



IRF24/2952

Gateway determination report – PP-2024-2554

To amend the minimum lot size at Lot 3 DP1143590,
34L Pinedale Road, Dubbo

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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
Attachment A – Planning Proposal – 34L Pinedale Road Dubbo (Ward Planning & Consulting)
Attachment B – Preliminary Ecological Constraints Assessment (Umwelt Australia Pty Ltd, 2023)
Attachment C – Bushfire Assessment (Bushfire Planning & Design, 2024)
Attachment D – Aboriginal Cultural Heritage Report (Dubbo LALC, 2022)
Attachment E – Preliminary Contamination Investigation (Envirowest, 2024)
Attachment F – Residential Areas Development Strategy 1996 (Dubbo Council, 1996)
Attachment G – Dubbo City Urban Salinity Management Strategy (2014)
Attachment H – Dubbo City Urban Salinity Implementation Plan (2014)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Dubbo Regional
PPA	Dubbo Regional Council
NAME	Amend the minimum Lot size at 34L Pinedale Road Dubbo
NUMBER	PP-2024-2554
LEP TO BE AMENDED	Dubbo Regional Local Environmental Plan 2022
ADDRESS	34L Pinedale Road, Dubbo
DESCRIPTION	Lot 103 DP1143590
RECEIVED	22/11/2024
FILE NO.	IRF24/2952
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 objective of the planning proposal (**Attachment A**) is to facilitate an increase in lot yield on land at Lot 3 DP1143590, 34L Pinedale Road, Dubbo (‘the site’) by reducing the minimum lot size from 8 hectares to 5 hectares as it applies to the site.

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

1.3 Explanation of provisions.

The planning proposal seeks to amend the Dubbo Regional Local Environmental Plan (DRLEP) 2022 to achieve the intended outcome by amending the Lot Size Map to reduce the minimum lot size from 8 hectares to 5 hectares as it applies to the site.

A reduced minimum lot size will facilitate an increase in lot yield on the site which is zoned R5 Large Lot Residential.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R5 Large Lot Residential	No change
Minimum lot size	8ha	5ha
Number of dwellings	5 dwellings	8 dwellings

1.4 Site description and surrounding area

The subject land is located approximately 10 kilometres east of Dubbo Central Business District in the Eastern subdistrict (see **Figure 1**). The role of Dubbo’s Eastern subdistrict is to provide opportunity for urban fringe and country lifestyles on small acreages.

It is surrounded by land zoned R5 Large Lot Residential to the north, west, and south which is largely developed with single dwellings. To the east, the site adjoins land zoned RU2 Rural Landscape which provides a ‘buffer area’ for the separation of urban and rural land uses. Further east of the site is the Beni State Conservation Area.

The subject site is zoned R5 Large Lot Residential, with an existing minimum lot size control of 8 hectares under DRLEP. An existing dwelling house is located in the north-west of the site (see **Figure 2**).

