



AGENDA

INFRASTRUCTURE, PLANNING AND ENVIRONMENT COMMITTEE

8 APRIL 2025

MEMBERSHIP: Councillors J Black, L Butler, S Chowdhury, J Cowley, M Dickerson, R Ivey, K Richardson, A Ryan, P Toynton, P Wells and M Wright.

The meeting is scheduled to commence at 5:30 PM.

ACKNOWLEDGEMENT OF COUNTRY:

“I would like to acknowledge the Wiradjuri People who are the Traditional Custodians of the Land. I would also like to pay respect to the Elders past and present of the Wiradjuri Nation and extend that respect to other Aboriginal peoples from other nations who are present”.

Page

IPEC25/20 LEAVE OF ABSENCE (ID24/2318)

IPEC25/21 CONFLICTS OF INTEREST (ID25/433)

In accordance with their Oath/Affirmation under the Act, and Council's Code of Conduct, Councillors must disclose the nature of any pecuniary or non-pecuniary interest which may arise during the meeting, and manage such interests accordingly.

IPEC25/22 DEVELOPMENT ACTIVITY SUMMARY (ID25/542)

The Committee had before it the report dated 25 March 2025 from the Manager Building and Development Services regarding Development Activity Summary.

3

IPEC25/23 DAISY HILL ESTATE - REMOVAL OF RESTRICTIVE COVENANT (ID25/376)

The Committee had before it the report dated 28 March 2025 from the Manager Building and Development Services regarding Daisy Hill Estate - Removal of Restrictive Covenant.

10

- IPEC25/24 RENEWABLE ENERGY PROJECTS UPDATE - APRIL 2025 (ID24/2442)** 14
The Committee had before it the report dated 20 March 2025 from the Manager Growth Planning regarding Renewable Energy Projects Update - April 2025.
- IPEC25/25 DRAFT DEVELOPMENT CONTROL PLAN DCP24-001 - TIGER MOTH CIRCUIT - 38 HIGH STREET DUBBO - CONSIDERATION OF PUBLIC EXHIBITION RESULTS (ID25/346)** 25
The Committee had before it the report dated 24 March 2025 from the Manager Growth Planning regarding Draft Development Control Plan DCP24-001 - Tiger Moth Circuit - 38 High Street Dubbo - Consideration of Public Exhibition Results.
- IPEC25/26 DEVELOPMENT APPLICATION D2023-26 - 59 RESIDENTIAL LOT SUBDIVISION - PART LOT 10 DP 1119436, 2R OLD DUBBO ROAD DUBBO**
APPLICANT: BARKER RYAN STEWART PTY LTD
OWNER: MAAS GROUP PROPERTIES MIRIAM PTY LTD (ID25/259) 44
The Committee had before it the report dated 5 March 2025 from the Team Leader Growth Planning Projects regarding Development Application D2023-26 - 59 Residential Lot Subdivision - Part Lot 10 DP 1119436, 2R Old Dubbo Road Dubbo
Applicant: Barker Ryan Stewart Pty Ltd
Owner: Maas Group Properties Miriam Pty Ltd.
- IPEC25/27 DUBBO TRANSPORTATION MODEL - PROPOSED VARIATION TO CONTRACT (ID25/537)**
The Committee had before it the report dated 20 March 2025 from the Infrastructure Strategy Team Leader regarding Dubbo Transportation Model - Proposed Variation to Contract.
- In accordance with the provisions of Section 9 (2A) of the Local Government Act 1993 the Chief Executive Officer is of the opinion that consideration of this item is likely to take place when the meeting is closed to the public for the following reason: information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business (Section 10A(2)(c)).*



REPORT: Development Activity Summary

DIVISION: Development and Environment
REPORT DATE: 25 March 2025
TRIM REFERENCE: ID25/542

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none"> Provide review and update. 	
Issue	<ul style="list-style-type: none"> The monthly report is presented to Council which shows development activity. The report includes a statistical overview of the number and type of development approvals for the Dubbo Regional Local Government Area (LGA) on a monthly basis. The 'total number of dwellings' approved in February was 37, including 17 single dwellings and 20 other dwellings. The NSW Department of Planning, Housing and Infrastructure publishes 'League Table' data which includes Development Application processing times for all Councils. This report provides the latest monthly snapshot of Council's processing times for Development Applications. 	
Reasoning	<ul style="list-style-type: none"> Provide data relating to approved Development Applications. Provide specific statistics of the number of dwellings and other residential development approved. Provide comparative data for corresponding period. 	
Financial Implications	Budget Area	There are no financial implications arising from this report.
Policy Implications	Policy Title	There are no policy implications arising from this report.

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 principal 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: 3 Economy
- CSP Objective: 3.3 A strategic framework is in place to maximise the

realisation of economic development opportunities for the region

Delivery Program Strategy: 3.3.1 Land is suitably zoned, sized and located to facilitate a variety of development and employment generating activities

RECOMMENDATION

That the report of the Manager Building and Development Services dated 25 March 2025 be noted.

Steven Jennings
Director Development and Environment

DQ
Manager Building and
Development Services

REPORT

1. Development Applications

Council is required to undertake the assessment and consideration of Development Applications and other associated approvals in accordance with the Environmental Planning and Assessment Act, 1979.

Council undertakes the assessment and consideration of Development Applications in accordance with Section 4.15 of the Environmental Planning and Assessment Act, 1979 and consults with community on Development Applications in accordance with Council's adopted Community Participation Plan.

The development approvals environment is regulated by the NSW State Government through a range of subsidiary acts and requirements in respect of, but not limited to:

- Traffic and transport;
- Heritage;
- Infrastructure;
- Environment;
- Biodiversity;
- Impacts on agriculture;
- Impacts on water resources including groundwater.

Council in the 2023/2024 financial year approved a total of 593 Development Applications.

2. Online Application Tracking

All Development Applications, Construction Certificates and Complying Development Certificates are tracked online and can be accessed at any time. A link to Council's Application Tracker is as follows: (<https://planning.dubbo.nsw.gov.au/Home/Disclaimer>).

Information available on Council's Application Tracker includes the following:

- All Development Applications, Construction Certificates and Complying Development Certificates submitted from 1 November 2015, including access to submitted plans and supporting documents as well as tracking details of the progress of an application;
- Limited information is provided for applications submitted from 1 January 2001 to 31 October 2015; and
- Occupation Certificates (where issued) are provided from 2010.

What information is not available:

- Application forms.
- Documentation associated with privately certified applications.
- Internal assessment reports.

3. Development Activity Building Summary

Provided, for information, are the latest statistics (as at the time of production of this report) for Development Applications and Complying Development approvals for Council.

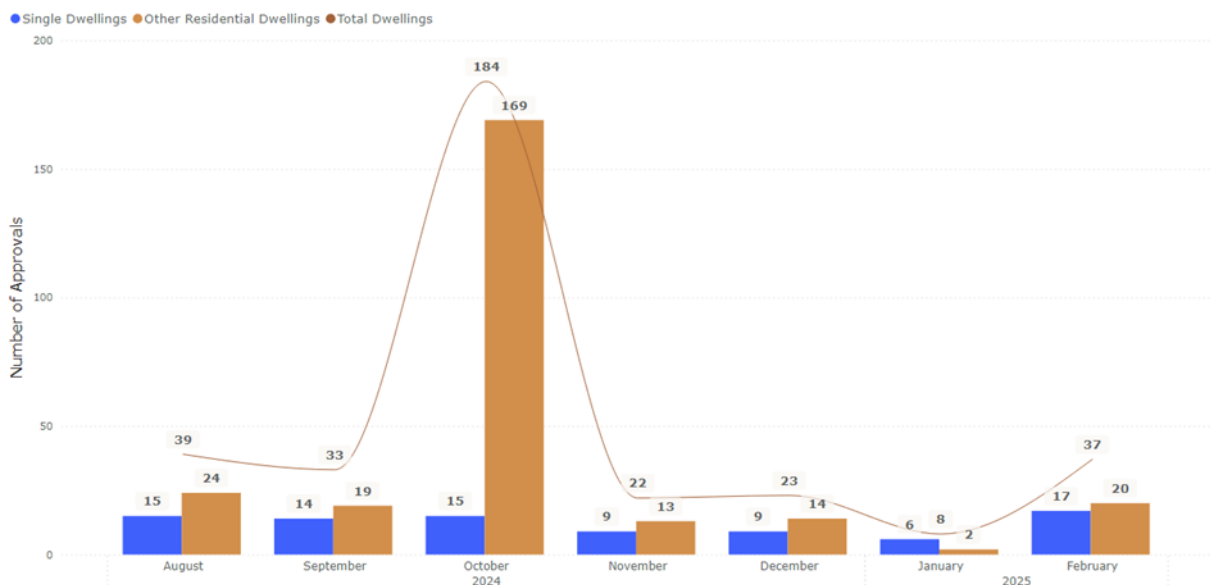
(a) Residential Activity Summary

Dwellings and other residential developments approved most recently for February 2025, and for comparative purposes, the six months prior are shown in **Graph 1**.

For consistency with land use definitions included in the Dubbo Regional Local Environmental Plan 2022, residential development has been separated into ‘Single dwellings’ (LEP definition of dwelling house) and ‘Other residential development’ (LEP definitions include dual occupancies, secondary dwellings, multi dwelling housing, seniors housing, shop top housing and residential flat buildings).

It should be noted that the increase in the number of ‘other residential dwellings’ approved in October was as a result of the approval of Development Application D23-663 for Seniors Housing (164 units and village club house) at 2 Capstan Drive, Dubbo.

