DUBBO REGIONAL COUNCIL

REPORT: Planning Proposal R22-005 - 13L Narromine Road, Dubbo - Proposed Amendments to Land Use Zone and Minimum Lot Size

DIVISION: Development and Environment
REPORT DATE: 23 January 2023
TRIM REFERENCE: ID22/2258

EXECUTIVE SUMMARY

Purpose	Seek endorsement	
Issue	• A planning proposal was lodged by GLN Planning Pty Ltd, on behalf of the Bathla Group, to amend the Dubbo Regional Local Environmental Plan by changing the existing land use zone and minimum lot size area at part of 13L Narromine Road, Dubbo (Lot 22 DP 1038924 and Lot 7 DP223428). • The planning proposal seeks to rezone part of R2 Low Density Residential zone to R1 General Density Residential, and amend the minimum lot size from 600m^2 to 300m^2. The total area to be changed is approximately 23.3Ha. • 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 consultation.	
Reasoning	• Environmental Planning and Assessment Act 1979 • Local Environmental Plan Making Guidelines	
Financial Implications	Budget Area	Growth Planning
	Funding Source	Application Fees
	Proposed Cost	Council received $26,000 upon lodgement, and will receive a further $14,000 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 land use zone and minimum lot size area at 13L Narromine 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 note the process and key steps for amending the Dubbo Regional Local Environmental Plan 2022 (attached in Appendix 1).**
2. **That Council endorse the planning proposal (attached in Appendix 2) to amend the Dubbo Regional Local Environmental Plan 2022 by rezoning and changing the minimum lot size area at part of 13L Narromine Road, Dubbo (Lot 22 DP1038924 and Lot 7 DP223428).**
3. **That Council submit the planning proposal to the NSW Department of Planning and Environment for a Gateway Determination.**
4. **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.**
5. **That Council support a minimum 28 days public exhibition period for the planning proposal, subject to the conditions of a Gateway Determination.**
6. **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

CC
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 are attached in **Appendix 1** and are as follows:

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

REPORT

1. Details of the Planning Proposal

Applicant:	GLN Planning
Site:	13L Narromine Road, Dubbo (Lot 22 DP1038924 and Lot 7 DP223428)
Site area:	Land to be amended is approximately 23.3Ha
Proposed LEP Amendment:	Amend the land use zone from R2 Low Density Residential to R1 General Residential zone Amend the minimum lot size area from 600m^2 to 300m^2 Changes to Land Zoning Map (LZN_001A) and Lot Size Map (LSZ_001A)

The objective of the planning proposal is to amend the Dubbo Regional LEP 2022 to rezone a precinct of land from R2 Low Density Residential to R1 General Residential, and amend the minimum lot size area from 600m^2 to 300m^2, to encourage housing diversity with a smaller built form. The proposed amendments are shown in **Figures 1-5**.

Figure 1: Location of site and proposed amendment

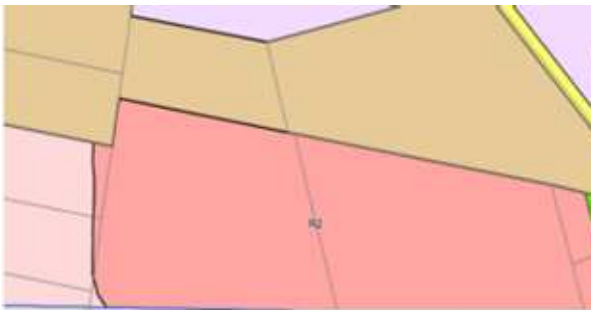

Figure 2: Current Land Zoning (R2 Low Density Residential)

Figure 3: Proposed Land Zoning (R1 General Residential)

