impact residential land. The proposed changes will not impact surrounding agricultural land as there is sufficient buffer between any future residential use and existing agricultural land uses.

development	
Resilience and Hazards 2021 Chapters 4 provides a state-wide planning framework for remediation of contaminated land and to minimise the risk of harm to human health or any other aspect of the environment	<p>A Preliminary Contamination Investigation (PCI) was undertaken as the site was previously used for agricultural purposes. It identified areas with buried waste that may contain asbestos, and provided recommendations on how the site can be remediated and be made suitable for future development. The PCI found little evidence that the historic land uses have caused impacts within the investigation that may present a risk to human health.</p> <p>Council is satisfied that the land will be suitable for residential use after site remediation occurs. Any future development application will consider these remediation works.</p>

(c) Ministerial Directions under Section 9.1

The Planning Proposal is consistent with all relevant Ministerial Directions. The key Directions are:

Direction	Consistency
3.2 Heritage Conservation	The Planning Proposal is consistent with the direction as an AHIMS search found no evidence of items of Aboriginal heritage on the site. Sites in proximity to natural watercourses are typically known for containing Aboriginal items and artefacts. An Aboriginal Archaeology Due Diligence Report will be prepared to accompany future development applications.
4.1 Flooding	The Planning Proposal is consistent with the direction. Council does not have any flood modelling in this area, and the only available data is the flooding extents from the February 1955 Flood. The Planning Proposal will not change any controls within this identified flood area, and there is sufficient buffer to ensure future development and associated access will be located outside of flood zones. There will not be a significant increase in the development and dwelling density of land, and there will be no significant flood impacts to other properties.
4.3 Planning for Bushfire Protection	The Planning Proposal is consistent with the direction as the site is identified as being subject to Council's draft bushfire prone land map.
6.1 Residential zones	The Planning Proposal is consistent with the direction as the site will provide rural housing in an area identified by the Macquarie District Strategy as being suitable for residential development.
9.2 Rural Lands	The Planning Proposal is consistent with the direction as the minimum lot size area will only be changed for land zoned R5 Large Lot Residential.

(d) Environmental Impacts

A small first order stream traverses the site. Subject to any future development application, the Planning Proposal will allow the site to be subdivided into allotments larger than 8ha. The scale of the proposed allotments is likely to minimise potential impact to surface flows, and future subdivisions can be adequately conditioned to appropriately manage this small stream.

4. Consultation and Planned Communications

If Council supports this Planning Proposal and receives a Gateway Determination from the Department of Planning and Environment, it is likely the proposal would be publicly exhibited for 28 days in accordance with the Local Environmental Plan Making Guidelines.

Council will engage with state agencies, adjoining landowners and the public as per the Gateway Determination. This will include a notice on Council's website and in Customer Experience Centres, the NSW Planning Portal, and letters to adjoining landowners unless this is impractical and therefore not required as part of the Gateway Determination.

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

- NSW Rural Fire Service
- NSW Environment, Energy and Science (Flooding and Water)

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

5. Resourcing Implications

Council received \$13,000 upon lodgement and will receive a further \$7,000 if a Gateway Determination is received.

Total Financial Implications	Current year (\$)	Current year + 1 (\$)	Current year + 2 (\$)	Current year + 3 (\$)	Current year + 4 (\$)	Ongoing (\$)
a. Operating revenue	\$20,000	0	0	0	0	0
b. Operating expenses	0	0	0	0	0	0
c. Operating budget impact (a – b)	\$20,000	0	0	0	0	0
d. Capital Expenditure	0	0	0	0	0	0
e. Total net impact (c – d)	\$20,000	0	0	0	0	0
Does the proposal require ongoing funding?		No				

What is the source of this funding?

Lodgement and assessment fees

Table 1. Ongoing Financial Implications

6. Timeframe

The below estimated timeline provides a mechanism to monitor and resource the various steps required to progress the Planning Proposal through the plan making process:

Key date	Explanation
15 February 2024	Council decision
Late February 2024	Submit the Planning Proposal to the Department of Planning and Environment for Gateway Determination
Late March 2024	Gateway determination issued
April 2024	Post-gateway review and requirements
May 2024	Public exhibition period
August 2024	Consideration by Council
September 2024	Submit the Planning Proposal to the Department of Planning and Environment for finalisation
October 2024	Gazettal of the LEP amendment

APPENDICES:

1 Planning proposal - 20L Rocky Road, Dubbo