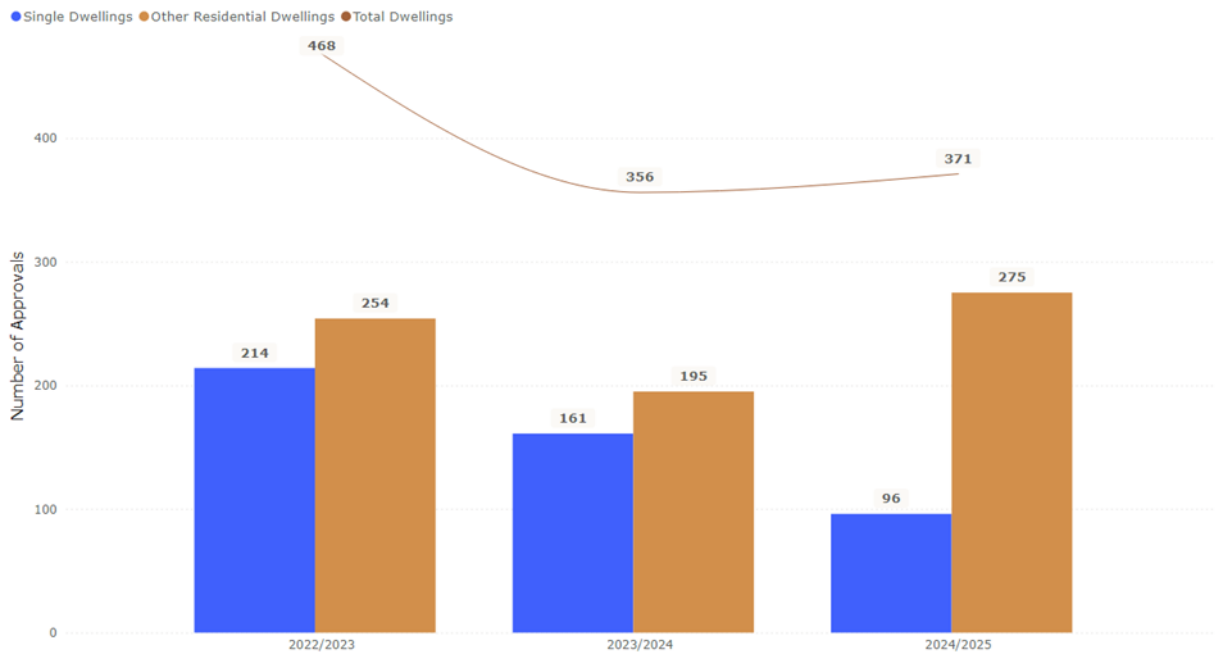
Dwelling and Other Dwelling by Month



Graph 1: Residential Approvals Summary – August 2024 to February 2025

A summary of residential approvals for financial years 2022/2023 and 2023/2024 are shown in **Graph 2**. The graph also includes the approval numbers for the financial year 2024/2025 to date.

Dwelling and Other Dwelling by Financial Year



Graph 2: Residential Approvals Summary – Comparison of Financial Years

These figures include Development Applications approved by Private Certifying Authorities (in the form of Complying Development Certificates).

(b) Approved Development Applications

Council approved 43 Development Applications in the month of February 2025. Council approved 41 Development Applications in February 2024, the previous year.

In respect of the overall value of Development Applications approved, for the month of February in the 2023/2024 Financial Year the value was \$13,939,227. For the month of February for the current Financial Year 2024/2025, the value was \$49,809,161.

The Western Region Planning Panel at its meeting on 18 March 2025 considered Council’s assessment report in respect of the following Development Application:

- D2024-360 Public Administration Building, 37 and 39 Carrington Avenue and 130 Brisbane Street, Dubbo

The Western Region Planning Panel granted approval to the Development Application and the consent was issued dated 20 March 2025.

(c) Development Applications Under Assessment

As of 21 March 2025, a total of 81 Development Applications were under consideration. This includes the following new residential development:

- Single dwellings 9
- Dual occupancy 3 (6 units)
- Secondary dwellings 4
- Other residential development 2 (8 units)

In addition, the following Development Applications are under consideration:

Number	Proposal	Address	Value
D22-210	650 lot residential subdivision	24R Sheraton Road, Dubbo	\$32M
D23-140	Mixed Use Development (Health Services Facilities)	40 Cobbora Road, Dubbo	\$30M
D23-647	571 lot residential subdivision	13L Narromine Road, Dubbo	\$15M
D24-507	Registered Club and Sporting Field	180 Boundary Road, Dubbo	\$39M
D24-542	Hotel Accommodation (change of use)	32-34 Church Street, Dubbo (Oliver House)	\$5M

Development Application D25-119 for a temporary workers accommodation development on Council owned land at the Keswick Estate has also been lodged with Council. This development includes the following:

- 97 four-person accommodation units.
- 198 parking spaces.
- Ancillary facilities including dining, laundry, reception, relaxation and BBQ areas, gymnasium, first aid room and a bus parking/turning area.
- Subdivision and road access.

The development has an overall value of \$51M. The Western Joint Regional Planning Panel will be the approval authority for the Development Application.

The Development Application will be shortly placed on public display for 28 days, which will also include information available through Council's Development Application Tracker.

4. Council League Table

The NSW State Government Department of Planning, Housing and Infrastructure (DPHI) has recently been providing development assessment data for all Local Government Areas. The data is obtained from the NSW Planning Portal and is updated monthly.

The Council League tables show:

- Average assessment days;
- Number of DAs assessed;
- Total development cost; and
- Lodgement days.

DPHI encourages all councils to lodge Development Applications within an average of:

- 14 days of submission between 1 July 2024 to 30 June 2025.
- 7 days of submission from 1 July 2025 onwards.

DPHI encourages all councils to determine Development Applications whichever is the lesser of Council's previous financial year average (49 days), or within an average of:

- 115 days of lodgement between 1 July 2024 to 30 June 2025
- 105 days of lodgement between 1 July 2025 to 30 June 2026
- 95 days of lodgement between 1 July 2026 to 30 June 2027
- 85 days of lodgement from 1 July 2027 onwards.

The data displayed includes comparable inland regional cities:

Council League Table – valid 28 February 2025

Regional Council	Average Assessment Days	DAs Assessed	Total Development Cost (million)	Lodgement Days
1. Dubbo	50	351	\$136.8	13
2. Armidale	51	114	\$37.3	10
3. Wagga Wagga	72	332	\$201.2	8
4. Bathurst	76	237	\$105.7	4
5. Orange	87	183	\$120.8	10
6. Albury	97	366	\$143.8	10
7. Tamworth	139	237	\$114.4	12



REPORT: Daisy Hill Estate - Removal of Restrictive Covenant

DIVISION: Development and Environment
REPORT DATE: 28 March 2025
TRIM REFERENCE: ID25/376

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none"> Fulfil legislated requirement/compliance. 	
Issue	<ul style="list-style-type: none"> Removal of Restrictive Covenant. 	
Reasoning	<ul style="list-style-type: none"> Development Application D2021-563 for a 19 lot subdivision at the Daisy Hill Estate was approved on 28 March 2022. Clause 7.19 of the Dubbo Regional Local Environmental Plan 2022 requires development of the Daisy Hill Estate to be undertaken in accordance with a Salinity Management Strategy. The Strategy includes a requirement for a paper filter system to be used for pools in place of the more common sand filter system. This requirement was included on lots in the first stage of the Daisy Hill Estate. The paper filter system does generally not function as well as sand filter systems and such it is proposed to remove this requirement from the subdivision. It is recommended that this requirement not be continued for the Daisy Hill Estate subdivision. 	
Financial Implications	Budget Area	There are no financial implications arising from this report.
Policy Implications	Policy Title	There are no policy implications arising from this report.

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 principal themes and a number of objectives and strategies. This report is aligned to:

Theme: 4 Leadership

CSP Objective: 4.1 Council provides transparent, fair and accountable leadership and governance

Delivery Program Strategy: 4.1.2 Council's decision-making processes are open, transparent and accountable

RECOMMENDATION

- 1. That Council consent to the removal of Clause 6.3 of the Section 88B Instrument for the Daisy Hill Estate Subdivision in respect of the use of paper filters for swimming pools.**
- 2. That Council consent to the undertaking of a dealing to remove Clause 6.3 of the Section 88B Instrument.**
- 3. That for any future subdivision of land at the Daisy Hill Estate paper filters not be required for any swimming pools.**

Steven Jennings
Director Development and Environment

DQ
Manager Building and
Development Services

BACKGROUND

Development Application D2021-563 for a 19 lot subdivision at the Daisy Hill Estate was approved on 28 March 2022.

Clause 7.19 of the Dubbo Regional Local Environmental Plan 2022 states the following in respect of land at Daisy Hill:

- (1) *This clause applies to the following land at Dubbo—*
 - (a) *Lots 64 and 65, DP 754287, 16L and 24L Eulomogo Road,*
 - (b) *Lot 200, DP 825059, 30R Eulomogo Road,*
 - (c) *Lots 316 and 317, DP 754308, Pinedale Road,*
 - (d) *Lot 661, DP 565756, 24L Eulomogo Road,*
 - (e) *Lot 662, DP 565756, 2L Torwood Road.*

- (2) *In deciding whether to grant development consent to development on land to which this clause applies, the consent authority must consider the potential impacts of salinity on the development and the land, in accordance with the Salinity Management Strategy, Daisy Hill Rural-Residential Estate, dated 2 July 2020 and published by the Department.*

The Salinity Management Strategy referred to above includes a number of recommendations. In respect of reducing groundwater discharge, recommendation 4.6 (in part) states as follows:

“Swimming pools will be regulated to utilise paper filters rather than sand filters. Paper filters do not require backwashing therefore reducing recharge to groundwater. The requirement for paper filters on pools will be enforced by a Section 88B instrument.”

In accordance with the requirements of the Salinity Management Strategy, recommendation 4.6 was included as a condition of development consent on Development Application D2021-563.

REPORT

Following approval and construction of the subdivision approved under the Development Application, a Restriction as to user under Section 88B of the Conveyancing Act, 1919 was included on each of the lots as part of the subdivision.

The Restriction as to user (Section 88B Restriction) states as follows:

“6.3 No swimming pool shall be permitted to be installed other than with the use of paper filters or another filter system that does not require backwash and sand filters are expressly prohibited.”

Council is listed as having the power to release, vary or modify the restriction.

The concern raised has been that the swimming pool restriction regarding “... *paper filters or other filter system that does not require backwash.*” is overly restrictive, given that the majority of swimming pool filter systems employ a ‘backwash system’ and thereby effectively prohibiting swimming pools in the Estate.

The volume of water produced in the filter backwashing process is relatively small, and the interval between events is significant. The purpose of the restriction was to further protect groundwater from excessive intrusion leading to Dryland Salinity issues, both within the Daisy Hill Estate and downstream.

Further consultation with Industry has demonstrated it to be an unachievable restriction and unnecessarily onerous for future home owners.

It is proposed that the Restriction as to user on lots at the Daisy Hill Estate be removed and that this Restriction not be included on future subdivisions at the Daisy Hill Estate.