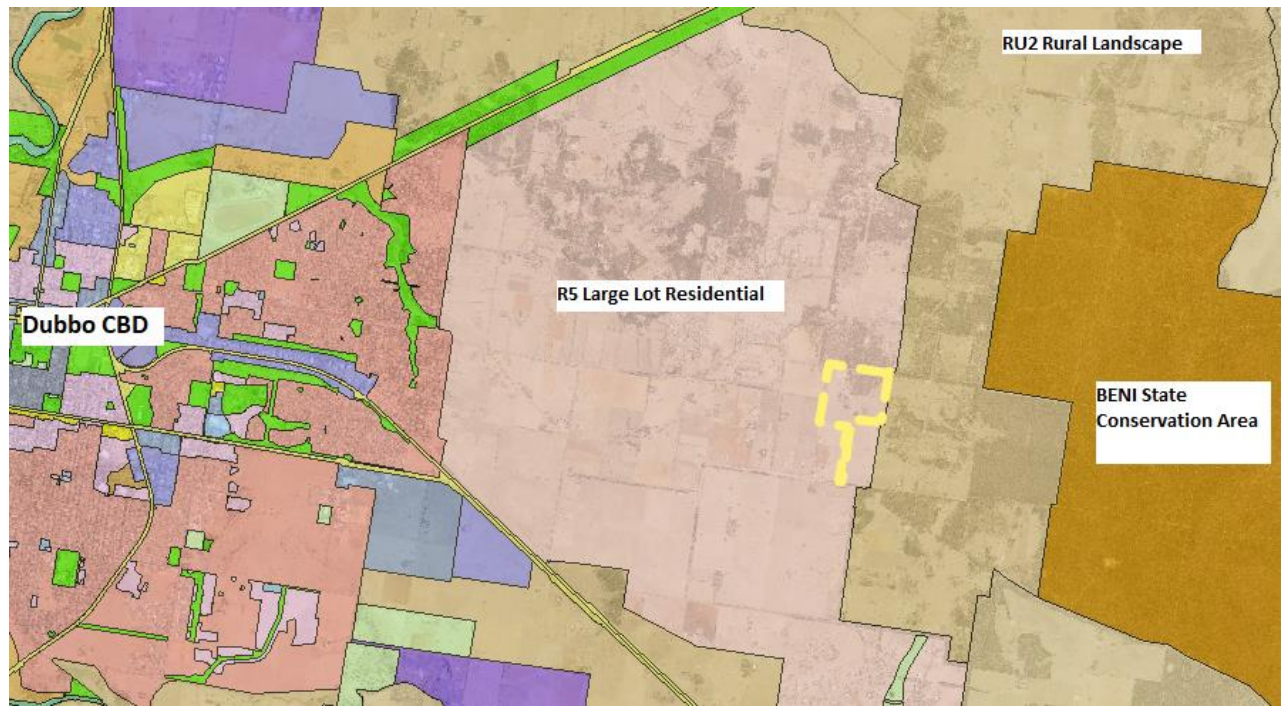


Figure 1 Site context with subject site outlined yellow (source: ePlanning spatial viewer)



Figure 2 Subject site outlined in white (source: Planning Proposal)

The site is a battle-axe lot accessed through a long access handle (driveway) that connects to Pinedale Road to the south (see **Figure 3**). The planning proposal describes the overall size of subject land as approximately 44.8 hectares, with a developable area of approximately 42.6 hectares owing to the long access handle.



Figure 3 View south along access handle (driveway) towards Pinedale Road (source: Planning Proposal)

The predominant land use in the surrounding area is rural lifestyle development. Within proximity to the site are three residential precincts known as Richmond Estate, Daisy Hill and Firgrove which have a minimum lot size of 1.5ha (see **Figure 4**). The lot sizes in the immediate locality surrounding the site generally range from 8-10ha (see **Figure 5**). The planning proposal's intent of a 5 hectare minimum lot size for the site would be in between the existing 1.5 hectare and 8 hectare lot size development standard applied to Zone R5 Large Lot Residential in Dubbo's Eastern subdistrict.

