



# REPORT: Proposed Amendments to the Dubbo Regional Local Environmental Plan 2022

**DIVISION:** Development and Environment  
**REPORT DATE:** 13 June 2024  
**TRIM REFERENCE:** ID24/1201

## EXECUTIVE SUMMARY

|                        |   |   |
|------------------------|---|---|
| Purpose                | <ul style="list-style-type: none"><li>Seek endorsement</li><li>Fulfil legislated requirement</li></ul>  |   |
| Issue                  | <ul style="list-style-type: none"><li>The Dubbo Regional Local Environmental Plan 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.</li><li>This report considers two proposed amendments to the Dubbo Regional Local Environment Plan (LEP).</li><li>Amendment 1 is proposed to include residential accommodation as a permissible development type on land zoned E2 Commercial Centre. This includes land in the Dubbo Central Business District and the Wellington Town Centre.</li><li>It is considered that this proposed amendment will allow a range of residential development types, without being restricted by the current definition of shop top housing and facilitate the potential use of existing buildings in the zone for the purposes of residential accommodation.</li><li>Amendment 2 is proposed to amend the minimum allotment size for subdivision of Lot 103 DP 1143590, 34L Pinedale Road, Dubbo from 8 Ha to 5 Ha.</li><li>It is considered that amendment 2 also has strategic merit.</li><li>This report recommends that Council prepare a Planning Proposal incorporating both of the proposed amendments to the Dubbo Regional Local Environmental Plan 2022 and seek a Gateway Determination from the State Government Department of Planning and Environment.</li></ul> |   |
| Reasoning              | <ul style="list-style-type: none"><li>Environmental Planning and Assessment Act 1979</li><li>NSW Government – Local Environmental Plan Making Guidelines</li></ul>  |   |
| 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 and work program. |
|                        | Ongoing Costs   | Nil   |

|                            |                  |   |
|----------------------------|------------------|---|
| <b>Policy Implications</b> | Policy Title     | Dubbo Regional Local Environmental Plan 2022  |
|                            | Impact on Policy | Proposed amendments as included in the report   |
| <b>Consultation</b>        |                  | Consultation will be required to be undertaken with community and State Government Agencies as part of the Planning Proposal process. |

## 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:             | 1.1 Housing meets the current and future needs of our community   |
| Delivery Program Strategy: | 1.1.2 Housing is affordable and secure  |
| 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

- That Council support preparation of a Planning Proposal to amend the Dubbo Regional Local Environmental Plan 2022 to include the following:
  - To permit Residential Accommodation in the E2 Commercial Centre zone; and
  - To change the minimum lot size area for Lot 103 DP 1143590, 34L Pinedale Road, Dubbo from 8 Ha to 5 Ha.
- That Council submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
- That following the completion of the public exhibition period, a further report be presented to Council for consideration, including the results of public exhibition.

*Stephen Wallace*  
Director Development and Environment

*SJ*  
Manager Growth Planning

## BACKGROUND

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. Residential Accommodation in the E2 Commercial Centre Zone

The majority of land in the Dubbo Central Business District is currently zoned E2 Commercial Centre under the provisions of the Dubbo Regional Local Environmental Plan 2022. The extent of the Dubbo Central Business District is shown in **Figure 1**:

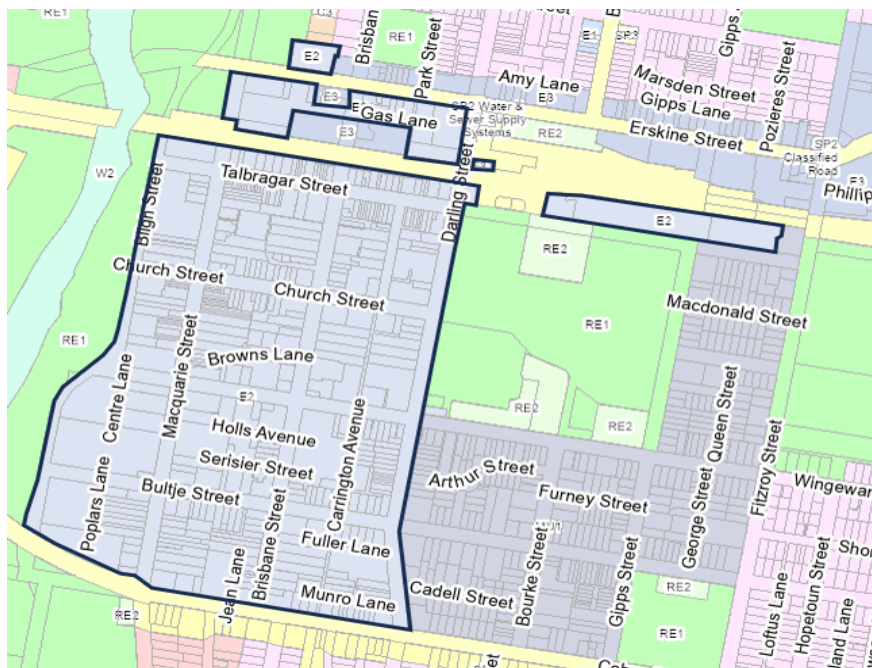


Figure 1: Dubbo Central Business District

This is the same land use zone as for land situated in the Wellington Town Centre as shown in Figure 2:



Figure 2: Wellington Town Centre

Under the provisions of the LEP, residential accommodation is a group term, which includes a number of separate land use activities. Residential accommodation is defined as follows:

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,
- (b) boarding houses,
- (baa) co-living housing,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,

- ~~(l) seniors housing,~~  
~~(m) shop top housing,~~

~~but does not include tourist and visitor accommodation or caravan parks.~~

~~Shop top housing is currently the only permissible residential development type in the Dubbo Central Business District.~~

~~In respect of the Wellington Town Centre, the LEP contains an Additional Permitted Use or APU, which permits residential accommodation on land within the Wellington Town Centre.~~

~~The APU states as follows:~~

**~~18 Use of certain land at Wellington~~**

- ~~(1) This clause applies to land at Wellington identified as "18" on the Additional Permitted Uses Map.~~  
~~(2) Development for the purposes of residential accommodation is permitted with development consent.~~

~~It is considered that allowing residential accommodation as a permissible form of development in the E2 Commercial Centre zone land use table will have the following benefits:~~

- ~~• Allow a range of residential development types, without being restricted by the current definition of shop top housing.~~
- ~~• Facilitate the potential use of existing buildings in the zone for the purposes of residential accommodation on land that is within close proximity to commercial development, community facilities and transportation. This is especially relevant taking into account the potential for varied accommodation formats for temporary workers accommodation and other accommodation types.~~
- ~~• Remove the Additional Permitted Use from the Dubbo Regional Local Environmental Plan 2022 in respect of allowing residential accommodation in the Wellington Town Centre. This would mean that residential accommodation would be included in the land use zone table.~~

~~As part of preparing the subject Planning Proposal, staff will undertake detailed consultation with the State Government Department of Planning and Environment to ensure the proposed amendments to the LEP meet the objectives as provided above and are consistent with government policy.~~