Next Steps

- Ultimately, removal of the Restriction as to user (Section 88B Instrument) is a matter that can be initiated by the developer. In this regard, Council will provide correspondence to the developer in respect of the determination of Council.
- In consideration of this issue, Council will also not include this requirement on future subdivisions at the Daisy Hill Estate.



DUBBO REGIONAL
COUNCIL

REPORT: Renewable Energy Projects Update - April 2025

DIVISION: Development and Environment
REPORT DATE: 20 March 2025
TRIM REFERENCE: ID24/2442

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none"> Strategic project update. 	
Issue	<ul style="list-style-type: none"> This report indicates the status of renewable energy projects in the Dubbo Regional Local Government Area. There are 21 known renewable energy projects at various stages of assessment and development. This includes eight solar farms, eight wind farms and five battery energy storage systems. At the time of preparing this report, six Planning Agreements have been executed, 14 are currently being negotiated with Proponents (of which eight are subject to a Council resolution), and one is yet to commence negotiations. Where there is no Council resolution for a Planning Agreement, Council staff are negotiating with Proponents and seeking funding in accordance with Council's Renewable Energy Benefit Framework. 	
Reasoning	<ul style="list-style-type: none"> The NSW Government Department of Planning, Housing and Infrastructure are responsible for assessing the primary impacts of renewable energy projects in their assessment of the State Significant Development Application. 	
Financial Implications	Budget Area	There are no financial implications arising from this report.
Policy Implications	Impact on Policy	There are no policy implications arising from this report.

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 principal themes and a number of objectives and strategies. This report is aligned to:

Theme:	4 Leadership
CSP Objective:	4.1 Council provides transparent, fair and accountable leadership and governance
Delivery Program Strategy:	4.1.1 Council encourages and facilitates two-way communication with and between stakeholders and the community

RECOMMENDATION

- 1. That the report of the Manager Growth Planning, dated 20 March 2025, be noted.**
- 2. That the status of Renewable Energy Projects and Planning Agreements (attached in Appendix 1), be noted.**

Steven Jennings
Director Development and Environment

TH
Manager Growth Planning

BACKGROUND

1. Previous Resolutions of Council

26 November 2024 CCL24/308	<i>In part:</i> <ol style="list-style-type: none">1. That the Chief Executive Officer prepare a report for the December 2024 Council meeting including an up to date table of all renewable energy projects, which are classified as State Significant Development in the Dubbo Regional Local Government Area.3. That the table of renewable energy projects be provided to Council for notation on a quarterly basis.
-----------------------------------	---

2. Renewable Energy Zone

The Central-West Orana Renewable Energy Zone is approximately 20,000 square kilometres centred by Dubbo and Dunedoo, on the land of the Wiradjuri, Wailwan and Kamilaroi people. It has the following expected characteristics:

- It will initially unlock at least 4.5 gigawatts of new network capacity by the late 2020s, and have a total network capacity of 7.7 gigawatts when fully developed.
- New transmission infrastructure will enable generators participating in the Renewable Energy Zone (REZ) to export electricity to the rest of the network.
- It is expected to bring up to \$20 billion in private investment to the region by 2030.
- At its peak, it is expected to support in excess of 5,000 construction jobs in the region.

The location of the Central-West Orana REZ is shown in **Figure 1**.

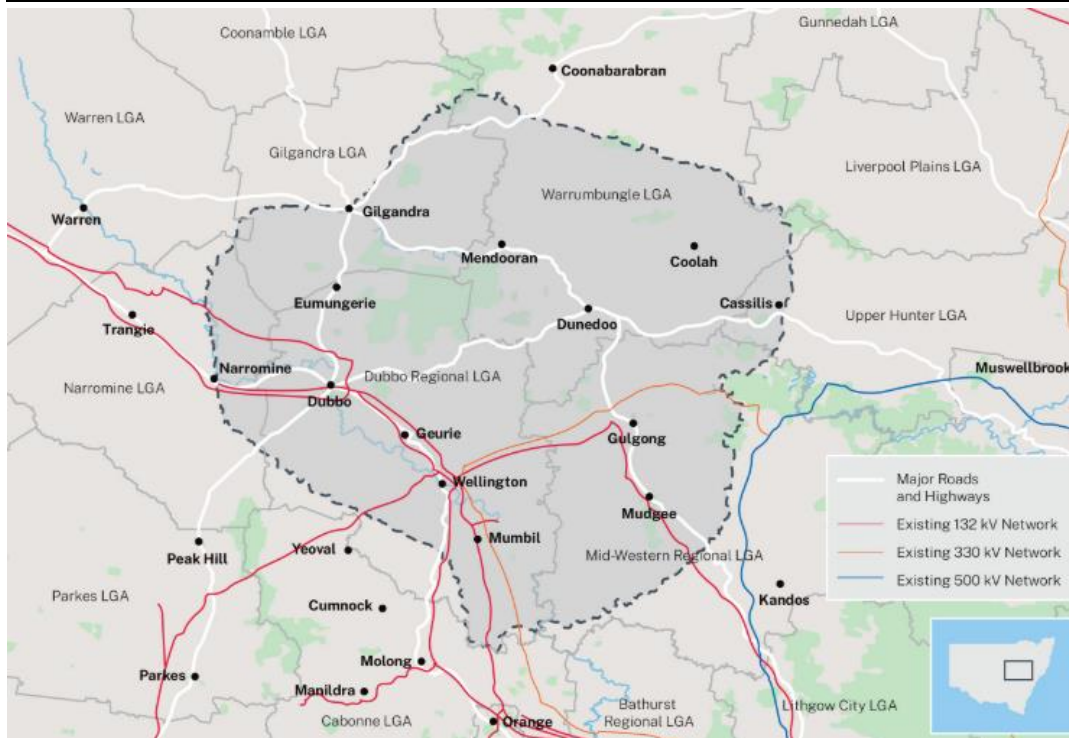


Figure 1: Central-West Orana Renewable Energy Zone

REPORT

1. Projects in the Renewable Energy Zone

At the time of preparing this report, there are 21 announced renewable energy projects at various stages of development within the Dubbo Regional Local Government Area. This includes eight solar farms, eight wind farms and five energy storage systems. Given their size and characteristics, some are proposed in conjunction with the Mid-Western Local Government Area and/or the Warrumbungle Local Government Area.

Appendix 1 shows the following information in respect of projects:

- Name of project;
- Name of project proponent;
- General project location;
- Project type;
- Capital Investment Value;
- Project capacity in Mega Watts;
- Current project status;
- Anticipated development timeline; and
- Details of any Planning Agreement.

In respect of the project status, the table includes the following information:

- (a) *Announced – Pre Planning* – the project has been announced by a Proponent, however, initial technical and environmental investigations are being undertaken to determine whether to proceed with the project to the planning process.
- (b) *Preparing EIS* – the Proponent is preparing the Environmental Impact Statement, including all technical and other assessments for the project, and will submit it to the Department of Planning, Housing and Infrastructure for assessment.
- (c) *Under Assessment – More information required* – the Department of Planning, Housing and Infrastructure requires further information from the Proponent.
- (d) *Under Assessment – Response to submissions* – community and stakeholder consultation has been undertaken, and the Proponent is preparing information to address submissions.
- (e) *Approved* – the Department of Planning, Housing and Infrastructure has issued development approval for the project.
- (f) *Construction* – the project is currently under construction.
- (g) *Operational* – the project is producing electricity for the national energy market.

2. Project Status Updates

The following updates have occurred since the previous report was presented to Council in December 2024:

- Council resolved on 25 March 2025 to prepare a Planning Agreement for the Maryvale Solar Farm;
- Council staff met with Proponents for Kerrs Creek Wind Farm, Sandy Creek Solar Farm, Cobbora Solar Farm and Burrendong Wind Farm to discuss issues in respect of Planning Agreements, Traffic, Waste and Accommodation and Employment Strategy matters;
- Council staff met with Proponents for the Forest Glen Solar Farm to discuss guidelines for affordable housing initiatives as required by the Planning Agreement;
- Council staff met with representatives of Cal Energy to discuss a potential Planning Agreement in respect of the Suntop Solar Farm; and
- Council was notified that the Wellington Town Battery Energy Storage Project was discontinued.

3. Planning Agreements

Council seeks benefits for our community through Planning Agreements. Planning Agreements don't offset the primary impacts of a project as these are considered by the NSW Government Department of Planning, Housing and Infrastructure in their assessment of the State Significant Development Application. However, Planning Agreements seek to assist community to manage the secondary impacts of projects and to ensure that a positive lasting legacy is provided.

Appendix 1 shows the following information in respect of Planning Agreements for projects.

- Whether a Planning Agreement is in place;
- Where a Planning Agreement isn't in place, any relevant update;
- The anticipated quantum of funding;
- Details and guidelines and expenditure of funds; and
- Information on when funding may be available.

Where there is no Council resolution for a Planning Agreement, Council staff are negotiating with Proponents and seeking funding in accordance with Council's Renewable Energy Benefit Framework.