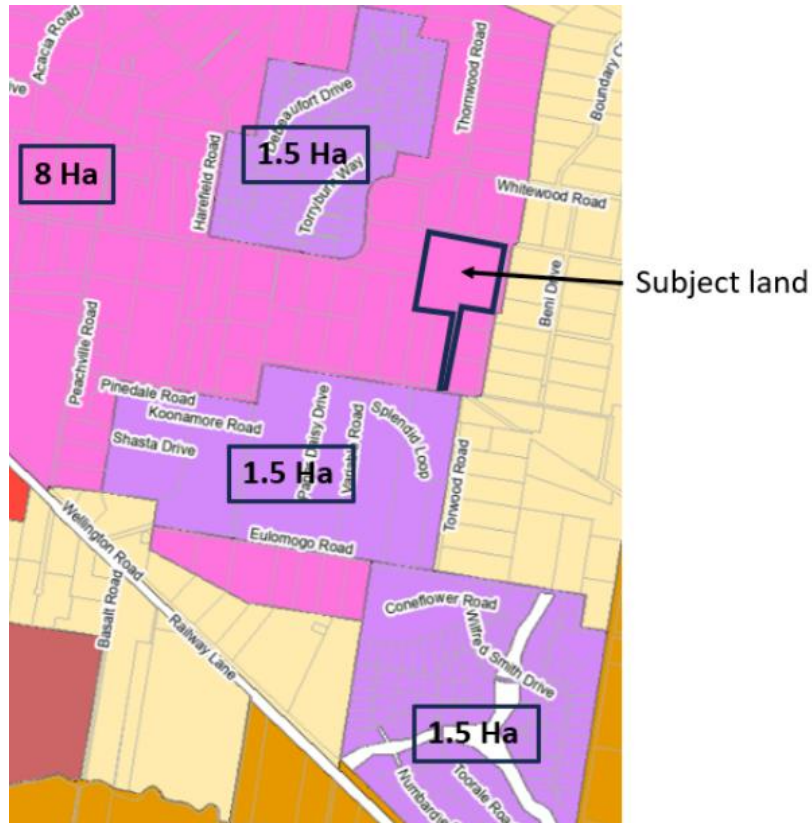


Figure 4 Minimum lot size site context, subject site outlined black and labelled (source: Planning Proposal)



Figure 5 Lot size context, subject site outlined yellow and labelled 34L Pinedale Road (source: Planning Proposal)

1.5 Mapping

The planning proposal includes mapping showing the existing and proposed changes to the DRLEP 2022 Lot Size Map. It is noted that the colours associated with a minimum lot size (MLS) of 5 ha and 8ha required by the Department's Standard Technical Requirements for Spatial Datasets and Maps (20147) are the same pink tone (see **Figure 6**). The mapping included in the planning proposal details the label from the legend (being AA1) to identify the proposed change of MLS. The mapping is considered suitable for community consultation.



Figure 6 Existing MLS (left) and proposed MLS (right) for the subject site outlined yellow and labelled accordingly (Source: Planning Proposal)

2 Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not a result of an approved local strategy, study, or report. It has been initiated by the landowner and is supported by Council to facilitate greater subdivision potential of the site and thereby increase lot yield on land with an existing zone of R5 Large Lot Residential in Dubbo's Eastern subdistrict. Under the existing minimum lot size (MLS) of 8 hectares, the site's developable area could theoretically be subdivided into 5 lots, subject to Council approval. The proposed 5 hectare MLS could facilitate subdivision of the site into 8 lots, thereby potentially resulting in an additional 3 lots than what can be achieved under current planning controls.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is required to amend the DRLEP 2022 Lot Size Map applying to the site by reducing the minimum lot size control from 8 hectares to 5 hectares. The planning proposal is considered the best means of achieving the intended outcome.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan 2041.

Table 4 Regional strategic planning assessment

Regional Plan Objectives	Justification
Objective 5: Identify, protect and connect important environment assets	<p>The planning proposal is accompanied by a Preliminary Ecological Constraints Assessment (Attachment B).</p> <p>The assessment concludes that subject to further field investigations, the primary ecological constraints associated with the proposed subdivision relate to the potential impacts of the remnant timbered vegetation. Should these areas be avoided, impacts to biodiversity would likely to be low and, pending the development of an appropriate subdivision design that could locate services, roads and bushfire setback requirements in exotic or already disturbed areas, impacts on biodiversity may not meet the threshold for the application of the Biodiversity Offset Scheme (BOS).</p>
Objective 15: Manage rural residential development	<p>The proposal is considered consistent with this objective as it seeks to facilitate a slightly higher lot yield on existing R5 Large Lot Residential land, avoiding primary production zoned agricultural land and land use conflict when in proximity to such land.</p> <p>The proposed minimum lot size development standard (5 ha) is in between the existing controls of 8ha and 1.5ha on other R5 Large Lot Residential land in the vicinity of the site.</p> <p>The planning proposal states the land is connected to the town's reticulated water supply.</p>

3.2 Local Strategic Framework

The planning proposal states that it is consistent with the following local plans and endorsed strategies, as outlined below: Dubbo Regional Local Strategic Planning Statement (LSPS), adopted June 2020.

The Dubbo LSPS identifies Council's 20-year vision for land use planning in the Dubbo Regional Local Government Area. It identifies the overarching strategic direction (having regard to economic, social and environmental matters), identifies how change will be managed into the future, and includes actions required to achieve the land use vision.

The LSPS shapes how development controls in the Dubbo Regional Local Environmental Plan (LEP) 2022 and Development Control Plans will evolve over time to meet the community's needs. Proposals to change zoning and planning controls in the Dubbo LEP must be consistent with the priorities and actions in the LSPS.

