



# Gateway determination report – PP-2024-1409

Amendment to the Dubbo Regional Local Environmental Plan 2012 -  
Subdivision for Road Closure as Exempt Development

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Council Report and Resolution June 13 2024

# 1 Planning proposal

## 1.1 Overview

Table 2 Planning proposal details

LGA	Dubbo Regional Council
PPA	Dubbo Regional Council
NAME	Subdivision for Closure of Council-Owned Road as Exempt Development
NUMBER	PP-2024-1409
LEP TO BE AMENDED	Dubbo Regional Local Environmental Plan 2022
RECEIVED	27/06/2024
FILE NO.	IRF24/1624
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to:

- permit subdivision that occurs in connection with the closure of a Council public road, or part of a road, by a public authority under the *Roads Act 1993* as exempt development.

The objective of this planning proposal is clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Dubbo Regional LEP 2022 to permit the subdivision of rural land occurring in connection with the closure of a Council public road, or part of a road, under the *Roads Act 1993*, as exempt development.

The planning proposal adequately explains how the objectives of the proposal will be achieved. Council have provided two examples from the Sutherland Shire LEP 2015 (Clause 4.1 (4A)) and Camden LEP 2010 (Schedule 2 Subdivision of Council public roads) as mechanisms which would achieve the intent of the proposal.

## 1.4 Site description and surrounding area

The planning proposal applies to the Dubbo Local Government Area (LGA).

## 1.5 Mapping

The planning is a policy change and does not require any mapping amendments.

## 1.6 Background

The planning proposal outlines the current statutory planning process Council follows to close a Council-owned road. The process involves subdivision to create a new lot, the proposal often results in lots below the relevant minimum lot size and requires consideration of a variation under clause 4.6 of the LEP. This planning proposal intends to enable these subdivisions as exempt development to remove the additional timeframe associated with the current development assessment process. It is intended that this amendment will streamline the road closure process by removing the requirement for development consent.

Dubbo Regional Council estimate that road closures requiring a clause 4.6 variation are processed approximately twice a year (on average over the last 8 years). This average is expected to increase as a result of development within the Renewable Energy Zone.

Council considers this proposal an administrative formality with minimal environmental, social or economic impacts. There are no changes intended that alter the considerations and requirements of Division 3 of the *Roads Act 1993*.

## 1.7 Need for the planning proposal

Road closures do not currently constitute exempt development under State Environmental Planning Policy (Exempt and Complying Development) 2008, State Environmental Planning Policy (Transport and Infrastructure) 2021, or the Dubbo Regional LEP 2022.

The planning proposal is the best means of achieving the objectives and intended outcomes.

# 2 Strategic assessment

## 2.1 Regional Plan

The planning proposal has been assessed against the objectives of the Central West and Orana Regional Plan. The following objectives relate to the proposal:

- Objective 5: Identify, protect, and connect important environmental assets
- Objective 19: Protect agricultural production values and promote agricultural innovation, sustainability, and value-add opportunities.
- Objective 20: Protect and leverage the existing and future road, rail and air transport networks and infrastructure.

The planning proposal is not considered to result in any environmental impact. The intent of the proposal is to reduce the administration of processing council public road closures. The proposal is consistent with the Central West and Orana Regional Plan.

## 2.2 Local

The proposal states that it is consistent with the Dubbo Regional Local Strategic Planning Statement. The amendment is specific to processing council public road closures which does not impact the strategic direction of Dubbo.

## 2.3 Section 9.1 Ministerial Directions

The planning proposal is consistent with the relevant section 9.1 Directions.

### Direction 1.4 Site Specific Provisions

The planning proposal seeks to include additional planning controls to ensure the process of a Council-owned road closure is efficient and straightforward, and removes the requirement for development consent.

It is considered that any inconsistency with this direction is considered minor as the proposed additional planning control is not restrictive.

### Direction 9.2 Rural Lands

The amendment will affect the whole LGA including all zones, however it is highlighted that road closures occur on predominantly rural land. The planning proposal has not adequately considered consistency with Direction 9.2 Rural Lands including its consistency with the priority of minimising rural land fragmentation and avoiding adverse impacts on the operation and viability of existing and future rural land uses and related enterprises. The planning proposal should be updated to adequately address consistency with Direction 9.2 prior to exhibition.

## 2.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

## 2.5 Environmental

The planning proposal is relevant to land that is identified as a council public road, where the subject road is intended to be closed. In most cases, the identified road is unformed or unused, and the subdivision is for administrative purposes only. There are no impacts identified on the environment.

## 2.6 Social and economic

The planning proposal is relevant to land that is identified as a council public road, where the subject road is intended to be closed. In most cases, the identified road is unformed or unused, and the subdivision is for administrative purposes only. This proposal does not have any significant social or economic impact.

## 2.7 Infrastructure

The proposal will not have any impact on infrastructure across the LGA.

# 3 Consultation

## 3.1 Community

Council proposes a community consultation period of 10 days.

The exhibition period proposed is considered appropriate and forms a condition of the Gateway determination.

## 3.2 Agencies

Given the minor nature of the proposal no agency consultation is required.

## 4 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a basic. Council proposes a 6 month time frame to complete the LEP.

The Department recommends an LEP completion date of 31 January 2025 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the Gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

## 5 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal is related to council owned land, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

## 6 Assessment summary

The planning proposal is supported to proceed. The planning proposal is a suitable mechanism to achieve the intent of the proposal to permit the subdivision of rural land below the minimum lot size, where the subdivision occurs in connection with the closure of a public road, or part of a road, by a public authority under the *Roads Act 1993*.

## 7 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 1.4 Site Specific Provisions is minor and justified.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to exhibition, the planning proposal is to be amended to adequately address consistency with the Ministerial 9.1 Directions 1.4 Site Specific Provisions and 9.2 Rural Lands.
2. The planning proposal should be made available for community consultation for a minimum of 10 working days.
3. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 31 January 2025 be included on the Gateway.



30/07/2024

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