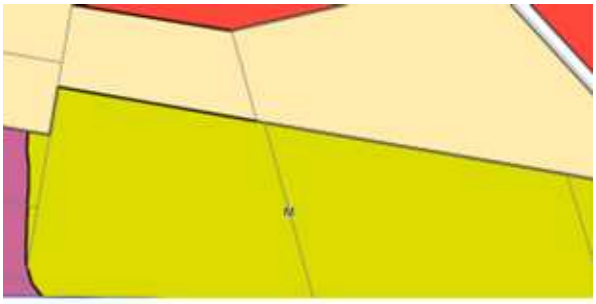

Figure 4: Current minimum lot size area (600m^2)

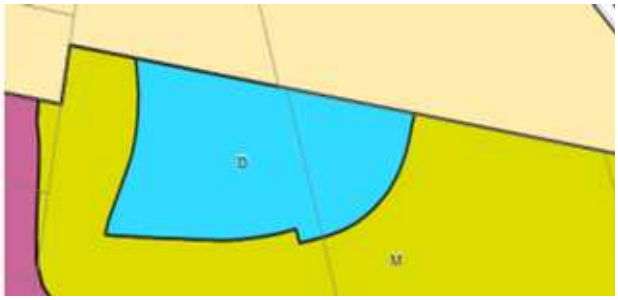

Figure 5: Proposed minimum lot size area (300m^2)

The intent of the planning proposals is:

- To provide a variety of housing options and facilitate a range of lot sizes;
- To facilitate medium density housing;
- To accommodate different housing products;
- To provide appropriate planning controls to guide future residential lots within the precinct.

2. Site Characteristics

The site is approximately 3.2km northwest of the Dubbo Central Business District, and is located on the south-western side of Narromine Road, the western side of TAFE, the eastern side of large-lot residential development, and the northern side of the Western Railway. The site has the following characteristics:

- It contains a terrestrial biodiversity;
- It is subject to vulnerable groundwater controls;
- It is not mapped as flood prone or bushfire prone (but is mapped on Council's draft bushfire prone mapping); and
- It is mapped as sensitive land resource.

3. Planning assessment and considerations

i) Strategic and site-specific merit

To determine whether the planning proposal should be supported, it must have both strategic and site specific merits and align with the NSW strategic planning framework. It must also identify potential environmental, social, and economic impacts.

The proposal has been assessed against relevant regional and sub-regional strategies, Council strategies and policies, applicable State Environmental Planning Policies (SEPPs), and Section 9.1 Ministerial Directions.

Strategy	Requirement	Consistency
Central West and Orana Regional Plan 2036 This Plan is the NSW Government's strategy for guiding land use planning priorities and decisions for the Central West and Orana Region over the next 20 years.	Vision The most diverse regional economy in NSW with a vibrant network of centres leveraging the opportunities of being at the heart of NSW. Goal 2 A stronger healthier environment and diverse heritage. Goal 4 Dynamic vibrant and healthy communities. Direction 22 Manage growth and change in regional cities and strategic and local centres. Direction 25 Increase housing diversity.	The planning proposal is consistent with this Plan.
Central West and Orana Regional Plan 2041 This Plan is the NSW Government's strategy for guiding land use planning priorities and decisions for the Central West and Orana Region over the next 20 years. This plan was adopted after lodgement of the planning proposal.	Objective 7 Provide for well-located housing options to meet demand. Objective 8 Plan for diverse, affordable, resilient and inclusive housing. Objective 19 Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities.	The planning proposal is consistent with this Plan.
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.	Vision In 2040 we will be an innovative, resilient and sustainable region with opportunities to grow and a high quality of life. Objective 1.1 Housing meets the current and future needs of our community. Objective 1.2 An adequate supply of land is located close to community services and facilities	The planning proposal is consistent with this Plan.