The proposal is considered consistent with the Dubbo LSPS as it aligns with key planning priorities. It supports Priority 5: Protect and enhance agricultural industries and agribusiness by ensuring rural residential development does not encroach on productive agricultural land or buffer areas. It aligns with Priority 9: Providing diversity and housing choice by facilitating additional large-lot

residential development. The proposal is also consistent with Priority 13: Manage R5 zoned land by utilising existing serviced land efficiently.

Dubbo Residential Urban Areas Strategy (1996)

The site is located within the Eastern subdistrict of Dubbo, described in the Residential Areas Development Strategy 1996 (the Strategy) (**Attachment F**) as land in the eastern sector of the urban fringe. The Strategy identifies the subdistrict's role in providing opportunity for urban fringe and country lifestyles on small acreages. The Strategy recognises that dryland salinity is a significant impediment to the development of land in the subdistrict and includes a principle directly related to the issue of salinity on the site: "Allow no further development (subdivision) in the area generally bound by Peachville Road, Eulomogo Road and Whitewood Road, pending the outcome of the dryland salinity study..." (see **Figure 7**).

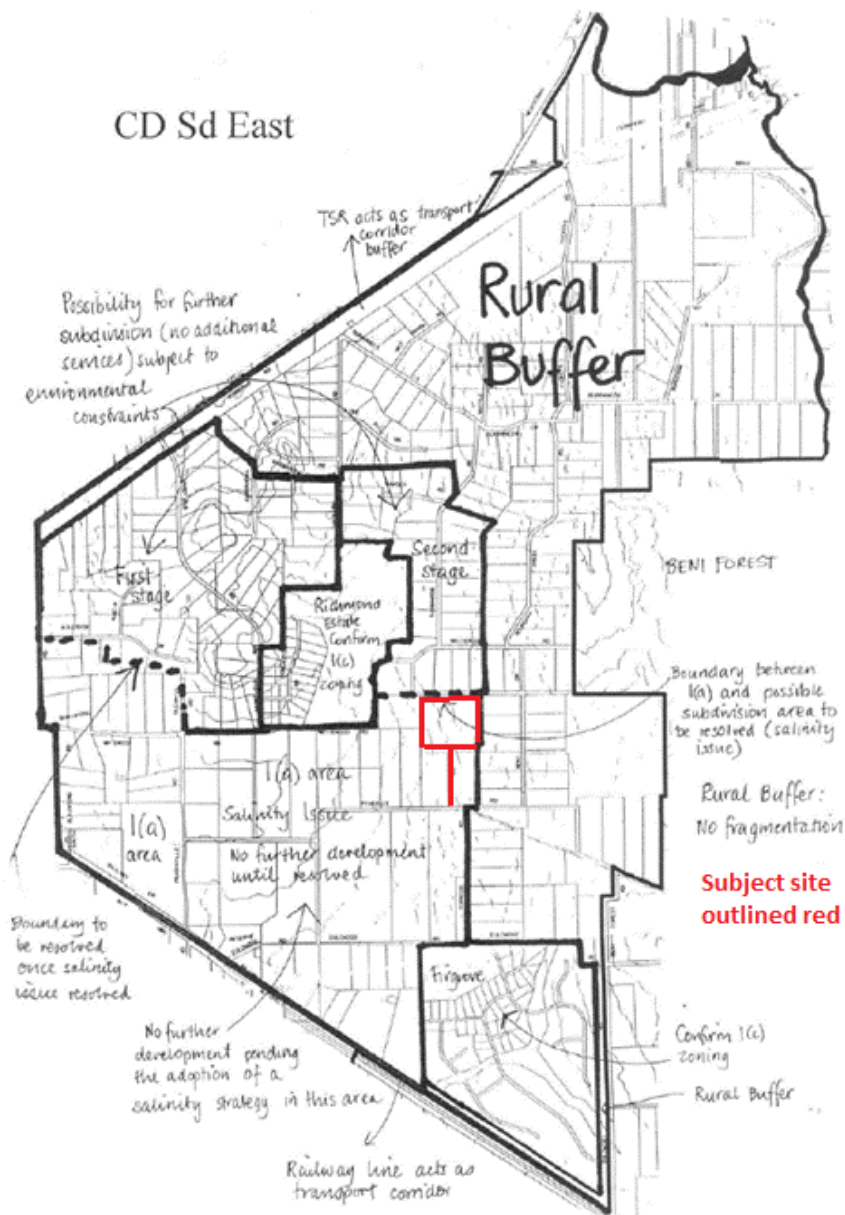


Figure 7 Eastern Sub-District Residential Strategy - Troy Gully Catchment with subject site outlined red (Source: Attachment F)