Council executed Planning Agreements are publicly available at Council's website at <https://www.dubbo.nsw.gov.au/Builders-Developers/Planning-Controls-Tools-and-Resources/planning-agreements>

APPENDICES:

[1](#) Renewable Energy Projects Table - April 2025

Solar Projects

Project Name	Name of Proponent	General Project Location	Capital Investment Value (\$M)	Project Capacity (MW)	Project Status	Anticipated Timelines	Planning Agreement Status	Planning Agreement Funding
Cobbora Solar Farm	Pacific Partnerships Pty Ltd	50km north-east Wellington (also Warrumbungle LGA)	TBA	700 MW	Prepare EIS	EIS must be submitted by November 2025	No Council resolution	
							Under Negotiation	Seeking \$297,500 per annum \$425 per megawatt
Dapper Solar Farm	Origin Energy	45km north-east Wellington (also Warrumbungle LGA)	TBA	300 MW	Prepare EIS	EIS must be submitted by February 2026	No Council resolution	
							Under Negotiation	Seeking \$127,500 per annum \$425 per megawatt
Forest Glen Solar Farm	X-Elio Australia	30L Delroy Road, Minore	\$186	110 MW	Approved	Construction Commence 2025	Executed May 2024	\$1,000,000 total for affordable housing initiatives Likely to be received July 2025
Maryvale Solar Farm	Gentari Pty Ltd	Seatonville Road, Maryvale 11km north Wellington	\$369	230 MW	Approved	Construction Commence 2025	Council resolution 25/3/2025	
							Under Negotiation	\$184,500 per annum for affordable housing initiatives, community strategic projects and local roads 1.5% CIV
Sandy Creek Solar Farm	Lightsource BP	45km north-east Wellington (also Warrumbungle LGA)	\$1.4 bil	750 MW	Under Assessment – More Information Required	Construction Commence 2027	Council resolution 15/8/2024 Further report required to identify funding allocation	
							Under Negotiation	\$350,000 per annum 1.5% CIV
Suntop Solar Farm	Cal Energy Australia	909 Suntop Road, Suntop	\$262	189 MW	Operational since 2022		Council resolution 25/03/2024 Under Negotiation	

Project Name	Name of Proponent	General Project Location	Capital Investment Value (\$M)	Project Capacity (MW)	Project Status	Anticipated Timelines	Planning Agreement Status	Planning Agreement Funding
Wellington North Solar Farm	Lightsource BP	Goolma Road, Wellington	\$540	300 MW	Operational since 2022		Council resolution 25/03/2024 Under Negotiation Negotiation impacted by sale of solar farm to Beijing Energy International Australia and Foreign Review Investment Board decision Further report required to identify funding allocation	
Wellington Solar Farm	Lightsource BP	Goolma Road, Wuuluman	\$270	174 MW	Operational since 2019		Council resolution 25/03/2024 Under Negotiation Same as above	

Wind Projects

Project Name	Name of Proponent	General Project Location	Capital Investment Value (\$M)	Project Capacity (MW)	Project Status	Anticipated Timelines	Planning Agreement Status	Planning Agreement Funding
Aquila Wind Farm	ACEN Australia	2.5km south-east Stuart Town 2km north-east Euchareena	TBA	48 turbines 300 MW	Prepare EIS	EIS must be submitted by March 2026	No Council resolution	
							Under Negotiation	Seeking \$315,000 per annum \$1,050 per megawatt
Bodangora Wind Farm	Iberdrola Pty Ltd	20km north-east Wellington	\$237	113.2 MW 33 turbines	Operational		Operational 2019	\$85,000 per annum for community benefit funds, road maintenance and administration
Burrendong Wind Farm	Ark Energy	East of Lake Burrendong 25km south-east Wellington	\$800	500MW 70 turbines	Under Assessment – Response to Submission	TBA	Council resolution 13/6/2024 Further report required to identify funding allocation	
							Under Negotiation	\$262,500 per annum \$525 per megawatt per annum
Kerrs Creek Wind Farm	RES Group	Between Kerrs Creek and Euchareena	\$710	441 MW 63 turbines	Prepare EIS	EIS must be submitted by December 2026	Council resolution 25/7/2024 Further report required to identify funding allocation	
							Under Negotiation	\$236,000 per annum 1% of CIV
Mullions Creek Wind Farm	Iberdrola Pty Ltd	Mullions Range State Forest (also Cabonne LGA)	Announced – Pre-planning					

Project Name	Name of Proponent	General Project Location	Capital Investment Value (\$M)	Project Capacity (MW)	Project Status	Anticipated Timelines	Planning Agreement Status	Planning Agreement Funding
Spicers Creek Wind Farm	Squadron Energy	40km north Wellington	\$2.05 bil	700 MW 117 turbines	Approved	Construction Commence 2027	Executed March 2024	\$920,000 per annum for strategic and local projects, community benefit funds, road projects and administration 1.5% of CIV Likely to be commence payment 2027
Uungula Wind Farm	Squadron Energy	20km east Wellington	\$820	414 MW 69 turbines	Construction	Construction Commence 2025	Executed 20/12/2021	\$241,500 per annum for strategic analysis, strategic projects, community benefit funds, and road maintenance \$3,500 per turbine Likely to commence payment 2025
Wallaby Creek Wind Farm	Acciona	10km south Narromine (Narromine LGA)	\$425	250 MW 38 turbines	Prepare EIS	EIS must be submitted by 11/02/2026	No Council resolution	
							To Commence Negotiations	Seeking \$131,250 per annum \$525 per megawatt per annum

Energy Storage System Projects

Project Name	Name of Proponent	General Project Location	Capital Investment Value (\$M)	Project Capacity (MW)	Project Status	Anticipated Timelines	Planning Agreement Status	Planning Agreement Funding
Apsley BESS	ACEnergy	10km south Wellington	\$123	120MW 240 MWh	Construction	Construction Commenced 2024	No Council resolution	
							Under Negotiation	Seeking \$36,000 per annum \$150 per megawatt hour per annum
Dubbo Firming Power Station	Squadron Energy	North Dubbo	\$190	64 MW	Approved	Construction Commence 2026	Council resolution 23/5/2024	
							Drafting of Agreement	\$950,000 total for Public Art Likely to be received 2026
Orana BESS	Akaysha Energy	Goolma Road, Wuuluman	\$879	400 MW 1600 MWh	Construction	Construction Commenced 2024	Executed August 2024	\$3,200,000 total for Wellington Road Shared Pathway and community benefit funds Likely to be received 2026
Wellington South BESS	Ampyr Energy	Goolma Road, Wuuluman	\$545	500 MW 1000 MWh	Construction	Construction Commenced 2024	Executed January 2025	\$2,400,000 total for youth and welfare support initiatives, and strategic projects Likely to be received 2026
Wellington Town BESS	Discontinued							
Yarrabin (Phoenix) Pumped Hydro	ACEN	30km east Wellington	\$1.7 bil	810 MW 9600 MWh	Prepare EIS	EIS must be submitted by 04/08/2025	No Council resolution	
							Under Negotiation	Seeking \$850 per megawatt hour per annum



REPORT: Draft Development Control Plan DCP24-001 - Tiger Moth Circuit - 38 High Street Dubbo - Consideration of Public Exhibition Results

DIVISION: Development and Environment
REPORT DATE: 24 March 2025
TRIM REFERENCE: ID25/346

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none"> Seek endorsement Fulfil legislated requirement 	
Issue	<ul style="list-style-type: none"> Council at its meeting on 10 December 2024 adopted a draft Development Control Plan (DCP) for 38 High Street, Dubbo (Lot 14 DP1267441) for the purposes of public exhibition. The draft DCP contains a range of controls to manage residential development. A site-specific DCP is required by the Heritage Council of NSW prior to any residential development being undertaken on the land. The draft DCP was placed on public exhibition from Saturday 21 December 2024 to Monday 17 February 2025. Two submissions were received during the public exhibition period; one from the public and one from the Heritage Council of NSW. The draft DCP has been updated where appropriate in response to the matters raised. Subject to adoption by Council, any future Development Applications on the land will need to take into consideration the provisions of the draft DCP. 	
Reasoning	<ul style="list-style-type: none"> Environmental Planning and Assessment Act, 1979 	
Financial Implications	Budget Area	Growth Planning
	Funding Source	Application Fees
	Proposed Cost	\$12,500
	Ongoing Costs	Nil
Policy Implications	Policy Title	Dubbo Development Control Plan 2013
	Impact on Policy	Upon adoption of the draft DCP will provide development guidance for the land.

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 principal 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 adopt the draft Tiger Moth Circuit Development Control Plan as amended (attached in Appendix 1).**
- 2. That the draft Tiger Moth Circuit Development Control Plan come into effect once the Section 60 application under the Heritage Act 1977 is granted by the Heritage Council of NSW and when such notice is published on Council's webpage.**
- 3. That Council note the submissions received during the public exhibition period (attached in Appendix 2).**

Steven Jennings
Director Development and Environment

TH
Manager Growth Planning

BACKGROUND

1. Previous Resolutions of Council

10 December 2024 CCL24/344	<i>In part:</i> <ol style="list-style-type: none">1. That the draft Tiger Moth Circuit Development Control Plan be adopted for the purposes of public exhibition.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.
-----------------------------------	---

2. Why is a Development Control Plan required?

Council approved Development Application D21-215 on 7 February 2023 to subdivide 38 High Street, Dubbo (Lot 14 DP1267441) into 38 lots. The application was referred to the Heritage Council of NSW as the land is within the former Dubbo RAAF Stores Depot, which is a State Heritage Item. The Heritage Council of NSW provided General Terms of Approval, which required a site-specific DCP to be prepared and approved by the Heritage Council of NSW and Council prior to any residential development being undertaken on the land.

3. Draft Development Control Plan

A proponent-initiated draft DCP (attached in **Appendix 1**) was received from Maas Group Properties Pty Ltd to provide detailed planning and design guidance for future development at 38 High Street, Dubbo (Lot 14 DP1267441). The draft DCP will apply to the land in **Figure 1**.

It should be noted that the DCP will only provide design guidance for future development as the subdivision has already been approved. The DCP includes objectives, performance measures and acceptable solutions to assist in the planning, design and undertaking of residential development and to ensure it is responsive to the heritage items and surrounding neighbourhood.



Figure 1 – Land to which the DCP applies

REPORT

1. Public Exhibition and Submissions

The draft DCP was placed on public exhibition from Saturday 21 December 2024 to Monday 17 February 2025. Council received two submissions during the public exhibition period (attached in **Appendix 2**). It was publicly notified in the following ways:

Channel	Date
Council's YourSay page	20 December 2024
Dubbo Regional Council Customer Experience Centre and Macquarie Regional Library Branches	18 December 2024
Daily Liberal Council Column	18 December 2024
Letter to adjoining owners	18 December 2024
Referral to Heritage Council of NSW	20 December 2024

The following information identifies matters raised by submissions, and Council's response:

Comments	Council Response
Concern raised about not being able to find access roads.	The draft DCP does not contain access arrangements as these were considered as part of Development Application D21-215. A copy of the approved plans for the Development Application were emailed to the submitter on 28 January 2025.