Strategy	Requirement	Consistency
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 9 Provide diversity and housing choice to cater for the needs of the community. Priority 12 Create sustainable and well-designed neighbourhoods.	The planning proposal is consistent with this Plan.
Dubbo Residential Release Strategy This Strategy guides the strategic direction and decisions on residential development and use of residential land.	Central district - North-western Sub-District Role of the district Provide industrial land options and westward residential expansion in the long term and protect and improve its transport infrastructure.	The planning proposal is consistent with this Strategy.
West Dubbo Residential Release Strategy This Strategy provides a greater level of detail and certainty for the residential development in West Dubbo.	South-Western Sub-District Principles for land release Lands within this precinct maybe suitable for additional investigation for residential development once the land is required in the residential land release pipeline and that services are available at no additional cost to the community.	The planning proposal is consistent with this Strategy. Additional commentary is provided below.
Dubbo Regional Local Environmental Plan 2022 This Plan guides planning decisions in the region through development controls and provisions.	Central West Urban Release Area Ensure development in an area identified for growth occurs in a logical and cost effective manner, in accordance with a staging plan and development control plan. Zone R2 Low density residential Provide for the housing needs of the community within a low density residential environment. Zone R5 Large lot residential Ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.	The planning proposal is consistent with this Plan.

a) West Dubbo Residential Release Strategy

Residential development should be undertaken in accordance with the staging specified in **Figure 6**. The site is identified as Stage 4; however, it may be developed earlier than anticipated if it can address access to the land and also the proximity to the Western Rail Line, or it can demonstrate that other lands must be developed out of sequence.

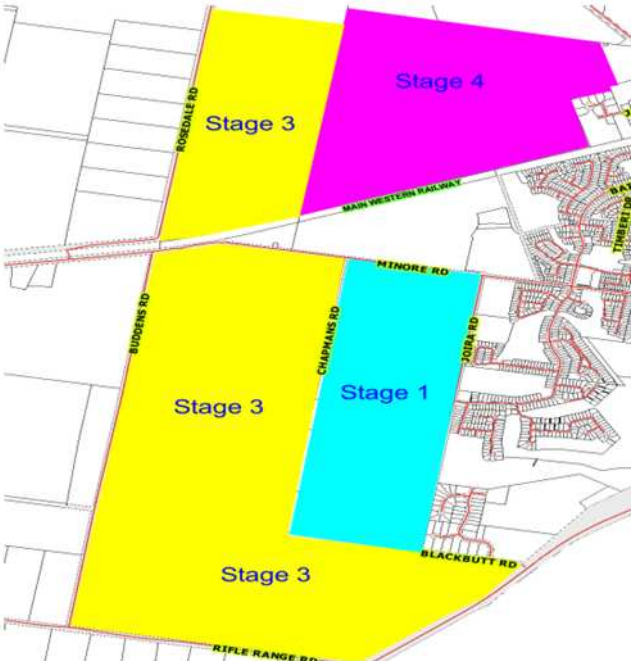

Figure 6: South-Western Sub-District staging.

Council will consider an out-of-sequence request where:

- There are no additional costs to Council in infrastructure provision;
- All infrastructure is provided by the applicant or Council has agreed to provide the infrastructure;
- The land is situated within a reasonable proximity to an established residential community and an established residential community; and
- The land can be serviced by a public transport provider.

The planning proposal is consistent with the above requirements. A utility services report concludes that all the recommended potential utility services can be provided. Council raised concerns for the long term supply of water and sewer infrastructure, but will continue to work with the applicant to deliver revised water supply and sewer strategies for the entirety of the urban release area. A staged approach to the water and sewer upgrades will also be required as growth occurs. In the interim, a standpipe-style reservoir may be required to fully service the urban release area whilst existing sewer is to be connected to the Cooreena Road pump station via gravity sewer.

ii) State Environmental Planning Policies (SEPP)

The planning proposal is consistent with the following SEPPs, which are planning instruments that address planning issues at a state-wide level.