Dubbo City Urban Salinity Management Strategy and Dubbo City Urban Salinity Implementation Plan (adopted by Council March 2014)

The Dubbo City Urban Salinity Management Strategy and Implementation Plan (2014) were developed by Council to provide ongoing monitoring and management of salinity, and to provide guidance for planning and development within at-risk landscapes. Dubbo Regional Council uses the Salinity Management Strategy as the main planning tool for salinity management and guiding salinity management actions.

The Salinity Management Strategy and Implementation Plan identifies Hydro-geological Landscapes (HGLs), of which the subject land is located within the Richmond Estate (HGL). The assessed salinity hazard of the Richmond Estate HGL is “High”. The Implementation Plan provides identified requirements and actions specific to HGLs with an overall salinity hazard of Very, High or Medium, which includes the Richmond Estate. This matter is addressed later in this report, see Section 4 Site Specific Assessment.

3.3 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons
1.1 Implementation of Regional Plans	Consistent	<p>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in the relevant Regional Plan – Central West and Orana Regional Plan 2041.</p> <p>The planning proposal is broadly consistent with the relevant Regional Plan. Refer to section 3.1 for further assessment.</p>
3.1 Conservation zones	Inconsistent	<p>The objective of this direction is to protect and conserve environmentally sensitive areas. The direction states that a planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land).</p> <p>The subject site contains areas mapped as Terrestrial Biodiversity under the DRLEP 2022.</p> <p>The planning proposal is inconsistent with this Direction as it proposes to modify the minimum lot size development standard.</p> <p>Further consultation with the NSW Department of Climate Change, Energy, the Environment, and Water (DCCEEW) - biodiversity is recommended on this matter. This consultation is recommended as a condition of the Gateway. Depending on the comments by DCCEEW, Council may still require the approval of the Secretary for an inconsistency with this Direction.</p>

Directions	Consistency	Reasons
3.2 Heritage conservation	Inconsistent	<p>The objective of the direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is inconsistent with this direction as it does not contain provisions to facilitate the conservation of matters of Aboriginal heritage significance.</p> <p>Consultation with NSW Heritage and the Local Aboriginal Land Council is recommended in the Gateway determination to ensure the proposal's suitability. Depending on the comments by NSW Heritage and Dubbo LALC, Council may still require the approval of the Secretary for an inconsistency with this direction.</p>
4.3 Planning for Bushfire protection	Inconsistent	<p>The objectives of this direction are to: (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) encourage sound management of bush fire prone areas.</p> <p>This direction applies where a planning proposal will affect, or is in proximity to, land mapped as bushfire prone land.</p> <p>The direction provides that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination is issued and before community consultation is undertaken.</p> <p>The consultation with RFS will determine if the proposal is consistent with Direction 4.3. Depending on the comments by RFS, Council may still require the approval of the Secretary for an inconsistency with this Direction.</p>
6.1 Residential Zones	Consistent	<p>This direction seeks to ensure planning proposals support a variety of housing choices; make efficient use of infrastructure and services; and minimise the impact of residential development on the environment and resource lands.</p> <p>This direction applies as the planning proposal will affect land within an existing residential zone, being R5 Large Lot Residential.</p> <p>The planning proposal is considered consistent as it makes efficient use of existing infrastructure and services, such as roads, garbage and water services (reticulated water supply).</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The following provides an assessment of the potential environmental impacts associated with the proposal

Biodiversity

The majority of the site is dominated by grassland, though the central and northern part of the site contains a mix of Forest and Woodland (see **Figure 8**).