Comments	Council Response
<p>Management of adjoining Environmental Management Zone contains identified endangered ecological community (EEC) that is to be protected, retained and restored - Council accountability and action to restore EEC corridor.</p>	<p>The draft DCP does not consider this issue as the EEC is not located on land to which the DCP applies. However, management of the area was considered as part of Development Application D17-199 which was for a three stage subdivision of the following:</p> <ul style="list-style-type: none"> • Stage 1: three lot Torrens Title subdivision; • Stage 2: twelve Lot Torrens Title subdivision; and • Stage 3: four lot Community Title subdivision. <p>This Development Application required the developer to enter into a Planning Agreement for the maintenance of the environmental management zone in accordance with Council's standards, for a period of 10 years from the date it is dedicated to Council. This is to ensure the area is constructed and managed in recognition of the environmental significance. Such Planning Agreement was executed on the 26 April 2021. Development of the RAAF Base will need to be consistent with the Development Application and Planning Agreement.</p>
<p>Public records to be more accessible.</p>	<p>The Planning Agreement and Development Application are available on Council's website or by contacting Council.</p> <p>A copy of the approved plans for the Development Application were emailed to the submitter on 28 January 2025.</p>

Heritage Council of NSW	Council Response
<p>The draft DCP needs to be revised to:</p> <ul style="list-style-type: none"> • Adequately consider impacts on the values of the State Heritage item; • Clearly outline the requirements of the General Terms of Approval; and • Be prepared by a suitably qualified heritage consultant and submitted to the Heritage Council of NSW (or delegate) for approval with Section 60 application prior to being adopted by Dubbo Regional Council. 	<p>The draft DCP has been updated to reference the State Heritage item, but already referenced the General Terms of Approval.</p> <p>The draft DCP was referred to Council's Heritage Advisor. It can be adopted by Council but will not come into force until the Section 60 application is approved by Heritage Council of NSW (or delegate) as required by the General Terms of Approval and published on Council webpage.</p>
<p>The draft DCP must address the following:</p> <ul style="list-style-type: none"> • The subdivision is limited to a maximum of 38 lots; • Fencing requirements facing the perimeter of Lot 14; • setbacks from the outer north, west 	<p>The draft DCP already referenced the requirements of the General Terms of Approval and included appropriate controls.</p>

Heritage Council of NSW	Council Response
<p>and east boundaries of Lot 14 are to be 5m minimum;</p> <ul style="list-style-type: none"> • Single storey dwellings only; • Roof pitch and materials; • Materials, colours and finishes; and • Include a site plan with the revised layout. 	
<p>The draft DCP must prohibit the types of development referenced in the General Terms of Approval, rather than discouraging them.</p>	<p>The Dubbo Regional Local Environmental Plan 2022 identifies development that is permitted with consent and prohibited. The types of development referenced are currently permitted with consent, and the DCP cannot be inconsistent with these provisions.</p> <p>The site is currently listed on the State Heritage Register, so any future Development Application will need to be referred to the Heritage Council of NSW.</p>
<p>Remove reference to ‘acceptable solutions’ as the General Terms of Approval should be seen as controls.</p>	<p>The Environmental Planning and Assessment Act, 1979 requires the consent authority to be flexible in applying provisions in a DCP and allow reasonable alternative solutions that achieve the objects of those standards.</p>

2. Options Considered

Council has the following options available in consideration of the draft DCP:

- Adopt the draft Development Control Plan as amended (attached in **Appendix 1**);
- Adopt the draft Development Control Plan that was exhibited; or
- Not adopt the draft Development Control Plan, noting that future development of the site will then be under the general controls contained in Dubbo DCP 2013 and not site-specific as required by the Heritage Council of NSW.

3. Next Steps

The DCP can be adopted by Council but will not come into force until the Section 60 application is approved by Heritage Council of NSW (or delegate) as required by the General Terms of Approval, and published on Council webpage. The applicant is responsible for the timing of the Section 60 submission, Council has no role in this process.

4. Resourcing Implications

Council received \$12,500 upon lodgement as part of the required fees.

APPENDICES:

- 1 [↓](#) Draft Tiger Moth Development Control Plan
- 2 [↓](#) Submissions



Tiger Moth Circuit Development Control Plan

**38 High Street, Dubbo
Lot 14 DP1267441**

TABLE OF CONTENTS

Part 1 Introduction 3
Part 2 Residential Development Design..... 5

DRAFT

Part 1 Introduction

1.1. Name of this Plan

This Development Control Plan is known as the Tiger Moth Circuit Development Control Plan (the Plan).

1.2. Application of this Plan

This Plan applies to development undertaken on Lot 14 DP1267441, 38 High Street, Dubbo located within an area of the 'Former RAAF Base', identified in **Figure 1**.



Figure 1 – Land to which this Plan applies

1.3. Purpose of this Plan

This Plan has been designed to guide residential development to be undertaken on the land. The purpose of this Plan is to:

- Communicate the planning, design and environmental objectives and controls against which the consent authority will assess development applications;
- Provide guidance on the orderly, efficient and heritage sensitive development of land within the former RAAF Base;
- Promote quality urban design outcomes within the context of environmental, social and economic sustainability; and
- Retain and enhance the heritage interpretation of the former Dubbo RAAF Stores Site, its open spaces and significant heritage structures.

1.4. Statutory Context

This Plan has been prepared by Council in accordance with Section 3.4 of the Environmental Planning and Assessment Act 1979 (the Act) and Part 2 of the Environmental Planning and Assessment Regulation 2021 (the Regulation).

This Plan is required to be read in conjunction with relevant provisions of Development Application D21-215 approved by Dubbo Regional Council on 7 February 2023, and the General Terms of Approval from Heritage NSW on 2 December 2022, as amended from time to time.

The General Terms of Approval from Heritage NSW, dated 2 December 2022, indicate:

- *The Subdivision of Lot 14 DP1267441 (Lot 14) to be a maximum of 38 lots;*
- *Fences facing the perimeter of Lot 14 – facing the outer north, west and east boundaries, to be palisade, open and max 1.5m high, all the same colour – mid tone grey;*
- *Building setbacks from the outer north, west and east boundaries of Lot 14 are to be a minimum of 5m*
- *Single storey dwellings only;*
- *No dual occupancies;*
- *No childcare centres;*
- *Roof pitch materials (30 min – corrugated metal roof – natural finish or colorbond colour: Windspray)*
- *Materials, colours and finishes (varied with a palette of natural earth tones)*

1.5. Adoption and Commencement

This Plan was adopted by Council on xx/xx/xxxx and commenced when the Section 60 application was approved by Heritage NSW (or delegate) on xx/xx/xxxx.

1.6. Relationship to other Plans and Documents

Under the Act, Council is required to take into consideration the relevant provisions of any Environmental Planning Instrument (EPI) and this Plan when determining a development application on land to which this Plan applies. Compliance with any EPI or this Plan does not infer development consent will be granted.

The provisions of this Plan must be read in conjunction with any relevant EPI. In the event of any inconsistency between an EPI and this Plan, the provisions of the EPI prevail.

1.7. Relationship to the Dubbo Development Control Plan 2013

The provisions of this Plan are to be read in conjunction with other relevant provisions of the Dubbo Development Control Plan 2013. In the event of any inconsistency between the Dubbo DCP 2013 and this Plan, the provisions of this Plan prevail.

Part 2 Residential Development Design

This section is designed to encourage 'best practice' solutions and identify site specific requirements for the development of residential accommodation.

The objectives of this section are:

- A mix of low-density dwelling sizes are facilitated and complement the character of the area and provide accommodation for diverse sectors of the community;
- Low-density residential accommodation is facilitated with the economic use of infrastructure;
- Residential accommodation enhances the desired future streetscape and neighbourhood character;
- Residential accommodation complements the existing streetscape and neighbourhood character, particularly in areas of identified and valued character including heritage precincts; and
- Significant heritage values of the former RAAF Stores Site are retained, with new development retaining the legibility of the overall heritage Item.

Element 1. Built Form

Performance criteria	Acceptable solutions
The objectives may be achieved where:	The acceptable solutions illustrate one way of meeting the associated performance criteria:
P1 Development is of a size and scale which is sympathetic to the character of the former RAAF Stores Site.	<p>A1.1 In accordance with the General Terms of Approval of Heritage NSW, the following types of development are not encouraged:</p> <ul style="list-style-type: none"> • Dual occupancy; • Secondary dwelling; • Child-care centre; and • Subdivision beyond 38 lots. <p>A1.2 Development is limited to single storey.</p>
P2 Built form complements heritage structures.	<p>A2.1 Development complements and does not impact the values, general form, bulk, scale, height, architectural detail and other significant elements of adjoining heritage places.</p> <p>A2.2 Development does not emulate heritage detail.</p> <p>A2.3 Development does not conceal significant features of adjoining heritage places.</p>

Element 2. Building Envelopes

Objectives

- The setback of buildings from the property boundaries, the height and length of walls, site coverage and visual bulk are appropriate in the neighbouring setting;
- Habitable rooms and private open space within the development and in adjacent developments receive adequate sunlight, ventilation and amenity; and
- Each lot has sufficient area for landscaping and deep soil planting areas.

Performance criteria The objectives may be achieved where:	Acceptable solutions The acceptable solutions illustrate one way of meeting the associated performance criteria:
<p>Building Setbacks P3 Development is appropriately setback from heritage items to ensure an appropriate curtilage for the heritage items.</p>	<p>A3.1 Development is setback 5 metres from the western, northern and eastern boundaries of the site perimeter (Figure 2).</p> <p>A3.2 All other setbacks comply with the Dubbo DCP 2013.</p>
<p>Landscaping P4 The quality of the built environment is enhanced through landscaping.</p>	<p>A4.1 A minimum of 25% of the area forward of the building line must be landscaped area.</p> <p>A4.2 A minimum of 50% of the area behind the building line must be landscaped area.</p> <p>A4.3 Areas less than 3 metres in width are not to be included in the calculation of landscaped area.</p>
<p>Private Open Space P5 Private outdoor open space is well-integrated with development and is of sufficient area to meet the needs of occupants; and</p>	<p>A5.1 Principal private open space has an area of 25m² with a minimum dimension of 5 metres.</p> <p>A5.2 All principal private open space is directly accessible from the main living area.</p> <p>A5.3 All private open space is located behind the front building line and is screened to provide for the privacy of occupants and the occupants of adjoining properties.</p>

* Landscaped area and principal private open are defined in the Dubbo Development Control Plan 2013.



Figure 2 – Western, northern and eastern boundaries of the site perimeter

Element 3. Roof Pitch and Materials

Performance criteria The objectives may be achieved where:		Acceptable solutions The acceptable solutions illustrate one way of meeting the associated performance criteria:
P6	Roof shape and material relate to adjoining buildings and the surrounding precinct.	A6.1 The roof pitch must have a minimum of 30° slope. A6.2 The roof materials must be either corrugated steel (galvanised finish) or Colorbond with a natural finish or the colour of Windspray.
P7	Roof design is simple in its expression and form.	A7.1 Simple roof forms, such as gable roofs, are predominate.