**2. Proposed Minimum Lot Size Change Lot 103 DP 1143950**

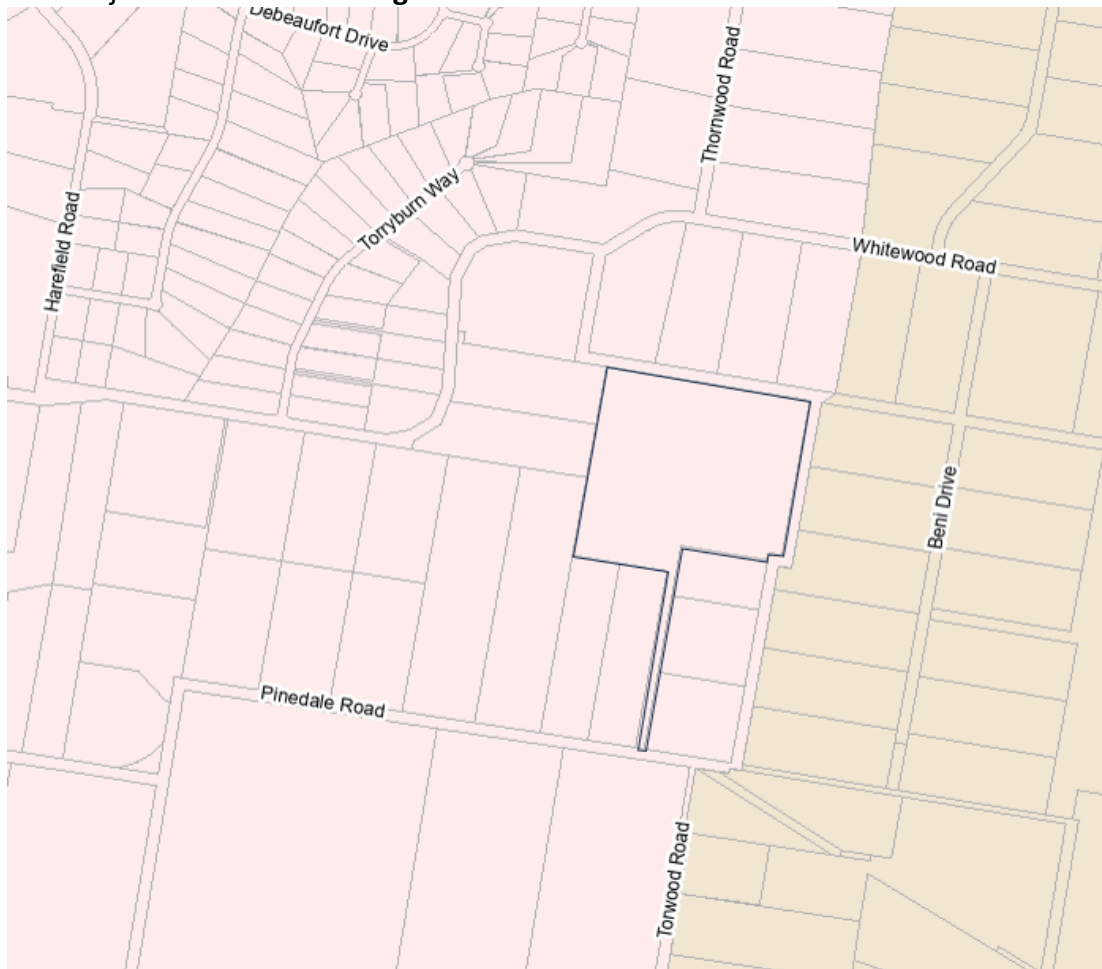
The objective and intent of this proposal is to amend the Dubbo Regional LEP 2022 by changing the minimum lot size area from 8 Ha to 5 Ha for Lot 103 DP 1143590, 34L Pinedale Road, Dubbo.

The land subject to this proposed amendment is zoned R5 Large Lot Residential and has a minimum lot size of 8 Ha under the provisions of the Dubbo Regional Local Environmental Plan 2022. A draft Planning Proposal for these specific amendments is provided here in **Appendix 1**.

This proposed minimum lot size amendment has been the subject of a previous submission to Council from the landowner in 2012, which was considered by Council as part of an administrative review process for the former Dubbo Local Environmental Plan 2011.

Following approval by the State Government Department of Planning and Environment of a Planning Proposal for the Daisy Hill land to the south of the subject land in 2022, this has now provided a level of clarity to Council and the landowner in respect of strategic merit associated with development of this parcel of land and the proposed reduction in the minimum allotment size for subdivision. As such, further consideration of this proposed amendment is being undertaken.