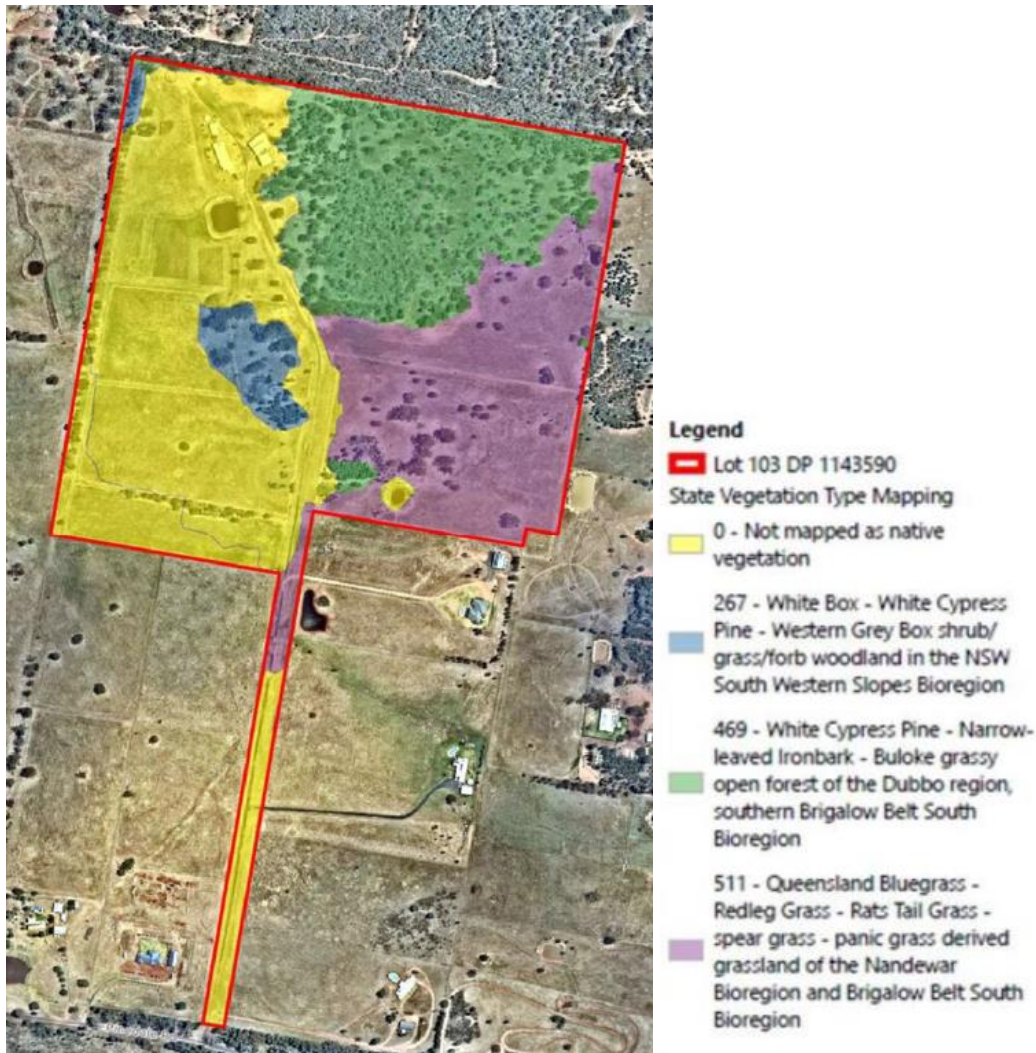


Figure 8: Plant Community Types (source: Preliminary Ecological Constraints Assessment)

The site is mapped as Terrestrial Biodiversity under Dubbo Regional LEP 2022 (see **Figure 9**).



Figure 9: Terrestrial Biodiversity Map (source: NSW Spatial Viewer)

A Preliminary Ecological Constraints Assessment (Umwelt Pty Ltd, 2023) (**Attachment B**) has been provided with the planning proposal. The desktop assessment was prepared using available online datasets including state-wide vegetation mapping and threatened species mapping. The assessment states remnant timbered vegetation in the northern area of the site has been split into two Plant Community Types (PCT) and surveys would need to confirm whether one of the identified PCTs confirm to a Critically Endangered Ecological Community (CEEC) or Endangered Ecological Community (EEC).

The assessment concludes that subject to further field investigations, the primary ecological constraints associated with the proposed subdivision relate to the potential impacts of the remnant timbered vegetation. Should these areas be avoided, impacts to biodiversity would likely to be low and, pending the development of an appropriate subdivision design that could locate services, roads and bushfire setback requirements in exotic or already disturbed areas, impacts on biodiversity may not meet the threshold for the application of the Biodiversity Offset Scheme (BOS).