SEPP	Comment
SEPP (Biodiversity and Conservation) 2021 The aim of this SEPP is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.	The environmental impact is negligible as the site is currently zoned R2 Low Density Residential. The clearing of some native vegetation may be required despite the rezoning. A Biodiversity Development Assessment Report has been submitted, and considered the principle of 'avoid and minimise'.
SEPP (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. Stage 1 – Preliminary Site Investigation is the first step in assessing the contamination status of a site proposed for redevelopment. It defines the potential contaminating activities carried out onsite, the areas where contamination is most likely to exist and, if necessary, sufficient soil or groundwater sampling to confirm whether the land has been contaminated or not.	In accordance with the Central NSW Regional Contaminated Land Policy, the site has the potential to be contaminated due to the previous agricultural land uses and activities. The planning proposal has a minor inconsistency with this SEPP. The submitted Preliminary Site Investigation concluded that the site is suitable for development, subject to an additional Data Gap Contamination Assessment. Further investigations to be undertaken prior to community consultation include a gap analysis, a decommission plan, determination of the identified hydrocarbons and updated illegible figures.
SEPP (Housing) 2021	The planning proposal is not contrary to the principles of this SEPP as it enables diverse housing types and encourages the development of housing to the community.
SEPP (Transport and Infrastructure) 2021 Chapter 2 is applicable for the proposal. The aim of this SEPP is to facilitate the effective delivery of infrastructure across NSW.	The planning proposal does not include any provisions which impede the operation of this SEPP over the site.
SEPP (Exempt and Complying Development Codes) 2008 The aim of this SEPP is to provide streamlined assessment processes for development that complies with specified development standards.	The planning proposal does not contravene the provisions of the SEPP and is therefore consistent with it.

Numerous other SEPPs have been assessed as part of this planning proposal but were not considered to be relevant.

iii) Ministerial Directions under Section 9.1

Section 9.1 (2) of the Environmental Planning and Assessment Act 1979 requires a planning proposal to be consistent with the principles, aims, objectives or policies of directions made by the Minister for Planning. The planning proposal is generally consistent with the following Directions.

Direction	Requirement	Consistency
1.1 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan released by the Minister for Planning	The planning proposal is consistent with the Regional Plan, both the Central West and Orana Regional Plan 2041 and the Central West and Orana Regional Plan 2036.
3.1 Conservation Zones	Planning proposals must include provisions that facilitate the protection and conservation of environmentally sensitive areas. This applies to land within a conservation zone or land otherwise identified for environment conservation or protection purposes in the LEP.	The planning proposal is not located in the Environmental Conservation zone. However, the western boundary of the site is overlaid with terrestrial biodiversity map. The portion of land that will be amended is outside the mapped area.
3.2 Heritage Conservation	Planning proposals must contain provisions that facilitate the conservation of items, places, buildings, works, relics, moveable objects of environmental heritage significance and indigenous heritage significance.	The planning proposal is consistent with this Direction. The site is not identified as containing items of aboriginal cultural significance. Notwithstanding, any future development is required to comply with the relevant provisions within the LEP, National Parks and Wildlife Act 1974, and Heritage Act 1977.
4.3 Planning for Bushfire Protection	Planning proposals must have regard to Planning for Bushfire Protection 2019 and avoid placing inappropriate development in hazardous areas.	The site is identified as being subject to Council's draft bushfire prone land map as it is covered by grasslands. Assessment of bushfire impacts will be assessed as part of any future development application. Consultation with the NSW Rural Fire Service will be undertaken.

Direction	Requirement	Consistency
4.4 Remediation of Contaminated Land	Planning proposals must reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered.	The site is potentially contaminated due to the outstanding contamination matters that have not been appropriately addressed nor resolved at this stage. As such, a decommission plan, a data gap analysis and the associated matters shall be provided prior to community consultation.
5.1 Integrating Land Use and Transport	The Direction applies when a planning proposal will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	The proposed area will be in close proximity to the future western distributor road, which means higher densities of housing will be close to transport nodes. In addition, other transport networks, cycle path and pedestrian linkages within the estate will be designed in accordance with the relevant Development Control Plan.
6.1 Residential Zone	The direction applies when a planning proposal will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.	The planning proposal is consistent with this direction as it will facilitate higher density building types whilst having direct access to infrastructure and services. The rezoning will increase the permissibility of residential density of land.