The subject site is shown in **Figure 3**.



**Figure 3:** Existing and Proposed Minimum Lot Size



**(a) Site Characteristics**

The site is approximately 10 km east from Dubbo and is situated on Pinedale Road. The site is bound by land also zoned R5 Large Lot Residential to the north, west and south and land zoned RU2 Rural Landscape to the eastland is bound by large lot residential land to the north, agricultural land to the east. The land has the following characteristics:

- Zoned R5 Large Lot Residential with a minimum allotment size for subdivision of 8 Ha;
- Contains an existing dwelling house and associated infrastructure;
- The land is mapped as bushfire prone on Council's draft bushfire prone land map;
- The land contains potentially contains terrestrial biodiversity and groundwater vulnerability;
- The land has been previously used for agricultural purposes, which will require consideration of the contamination status of the land.

**(b) Planning Assessment and Considerations**

Assessment of the proposed amendment has indicated that it has strategic merit and should form a Planning Proposal to be submitted to the NSW Department of Planning and Environment to seek a Gateway Determination.

**(i) 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<br><br>This Plan is the NSW Government strategy for guiding land use planning priorities and decisions for the Central West and Orana Region over the next 20 years. | Objective 5<br>Identify, protect and connect importance environmental assets<br><br>Objective 15<br>Manage rural residential development  | The proposed amendment is consistent with this Plan. |
| Towards 2040 Community Strategic Plan<br><br>This Plan is the highest-level strategy that guides and influences the direction of   | Strategy 1.1.1<br>A variety of housing types and densities are located close to appropriate services and facilities<br><br>Strategy 1.2.1 | The proposed amendment is consistent with this Plan. |

| Strategy  | Requirement  | Consistency  |
|---|--|--|
| Council, the communities and other levels of Government over the coming years.  | Land is suitably zoned, sized and located to facilitate a variety of housing types and densities   |  |
| Local Strategic Planning Statement (LSPS)<br><br>This Plan sets Council's land use planning priorities, including economic, social and environmental outcomes, for the next 20 years. | Priority 5<br>Protect and enhance our agricultural industries and agribusiness<br><br>Priority 9<br>Providing diversity and housing choice to cater for the needs of the community<br><br>Priority 13<br>Manage R5 zoned land  | The proposed amendment is consistent with this Plan. |
| Dubbo Urban Areas Development Strategy<br><br>This Strategy aims to preserve the land from degradation and fragmentation for ongoing agricultural production for future generations.  | The subject land is within the Eastern Sub-District under the provisions of the Strategy. The Strategy notes the area as providing for 'urban fringe' type development opportunities that do not impact the integrity of the buffer between rural residential land and agricultural land uses. | The proposed amendment is consistent with this Plan. |

## (ii) 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<br>Chapter 2 provides a state-wide framework for primary production lands, including reducing land-use conflict with residential development.   | 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.   |
| Resilience and Hazards 2021<br>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. | A Preliminary Contamination Investigation (PCI) was undertaken as the site was previously used for agricultural purposes.<br><br>At this stage of the proposed amendment process, Council is satisfied that the land is likely to be suitable for rural residential development. However, further consideration of this issue will be required through the Planning Proposal process and for future development applications for subdivision. |



(iii) Ministerial Directions under Section 9.1

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

| Direction                                  | Consistency   |
|--|---|
| 3.2<br>Heritage<br>Conservation            | <p>The proposed amendment is considered to be consistent with this Direction. A Cultural Heritage Survey Report was prepared for the site, which included site investigations and a search of the Aboriginal Heritage Inventory Management System (AHIMS). The AHIMS search did not show any Aboriginal sites or places on the land.</p> <p>An Aboriginal Archaeology Due Diligence Report will be prepared to accompany future development applications.</p> |
| 4.3<br>Planning for<br>Bushfire Protection | <p>The Planning Proposal is consistent with the direction as the site is identified as being subject to Council's draft bushfire prone land map. Council will be required to consult with the NSW Rural Fire Service as a condition of any Gateway Determination.</p>   |
| 6.1<br>Residential zones                   | <p>The Planning Proposal is consistent with the direction as the land will provide for rural residential development.</p>   |

(c) Environmental Impacts

The land contains an area of remnant vegetation. A preliminary assessment of Ecological Constraints was undertaken to consider the impacts of the proposed amendment to the minimum lot size. A copy of the report is provided here in the draft Planning Proposal in **Appendix 1**.