It is recommended that the NSW Department of Climate Change, Energy, Environment and Water (DCCEEW) - biodiversity is consulted during public exhibition to understand any potential concerns with increasing lot yield on the subject land and forms a condition of the Gateway determination.

Bushfire

The subject land is identified as bushfire prone (see **Figure 10**).

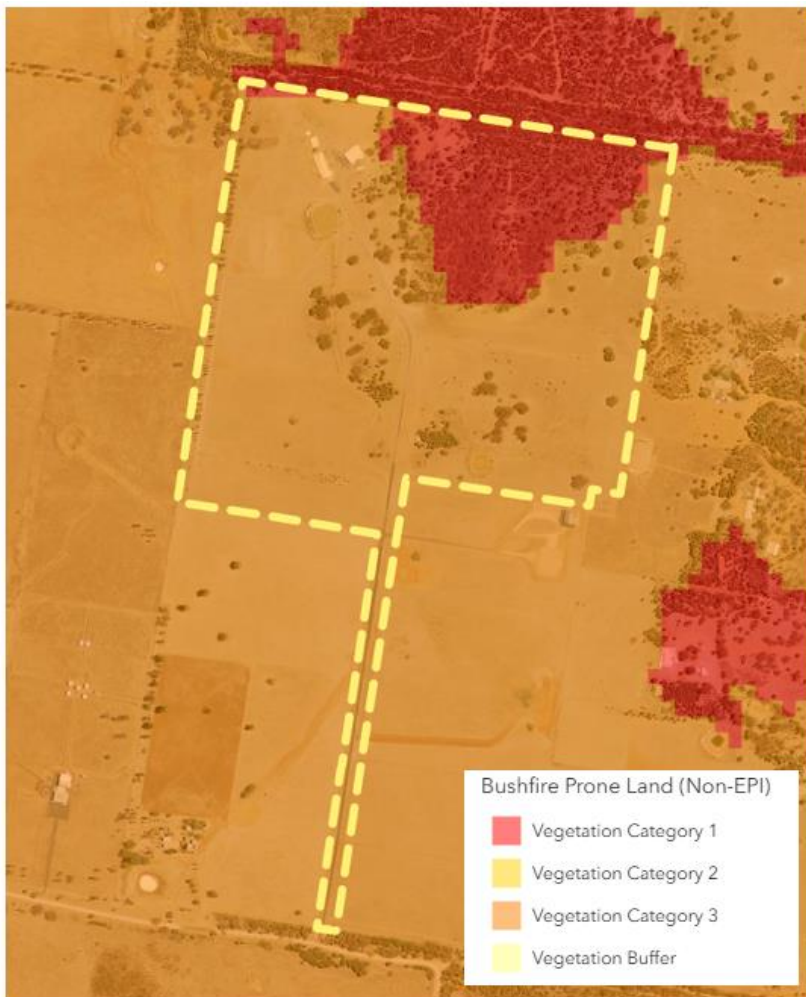


Figure 10: Bushfire Prone Land mapping (source: NSW Spatial Viewer)

A Bushfire Assessment (Bushfire Planning & Design, 2024) (**Attachment C**) has been provided with the planning proposal. The report notes that the dominant bushfire threat is the forest to the north. The report states that subdivisions with three or more allotments are required to provide more than one road in and out of the subdivision, and that a perimeter road may not provide any significant bushfire protection benefit due to the shape of the block having a long access handle. The report provides a number of Bushfire protection measures for future development.

As discussed above, consultation is required with the NSW Rural Fire Service to resolve the inconsistency with the section 9.1 Directions and forms part of the Gateway conditions.

Contamination

A Preliminary Contamination Investigation report (Envirowest Consulting, 2024) (**Attachment E**) has been provided with the planning proposal. The report states that the current and historical land use on the site is grazing of horses and sheep on semi-improved pastures. The site's history of grazing was determined from discussions with the site owner and a review of aerial imagery. The report concludes that from reviewing site history, desktop study and information from past owners, there is no evidence of orchards, mines, sheep dips, mixing sheds and contaminating industrial activities. No agricultural chemicals or other contaminant sources are known to have been used on the site.