Element 4. Materials, Colours and Finishes

Performance criteria The objectives may be achieved where:		Acceptable solutions The acceptable solutions illustrate one way of meeting the associated performance criteria:
P8	Development uses materials and colours that are sympathetic to the heritage character of the site.	A8.1 Palette selection must be limited to natural earth hues and neutral tones, and avoid high contrasts and saturated colours.
P9	Development is visually recessive and camouflaged to enhance the predominant characteristics and heritage tactical nature of the former Dubbo RAAF Stores Site.	A9.1 Colours of walls and trim similar to Colorbond TM Southerly, Shale Grey, Bluegum, Windspray, Basalt, Dune, Gully and Wallaby are used.

Element 5. Fencing

Performance criteria The objectives may be achieved where:		Acceptable solutions The acceptable solutions illustrate one way of meeting the associated performance criteria:
P10	The residential character of the locality is maintained.	There are no Acceptable solutions.
P11	Visually open fencing between private residences and the surrounding former RAAF Stores land maintains a visual continuity of terrain and permits interpretation of the overall former RAAF site.	A11.1 Fences along the western, northern and eastern boundaries of the site perimeter must be palisade, open, have a maximum height of 1.5 metres, and be provided in the colour of mid tone grey similar to Colorbond Gully (Figure 3).



Figure 3 – Western, northern and eastern boundaries of the site perimeter

Response No:
1

Contribution ID: 5734
Member ID:
Date Submitted: Jan 26, 2025, 09:23 PM

Q1 First Name

Short Text Laura

Q2 Last Name

Short Text Hoy

Q3 Organisation or Community Group

Short Text

Q4 Email

Email [REDACTED]

Q5 Written Submission

Long Text My concern relates to access - I have not been able to find plans on access roads - where will they be? As a local resident I'm likely to be directly affected.
 Also I'd like to raise concern about the inaction in regards to the adjoining area - an Environmental Management Zone, and containing an identified Endangered ecological community which is to be retained under the development planning agreement. I have not been able to locate any recent information regarding how the remaining vegetation, this important EEC will be managed and RESTORED in accordance with the Grassy Inland Grey Box Woodland EMP (as stated in the Infrastructure, Community and Recreation Plan report 2019). In addition I have not seen or found any evidence of the specified off set agreement in relation to the 700 trees removed in 2019 - it was stated that "approx 1100 trees will be planted to compliment the existing EEC" ([REDACTED])
 How will council ensure accountability for these obligations? When will we see action to conserve and restore this important corridor of EEC? These management plans and agreed terms around heritage and environment must be upheld, and I would like to see the public records be more accessible to residents and community. As well as action and protection for the remaining EEC rather than a focus solely on development actions and financial gain projects for the developers.

Q6 File Upload

File Upload

Department of Climate Change,
Energy, the Environment and Water



██████████ Your ref: Tiger Moth Circuit DCP - Dubbo RAAF Stores Depot

Tim Howlett
Dubbo Regional Council
PO BOX 81, DUBBO NSW 2830

Draft Tiger Moth DCP for 38 High Street Dubbo – RAAF Dubbo

Dear Mr Howlett

Thank you for the opportunity to provide advice on the Draft Development Control Plan (DCP) for 38 High Street Dubbo, Lot 14 in DP 1267441 under *Dubbo Regional Local Environmental Plan 2022*. Heritage NSW has reviewed the Draft DCP and supporting documents and provides the following advice:

State heritage and historical archaeological considerations under the *Heritage Act 1977*

The subject site is located within the State Heritage Register (SHR) listed 'Dubbo RAAF' (SHR 01701), at Cobra Street, Dubbo. Please refer to the yellow dashed outline of the subject site located within the blue cross hatched SHR item site below:



Figure 1: Location of site and SHR item

Generally, we recommend that Council amend the draft DCP to comply fully with the General Terms of Approval (GTAs) issued by Heritage NSW on 22 December 2022 (our reference DOC21/275796, CNR-2-468). We have attached a copy of the relevant GTAs for your reference.

In particular, we recommend that the Site Specific DCP for Lot 14 DP 1267441 is revised to:

- adequately consider impacts on the values of the State Heritage Register item.
- clearly outline the requirements of the GTAs dated 22 December 2022. Condition 4, relating to the DCP, is included below for ease of reference:
 4. SITE SPECIFIC DEVELOPMENT CONTROL PLAN (SSDCP)
A Site Specific Development Control Plan (SSDCP) for Lot 14 must be prepared by a suitably qualified heritage consultant and submitted to the Heritage Council of NSW (or delegate) for approval with the Section 60 application, prior to being adopted by Dubbo Regional Council. This SSDCP must address the following issues:
 - a. Subdivision of Lot 14 in DP 1267441 (Lot 14) to be maximum 38 Lots – increasing the lot sizes as directed by this approval
 - b. Fences facing the perimeter of Lot 14 – facing the outer north, west and east boundaries, to be palisade, open and max 1.5m high, all the same colour – mid tone grey.
 - c. Building envelope to comply with DRC DCP except for setbacks from the outer north, west and east boundaries of Lot 14 which are to be 5m minimum
 - d. Single storey dwellings only
 - e. No dual occupancy
 - f. No secondary dwellings
 - g. No childcare centres
 - h. Roof pitch and materials (30 min – corrugated metal roof – natural finish or colorbond colour: Windspray)
 - i. Materials, colours and finishes (varied with a palette of natural earth tones)
- reflect the specific requirements above. This should include amending Element 1 – Built Form to refer to the types of development as prohibited and not discouraged i.e. Dual Occupancy, Secondary Dwelling, child-care centre and that the number of lots is capped by the GTAs at 38.
- remove reference to 'acceptable solutions' and that 'the acceptable solutions illustrate one way of meeting the associated performance criteria'. The requirements of the GTAs should be seen as 'controls', as that is their status in regard to this DCP and this specific site.
- amend the fencing section to reflect the specific requirement of the GTAs regarding the local controls set out in point (b) above.
- include a site plan showing the revised lots as called-up by Condition 4 of the GTAs showing the revised layout as required under Condition 3 of the GTAs.

Please note that Heritage NSW anticipates that the future application for approval under s60 of the *Heritage Act 1977* (as per Condition 4 of the GTAs) will be submitted to Heritage NSW with a revised DCP that addresses the requirements of the GTAs.

General advice

Heritage NSW offers a pre-lodgement service to assist Council and proponents understand assessment requirements or provide general advice on:

- Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*
- for State Heritage Register items and historical archaeology under the *Heritage Act 1977*

If you have any questions about the above, please contact [REDACTED] at Heritage NSW on (02) 9873 8500 or heritagemailbox@environment.nsw.gov.au.





**REPORT: Development Application
D2023-26 - 59 Residential Lot Subdivision
- Part Lot 10 DP 1119436, 2R Old Dubbo
Road Dubbo**

**Applicant: Barker Ryan Stewart Pty Ltd
Owner: Maas Group Properties Miriam
Pty Ltd**

**DIVISION: Development and Environment
REPORT DATE: 5 March 2025
TRIM REFERENCE: ID25/259**

EXECUTIVE SUMMARY

Purpose	<ul style="list-style-type: none">• Determine Development Application.
Issue	<ul style="list-style-type: none">• Development Application for a 59 lot residential subdivision.• The Application is Integrated Development as approvals from a number of State Agencies are required.• Further information was requested from the Applicant on 22 June 2023. The correspondence included information requested from a number of approval authorities including Department of Climate Change, Energy, the Environment and Water (DCCEEW).• To date, a response to the further information request remains outstanding.• DCCEEW on 22 January 2025 issued a 'Refusal to Grant Terms of Approval for Integrated Development Application, National Parks and Wildlife Act 1974' as the original application did not have sufficient information to enable an assessment to be undertaken, and the significant time lapsed since the information was requested.• In accordance with Section 4.47(4) of the Environmental Planning and Assessment Act 1979, Council cannot approve the Application.• The subject land is also located within an Urban Release Area (URA) which requires a specific Development Control Plan to be in place for the land prior to development occurring.• As a Development Control Plan is not in place for the land, approval of the Development Application would be in contravention of Clause 6.3 of the Dubbo Regional Local Environmental Plan 2022.
Reasoning	<ul style="list-style-type: none">• Division 4.8 of the Environmental Planning and Assessment Act,

	1979. • Part 6 Urban release areas, Dubbo Regional Local Environmental Plan	
Financial Implications	Budget Area	There are no financial implication arising from this report.
Policy Implications	Policy Title	There are no policy implication arising from this report.

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 principal themes and a number of objectives and strategies. This report is aligned to:

Theme: 5 Liveability
CSP Objective: 5.2 Our First Nations communities and cultures are celebrated and enhanced
Delivery Program Strategy: 5.2.3 Items, areas and places of First Nations cultural heritage significance are protected and conserved

Theme: 4 Leadership
CSP Objective: 4.1 Council provides transparent, fair and accountable leadership and governance
Delivery Program Strategy: 4.1.1 Council encourages and facilitates two-way communication with and between stakeholders and the community

Theme: 4 Leadership
CSP Objective: 4.1 Council provides transparent, fair and accountable leadership and governance
Delivery Program Strategy: 4.1.2 Council's decision-making processes are open, transparent and accountable

RECOMMENDATION

1. That Council note the current status of the Miriam Hill Development Control Plan and Development Application 2023-26 as detailed in the report.
2. That the Applicant be invited to withdraw Development Application D2023-26 by 2 May 2025.
3. That if Development Application D2023-26 is not withdrawn by 2 May 2025 that the Development Application be refused for the following reasons:
 - (i) Granting consent would contravene Section 4.47(4) of the Environmental

- Planning and Assessment Act, 1979.**
(Section 4.15(1)(a)(i) Environmental Planning and Assessment Act, 1979)
- (ii) Granting consent would contravene Clause 6.3 of the Dubbo Regional Local Environmental Plan 2022 as a suitable Development Control Plan has not been prepared for the land.**
(Section 4.15(1)(a)(i) and (1)(a)(iii) Environmental Planning and Assessment Act, 1979)
- (iii) That the proposed development is not deemed to be in the public interest due to the outstanding matters detailed in correspondence dated 22 June 2023.**
(Section 4.15(1)(e) Environmental Planning and Assessment Act, 1979)
- 4. That Council grant delegation to the Chief Executive Officer to sign any determination (refusal).**
- 5. That it be noted that the Proponent has the right to lodge a request for a review of any determination of refusal in accordance with Section 8.2 of the Environmental Planning and Assessment Act, 1979.**

Steven Jennings
Director Development and Environment

TS
Team Leader Growth
Planning Projects

BACKGROUND

1. Urban Release Area (URA)

The subject land is located within an Urban Release Area (URA). Clause 6.3 of the Dubbo Regional Local Environmental Plan 2022 (in part) states as follows:

“6.3 Development control plan

(1) *The objective of this clause is to ensure that development on land in an urban release area occurs—*

(a) in a logical and cost-effective manner, and

(b) in accordance with a staging plan, and

(c) only after a development control plan that includes specific controls has been prepared for the land.