The planning proposal is consistent with the abovementioned Ministerial Directions.

iv) Site-Specific Merit

For site-specific merit, the planning proposal must outline potential impacts on the natural environment and potential mitigation measures, and demonstrate its suitability having regard to the availability of services and infrastructure.

a) <u>Environmental Impacts</u>

The site consists of approximately 179.26ha of degraded native vegetation with the remainder of exotic vegetation and cleared lands. Of the 179.26ha of degraded native vegetation, approximately 70.70ha is severely degraded and below the threshold requiring

offsets. The native vegetation within the subject site contains two plant community types (PCTs) which may be impacted:

- PCT 511- Queensland Bluegrass – Redleg Grass- Rats Tail Grass – spear grass- panic grass derived grassland of the Nandewar Bioregion and Brigalow Belt South Bioregion; and
- PCT 458 – White Cypress Pine – Buloke – White Box shrubby open forest on hills in the Liverpool Plains – Dubbo region, Brigalow Belt South Bioregion.

The site does not contain threatened fauna or flora species. Ecosystem credits will be provided to offset the impacts as part of any development application.

b) Environmental Hazards

The site is not mapped as flood prone or bushfire prone, but is within Council's draft bushfire hazard map. The proposal will not negatively impact aboriginal heritage, geotechnical and contamination, acoustic, and dark sky planning issues on the site.

c) Social and Economic Effects

The planning proposal will facilitate additional housing stock within the Dubbo residential housing market. The economic benefits generated by the development will create additional employment within the precinct and the business zones to the north of the site. Key infrastructure such as existing Dubbo TAFE and a potential new school and neighbourhood shops will also be benefited by the future residences.

d) Infrastructure

The planning proposal will increase the demand for public facilities and services. Proposed works are subject to a staged approach, and accordingly, specific water and sewer infrastructure upgrade requirements will be confirmed at a later stage. This will not prevent the planning proposal from progressing.

The following strategies were included with the planning proposal:

- Utilities services report
- Water cycle management strategy
- Traffic and transport assessment
- Open space conceptual layout

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 land owners 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 the affected and 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:

- Transport for NSW
- NSW Rural Fire Service
- NSW Environmental Protection Authority
- School Infrastructure NSW

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

5. 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
9 February 2023	Council decision
Late February 2023	Submit the planning proposal to the Department of Planning and Environment for Gateway Determination
Early April 2023	Gateway determination issued
May 2023	Post-gateway review and requirements
July 2023	Public exhibition period
August 2023	Consideration of submissions
October 2023	Consideration by Council
November 2023	Submit the planning proposal to the Department of Planning and Environment for finalisation
January 2024	Gazettal of the LEP amendment

6. Resourcing Implications

Council received $26,000 upon lodgement, and will receive a further $14,000 if a Gateway Determination is received, as part of the application fees.

Total Financial Implications	Current year ($)	Current year + 1 ($)	Current year + 2 ($)	Current year + 3 ($)	Current year + 4 ($)	Ongoing ($)
a. Operating revenue	$40,000	0	0	0	0	0
b. Operating expenses	0	0	0	0	0	0
c. Operating budget impact (a – b)	**$40,000**	**0**	**0**	**0**	**0**	**0**
d. Capital expenditure	0	0	0	0	0	0
e. Total net impact (c – d)	**$40,000**	**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

7. Options Considered

Council has the following options:

1. Support the planning proposal

   This would allow Council to submit the planning proposal to the Department of Planning and Environment for a Gateway Determination. The Gateway Determination allows for the review of the strategic and site-specific merits of a proposal, and determines whether it should proceed.

   This is the preferred option.

2. Not support the planning proposal

   The proponent would be able to submit a Rezoning Review to the Department of Planning and Environment, which allows an independent planning panel to evaluate and recommend to the Minister of Planning whether the proposal should progress to Gateway Determination.

APPENDICES:

1 Planning Proposal Flowchart

2 Planning Proposal