Salinity

The planning proposal refers to the impacts of dryland salinity in the context of Council's Dubbo Urban Areas Development Strategy (1996) and addresses this environmental constraint by referring to a Salinity Management Strategy (SMS) prepared for a planning proposal approved in 2020 for land south of the site known as Daisy Hill (PP Ref: PP-2020-3138).

While it is noted the salinity modelling undertaken for the land at Daisy Hill supported that proposal's amendment to reduce the minimum lot size to 3ha and 1.5ha, yielding a potential 222 lots, it is acknowledged that the Daisy Hill SMS did not include the land subject to this planning proposal.

It is recommended the planning proposal is updated to also refer to Council's primary planning documents for salinity management, Dubbo City Urban Salinity Management Strategy (2014) (**Attachment G**) and Dubbo City Urban Salinity Implementation Plan (2014) (**Attachment H**), particularly in the context of the Richmond Estate HGL, where the subject land is located.

It is considered that salinity impacts can be addressed as part of any future development application for the subdivision of the land and construction of a dwelling house.

4.2 Social, economic and local infrastructure.

Social

An AHIMS database search identifies no record of an Aboriginal site or place within a 50-metre radius of the subject site.

The planning proposal is accompanied by an Aboriginal Cultural Heritage Report (Dubbo Aboriginal Land Council, 2022) (**Attachment D**). The report states an on-foot survey covered approximately 65% of the site and 'Stone tools or flakes' were identified during the survey, being "four brittle flakes located in the cattle yards, north-east corner at rear of the house yard".

The planning proposal inaccurately states that "No items were found at the time of inspection" in relation to the survey undertaken to determine whether any features of Aboriginal significance occur within the study area. It is recommended that as a condition of the Gateway determination, the planning proposal is updated to accurately reflect the findings of the Aboriginal Cultural Heritage Report in that evidence of Aboriginal occupation of the subject land was found on the site in the form of stone flakes.

The planning proposal does not adequately address the social impacts of the presence of Aboriginal stone artefacts on the subject land. It is recommended that as a condition of the Gateway determination the planning proposal is updated to address the social impacts of the presence of items of Aboriginal cultural heritage significance, and that consultation occurs with the Dubbo Local Aboriginal Land Council (LALC) to confirm the suitability of the proposal.

Economic

The planning proposal will facilitate a minor increase in lot yield, and therefore residential density, in an existing large lot residential area. The proposal is considered unlikely to cause any adverse economic impacts.

Infrastructure

There is no new or additional demand for state or local infrastructure arising from this planning proposal. Any proposed future development of the site will require an assessment of the availability and adequacy of local infrastructure needed to support a proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 days.

The planning proposal is categorised as standard under the LEP Making Guidelines (NSW Department of Planning and Environment, August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- NSW Department of Climate Change, Energy, the Environment and Water – Biodiversity
- NSW Heritage
- NSW Rural Fire Service

It is also recommended that Council consult with the following groups:

- Dubbo Local Aboriginal Land Council

6 Timeframe

The planning proposal includes a project timeline of 8 months. The project timeline will require updating to reflect the planning proposal's lodgement with the DPHI in late November 2024.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as standard.

The Department recommends a nine (9) month timeframe to complete the LEP 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.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the planning proposal is of local significance and is generally consistent with the State, regional and local planning framework, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary:

- Note that the consistency with section 9.1 Directions 3.1 Conservation zones, 3.2 Heritage conservation, and 4.3 Planning for Bushfire Protection are unresolved and will require justification.

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 agency and community consultation, the planning proposal is to be updated to:
 - (a) accurately reflect the presence of items of Aboriginal cultural heritage significance found on the site;
 - (b) address the proposal's social impact in response to evidence of items of Aboriginal cultural heritage significance;
 - (c) refer to Council's primary salinity management documents, Dubbo City Urban Salinity Management Plan (2014) and Dubbo City Urban Salinity Implementation Plan (2014); and
 - (d) provide a revised Project Timeline;
2. Consultation is required with the following public authorities and groups:
 - NSW Department of Climate Change, Energy, the Environment and Water - Biodiversity
 - NSW Heritage
 - NSW Rural Fire Service
 - Dubbo Local Aboriginal Land Council
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

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 30 January 2026 be included on the Gateway.

The timeframe for the LEP to be completed is on or before 30 January 2026.



4/4/2025

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