(2) *Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.”*

Clause 6.3 requires a Development Control Plan (DCP) to be prepared and in place prior to development consent being granted for the subdivision of land in an Urban Release Area.

2. Site-Specific Development Control Plan

Council on 21 September 2022 received a draft Development Control Plan for the north western section of the land (Miriam Hill Estate).

Development Application D2023-26 was lodged with Council on 13 February 2023. As part of Council’s assessment processes, a number of matters (such as site layout and access) were raised with the application which impacts preparation of the Development Control Plan.

As such, the Proponent of the DCP has been requested to address the matters raised and submit an amended DCP. To date, the response from the Applicant remains outstanding. As such a DCP has not been prepared for the land as required.

Granting consent to the subject Development Application without a Development Control Plan being prepared would contravene Clause 6.3 of Dubbo Regional Local Environmental Plan 2022.

3. Development Application D2023-26

Staff have attempted to maintain strong communications channels with the Applicant since lodgement. The following table provides details of such communication:

DATE	COMMENT/ACTION
22 June 2023	First request for additional information sent to Applicant.
28 October 2023	Applicant request for extension to provide requested information.
6 November 2023	Applicant responded and requested four week extension.
7 November 2023	Council provided extension (due 1 December 2023).
4 December 2023	Council requested update, noting information had not been submitted by the agreed extension date.
6 February 2024	Council requested update, noting information had not been submitted.
12 February 2024	Applicant requested clarification from Infrastructure Division. No update on the progress of the application provided.
25 March 2024	Council requested update noting information had been submitted.
2 April 2024	Applicant requested a four week extension.
8 April 2024	Applicant requested clarification from Infrastructure Division.
16 April 2024	Council provided information to the Applicant.
26 June 2024	Council requested progress update, noting information had not been submitted. Applicant confirmed a timeframe would be provided 'today.'
1 July 2024	Council requested update on progress, noting information had not been submitted by the agreed extension date.
18 October 2024	Council requested update on progress, noting information had not been submitted by the agreed extension date.
26 November 2024	Council contacted the Applicant.
26 November 2024	Council contacted the Applicant's consultancy firm. Council officer spoke to the Engineer working on the project and requested a detailed timeline for which the requested information would be provided.
26 November 2024	Applicant responded to missed call via email.
26 November 2024	Council responded to Applicant's email, requested progress update and for requested information to be submitted as soon as possible (ASAP).
2 December 2024	Email response from Applicant, but no timeframe provided.
12 December 2024	Council requested update on progress, noting information had still not been submitted by the agreed extension date.
12 December 2024	Consultant responded and confirmed a progress update would be forthcoming.
22 January 2025	Council received 'Refusal to Issue General Terms of Approval, from Heritage NSW.
4 February 2025	Council advised the Applicant of Heritage NSW's 'Refusal to Issue General Terms of Approval' and requested that the Application be withdrawn.
20 February 2025	Meeting held between Council Officers and the developer, at which the developer requested that the Application be determined as submitted.

REPORT

1. Proposed Development

Council is in receipt of a Development Application for a 59 lot residential subdivision (Torrens Title) and one residue allotment at Lot 10 DP 1119436, 2R Old Dubbo Road, Dubbo.

The submitted plan of subdivision is provided in **Figure 1**.

The proposed development lots range in size from 600.3m² and 1,144m². The residue lot has an overall lot size of 80.06ha.

The residue lot is separated into two parts by the Dubbo-Molong railway line. The northern section (northern precinct) of the residue lot is entirely flood affected by the 1% flood event (AEP). The southern section (southern precinct) of the residue allotment is also impacted by the 1% flood event (AEP) event.

The proposed development also includes the provision of an internal road, a flood storage area (earth cut area to hold 72,280m³), sewer and water infrastructure and associated services.

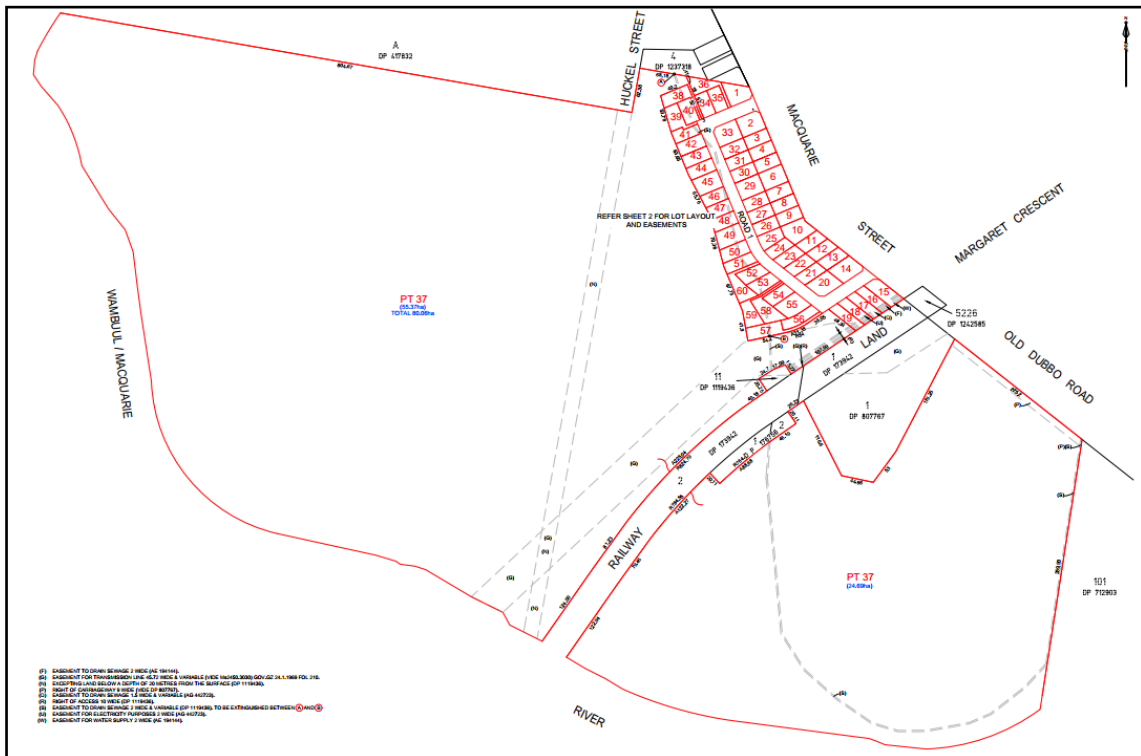


Figure 1: Submitted plan of subdivision

2. The Site

The land is located on the western side of Macquarie Street. The lot has an overall area of 86.18 Ha. For a locality map of the site see **Figure 2**. The site of the proposed development slopes from the east to the west from 269.5mAHD to approximately 262mAHD (approximately).

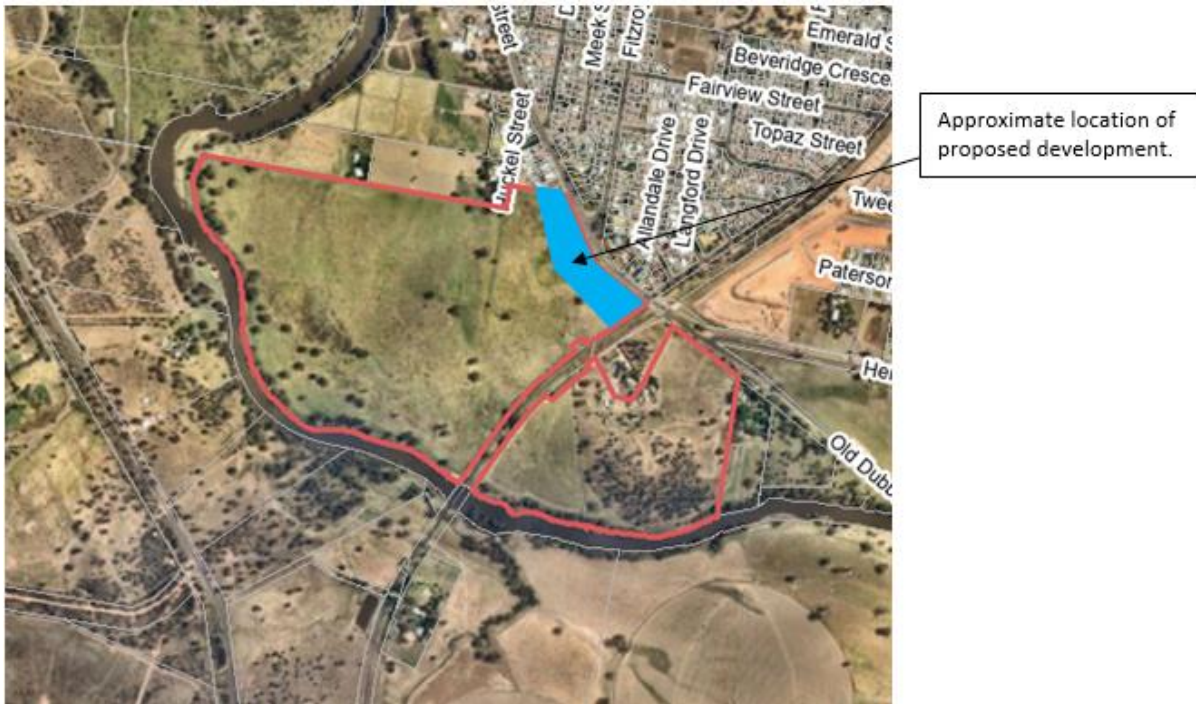


Figure 2: Site location Lot 10 DP 1119436, 2R Old Dubbo Road Dubbo

3. Legislative Assessment

Assessment of the Development Application has raised a number of concerns and information requirements, which have been previously raised with the development proponent.