The report provided the following summary:

- The site is not identified on the NSW Biodiversity Values Map and is zoned R5.
- The site contains Plant Community Types include 267 (white box et al) and 469 (white cypress pine et al).
- No threatened species are known to occur on the site.
- The avoidance and retention of timbered vegetation would constitute a favourable outcome for biodiversity.

The Proponent will be required to provide a Biodiversity Development Assessment Report with any future Development Application for subdivision on the land, which will also require consideration of any land clearing required for the purposes of bushfire protection and management.

### 3. Consultation and Planned Communications

If Council supports the proposed amendments included in this report, a Planning Proposal will be prepared for the consideration of the State Government Department of Planning and Environment. Following preparation of a Planning Proposal, Council will seek a Gateway Determination, which will allow the proposal to be publicly exhibited 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

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

### 4. Resourcing Implications

It is considered that there are no resourcing implications arising from this report as it forms part of the work program of the Growth Planning Branch. In respect of amendment 2 as included in this report, the Proponent has not been levied Council's Planning Proposal charge as this amendment is as a result of previous planning processes undertaken by Council.

### APPENDICES:

- 1 [🔗](#) Draft Planning Proposal

**MOTION**

1. That Council delegate the additional functions as outlined in the report for the period of 14 September to 2 October 2024, or until the declaration of the new councillors, whichever occurs first due to the local government elections.
2. That the use of any of these extended delegations be reported to the first full meeting of the new Council on 24 October 2024.
3. That Council delegate to the Chief Executive Officer, Murray Alexander Wood a Power of Attorney for the period of 14 September to 2 October 2024, or until the declaration of the new councillors, whichever occurs first due to the local government elections.
4. That Council authorise the Mayor and Deputy Mayor to execute the General Power of Attorney under the Common Seal of the Council.
5. That Council rescind the power of attorney granted to the Chief Executive Officer upon the newly elected body taking office.
6. That the Chief Executive Officer report to Council on all documents signed under the prescribed Power of Attorney, during this period.

**CARRIED**

**For:** Councillors J Black, L Burns, S Chowdhury, V Etheridge, J Gough, R Ivey, D Mahon, P Wells and M Wright.

**Against:** Councillor M Dickerson.

**CCL24/153      PROPOSED AMENDMENTS TO THE DUBBO REGIONAL LOCAL  
ENVIRONMENTAL PLAN 2022 (ID24/1201)**

The Council had before it the report dated 13 June 2024 from the Manager Growth Planning regarding Proposed Amendments to the Dubbo Regional Local Environmental Plan 2022.

Moved by Councillor M Wright and seconded by Councillor V Etheridge

**MOTION**

1. That Council support preparation of a Planning Proposal to amend the Dubbo Regional Local Environmental Plan 2022 to include the following:
  - (a) To permit Residential Accommodation in the E2 Commercial Centre zone; and
  - (b) To change the minimum lot size area for Lot 103 DP 1143590, 34L Pinedale Road, Dubbo from 8 Ha to 5 Ha.
2. That Council submit the Planning Proposal to the NSW Department of Planning and Environment for a Gateway Determination.
3. That following the completion of the public exhibition period, a further report be presented to Council for consideration, including the results of public exhibition.

**CARRIED**

**For:** Councillors J Black, L Burns, S Chowdhury, M Dickerson, V Etheridge, J Gough, R Ivey, D Mahon, P Wells and M Wright.

**Against:** Nil.