To date, this information has not been received by Council.

The following information provides an overall assessment of the Development Application at the current time, in accordance with the requirements of the Environmental Planning and Assessment Act, 1979:

(a) Section 4.46 Integrated Development

(i) *Water Management Act 2000*

The development proposes works within 40 metres of a defined waterway. The approval from the Department of Planning and Environment – Water (now, Department of Climate Change, Energy, the Environment and Water (DCCEEW) was sought. DCCEEW required further information, which was requested from the Proponent on 22 June 2023.

To date, a response has not been submitted by the Applicant.

Council was contacted by DCCEEW on the 20 March 2025 confirming that should the applicant not provide a response to the requested information, a 'Refusal to Grant Terms of Approval for Integrated Development Application Water Management Act 2000' would be issued. Council is yet to receive such correspondence.

(ii) Rural Fires Act 1997

The land is bushfire prone and as such concurrence under Section 100B of the Rural Fires Act was sought on the 14 February 2023. A response dated 4 April 2023 containing General Terms of Approval (GTAs) and a Bush Fire Safety Authority was provided.

(iii) National Parks and Wildlife Act 1974

The Application included an Aboriginal Cultural Heritage Assessment Report dated November 2022. The report includes that a total of six sites were located on the subject land. One of the identified sites can be avoided, however, five are within the footprint of the development and cannot be avoided.

Concurrence was sought from Heritage NSW – DPIE (As the delegate under National Parks and Wildlife Act 1974) to which a response dated 6 April 2023 requested further information. Such information was requested from the Applicant in correspondence dated 22 June 2023.

To date, no response has been submitted to Council.

DCCEEW in correspondence dated 22 January 2025 issued to Council a 'Refusal to Grant Terms of Approval for Integrated Development Application National Parks and Wildlife Act 1974.'

Section 4.47 of the Environmental Planning and Assessment Act, 1979 states as follows:

4.47 Development that is integrated development

- (1) This section applies to the determination of a development application for development that is integrated development.*
- (2) Before granting development consent to an application for consent to carry out the development, **the consent authority must**, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent.*

(3) ...

(4) ***If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.***

(4A) ...

As DCCEEW has issued Council with correspondence 'Refusal to Grant Terms of Approval for Integrated Development Application National Parks and Wildlife Act 1974.' Section 4.47 of the Environmental Planning and Assessment Act, 1979, which requires the consent authority (Council) to refuse the Development Application.

(b) Section 4.15(1) Environmental Planning and Assessment Act, 1979

(i) *Dubbo Regional Local Environmental Plan 2022*

The following clauses of Dubbo Regional Local Environmental Plan (LEP) 2022 have been assessed as being relevant in consideration of the Application.

Clause 1.2 Aims of Plan

The proposed development is not contrary to the relevant aims of the Plan.

Clause 1.4 Definitions

Subdivision of land is not a defined land use term within the Dubbo Regional LEP 2022. However, for the purposes of the Environmental Planning and Assessment Act, subdivision means:

"... the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition."

Clause 1.9A Suspension of covenants, agreements and instruments

The land is burdened by an easement for transmission line 45.72m wide, a right of carriageway 10m wide, 'excepting land below a depth of 20m from the surface' and an easement to drain sewerage 2m wide. The proposed development has considered these easements and restrictions in the design.

Clause 2.2 Zoning of land to which Plan applies

The land has a split zoning of R2 Low Density Residential and C3 Environmental Management. The subdivision footprint is located within the R2 zone. Batter from the proposed earthworks is to be located within the C3 zone.

Clause 2.3 Zone objectives and Land Use Table

The proposed development is permitted with development consent.

Clause 2.6 Subdivision – consent requirements

It is proposed to subdivide the site which requires development consent.

Clause 4.1 Minimum subdivision lot size

The proposed development includes allotments with areas ranging from 600.3m² and 1,144m², meeting or exceeding the minimum lot size accordingly.

Clause 5.10 Heritage Conservation

Aboriginal Heritage

Issues in respect of Aboriginal Heritage have been previously discussed in the Integrated Development section of the report.

Built Heritage

Although the subject land is mapped as being a Heritage Item, this is an identified anomaly in the Dubbo Regional Local Environmental Plan 2022 which will be addressed as part of a future plan amendment.

Clause 5.14 Siding Spring Observatory – maintaining dark sky

The proposed development has been assessed as unlikely to adversely affect observing conditions at the Siding Spring Observatory and will not result in the emission of light of 1,000,000 lumens or more.

Clause 5.21 Flood planning

Sub clause (2) states:

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

In accordance with Sub clause (3), In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The development will be impacted by the 1% flood event. The development is reliant on the land being filled by up to 3 metres to provide a site for residential development that will not be impacted by the 1% flood event. The volume of fill on a floodplain is extensive and is not considered appropriate in a floodplain environment.

A Flood Impact Assessment Report dated November 2022 was submitted with the Development Application. The report proposes a flood storage area where a portion of the site on the flood plain will be cut down by 3 metres.

The following information was provided to the Applicant in correspondence on 22 June 2023 to be addressed:

- The Flood assessment is required to be undertaken in accordance with the relevant provisions of the NSW State Government's Floodplain Development Manual 2006 which is adopted by section 733 of the Local Government Act 1993 to ensure Council is indemnified against future legal proceedings.
- The flood impacts above the 1% event shall be considered in accordance with G9.2 of the Floodplain Development Manual.
- The fill batters retaining the fill extend significantly into the 1% AEP flood affected area without any apparent consideration to:
 - *How is the earthen batter to be maintained over its life against erosion arising from natural weather exposure?*
 - *How is the earthen batter to be repaired following damage due to actual flood events? And*
 - *Who will be responsible for undertaking the maintenance and repairs to the batter when required into the future?*
- Flood storage area - The site is located within the high risk flood area where high velocity and low turbidity flood waters. As such, flood waters carry high volumes of silt in this area. The silt will eventually settle when flood waters begin to recede and will impact the storage capacity of the storage area for future flood events. Who will be responsible for ensuring the capacity is maintained?
- The batter is located within the C3 Environmental Management zone. It would seem the proposed development is not consistent with a number of the zone objectives in relation to protecting, managing and restoring area with special ecological, scientific, cultural or aesthetic values.

Council has not received a response in respect of the items identified above.

Clause 6.1 Arrangements for Designated State Public Infrastructure

The land is within an Urban Release Area (URA). Council has received prior concurrence from the Department of Planning, Housing and Infrastructure in respect of compliance with this clause.

Clause 6.2 Public Utility Infrastructure

Urban infrastructure can be provided to the land as required.

Clause 6.3 Development Control Plan

This issue has been previously discussed in the background section of the report.

As there is no site-specific Development Control Plan in place, an assessment against the provisions of a Development Control Plan could not be undertaken in accordance with the requirements of the Clause.

Clause 7.1 Terrestrial Biodiversity

The subject site is included on the Terrestrial Biodiversity Map as having biodiversity value. However, this is contained to land adjoining the bank of the Macquarie River. As such, the footprint of the development will not impact this area and as such no further action required.

Clause 7.2 Earthworks

The proposed development will require significant earthworks, including up to 3 metres of cut and fill. The following concerns are provided:

- It is considered that the proposed earthworks have the potential to adversely impact existing drainage patterns and soil stability in the locality. No information has been provided as to how the erosion of the fill/batter will be managed.
- The impact on flooding on surrounding properties has been addressed by providing a flood store area, however, no consideration in relation to maintenance (cleaning out silt post flood event) to ensure the capacity of the store area is retained.
- The Groundwater and Salinity Assessment provided with the Application concluded that due to the saline nature of the site, deep excavations should be avoided, and any cut material should not be used as fill.
- Sites of aboriginal heritage significance are located on the land and will be either disturbed/moved or protected as part of the proposed development.

Council requested the Applicant to address the above concerns in correspondence dated 22 June 2023. To date, a response from the Applicant remains outstanding.

Clause 7.3 Natural resources – riparian land and waterways

Issues in respect of riparian land and waterways have been previously considered in the report.

Clause 7.5 Groundwater vulnerability

Issues in respect of groundwater vulnerability have been previously considered in the report.

Clause 7.7 Airspace operations

It is considered that the development will not impact the operations of the Dubbo Regional Airport.

4. Consultation

Internal consultation

Internal consultation was undertaken as part of the assessment process. The matters raised in the referral responses were detailed in Council's request for further information correspondence dated 22 June 2023. To date, a response from the Applicant remains outstanding.

External consultation

External consultation was undertaken as part of the assessment process. The matters raised in the responses were detailed in Council's request for further information correspondence dated 22 June 2023. To date, a response from the Applicant remains outstanding.

5. Next Steps

It should be noted that due to DCCEEW issuing a determination ('Refusal to Grant Terms of Approval for Integrated Development Application, National Parks and Wildlife Act 1974') there is no avenue for the Application to be deferred to allow for the Applicant to address the outstanding matters as listed in the request for further information.

Consequently, and regardless of any further merit-based assessment of the Development Application, the consent authority (Council) must refuse consent to the Application.

The recommended reasons for refusal read as follows:

- Granting consent would contravene Section 4.47(4) of the Environmental Planning and Assessment Act, 1979.
(Section 4.15(1)(a)(i) Environmental Planning and Assessment Act, 1979)

- Granting consent would contravene Clause 6.3 of the Dubbo Regional Local Environmental Plan 2022 as a suitable Development Control Plan has not been prepared for the land.
(Section 4.15(1)(a)(i) and (1)(a)(iii) Environmental Planning and Assessment Act, 1979)
- That the proposed development is not deemed to be in the public interest due to the outstanding matters detailed in correspondence dated 22 June 2023.
(Section 4.15(1)(e) Environmental Planning and Assessment Act, 1979)

If the Development Application is refused, the Applicant will have the opportunity to submit a Section 8.2 Review of Determination request under the provisions of the Environmental Planning and Assessment Act, 1979.

This process would allow the Applicant to submit information to address the reasons for refusal.