



## REPORT: Planning Proposal R22-004 - 13L Narromine Road, Dubbo - Proposed Amendment to the Dubbo Regional Local Environmental Plan 2022

**DIVISION:** Development and Environment  
**REPORT DATE:** 6 September 2022  
**TRIM REFERENCE:** ID22/1712

### EXECUTIVE SUMMARY

Purpose	Seek endorsement	Fulfil legislated requirement
Issue	<ul style="list-style-type: none"><li>A proponent-initiated application has been received from Bathla Group Pty Ltd to amend the Dubbo Regional Local Environmental Plan 2022 by realigning the boundaries of existing land use zones and minimum lot size areas at 13L Narromine Road, Dubbo (Lot 22 DP1038924).</li><li>The realigned boundaries would better align with the future road traversing the site, which will remove the requirement for the proponent to lodge a Clause 4.6 variation with a future development application.</li><li>Assessment of the Planning Proposal shows it has strategic merit and should be submitted to the NSW Department of Planning and Environment for a Gateway Determination. If issued, the determination will require community and state agency consultation to be undertaken.</li></ul>	
Reasoning	<ul style="list-style-type: none"><li>Environmental Planning and Assessment Act, 1979</li><li>Local Environmental Plan Making Guidelines – December 2021</li></ul>	
Financial Implications	Budget Area	Growth Planning
	Funding Source	Application fees
	Proposed Cost	Council received \$10,000 upon lodgement, and will receive a further \$3,000 if a Gateway Determination is received, as part of the required fees for the Planning Proposal.
	Ongoing Costs	Nil
Policy Implications	Policy Title	Dubbo Regional Local Environmental Plan 2022
	Impact on Policy	The Planning Proposal will amend the location of land use zones and minimum lot size areas 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:	1.2 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 stages required to amend 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 realigning the zoning and minimum lot size boundaries of 13L Narromine Road, Dubbo (Lot 22 DP1038924).
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, subject to the conditions of a Gateway Determination, Council support a minimum 14 day public exhibition period for the Planning Proposal.
6. That following completion of the public exhibition period, a further report be presented to Council for consideration, including the results of public exhibition.

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Director Development and Environment

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Planning Projects

## 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. A planning proposal can be prepared by a proponent, 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 an 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:	Bathla Group Pty Ltd
Consultant:	GLN Planning
Subject land:	13L Narromine Road, Dubbo (Lot 22 DP1038924)
Site area:	202.50ha
Proposed LEP amendment:	Realign the boundaries of the existing land use zones and minimum lot size areas Changes to Land Zoning Maps (LZN_001A and LZN_002A) and Lot Size Maps (LSZ_001A and LSZ_002A)

The objective of the Planning Proposal is to realign the boundaries of the existing land use zones and minimum lot size areas to better align with a future road that will provide a connection from Narromine Road to Minore Road. This road is included in the Dubbo Transportation Strategy, which was adopted by Council in October 2021.

The proposed road alignment would result in some minor anomalies where future residential lots would contain two zones (R2 Low density residential and R5 Large lot residential) and two minimum lot size areas (600m<sup>2</sup> and 10ha). The proposed amendments are shown in **Figures 1-3**.

Whilst the Dubbo Regional LEP 2022 provides flexibility to extend the zone boundary up to 10 metres or request a variation to development standards under Clause 4.6, these are not considered appropriate long-term solutions. This Planning Proposal would be the best way of achieving the objectives and intended outcomes to facilitate future development.

It is important to note the planning proposal is only for the realignment of land use and minimum lot size area boundaries, and the location and layout of future residential lots would require a development application.

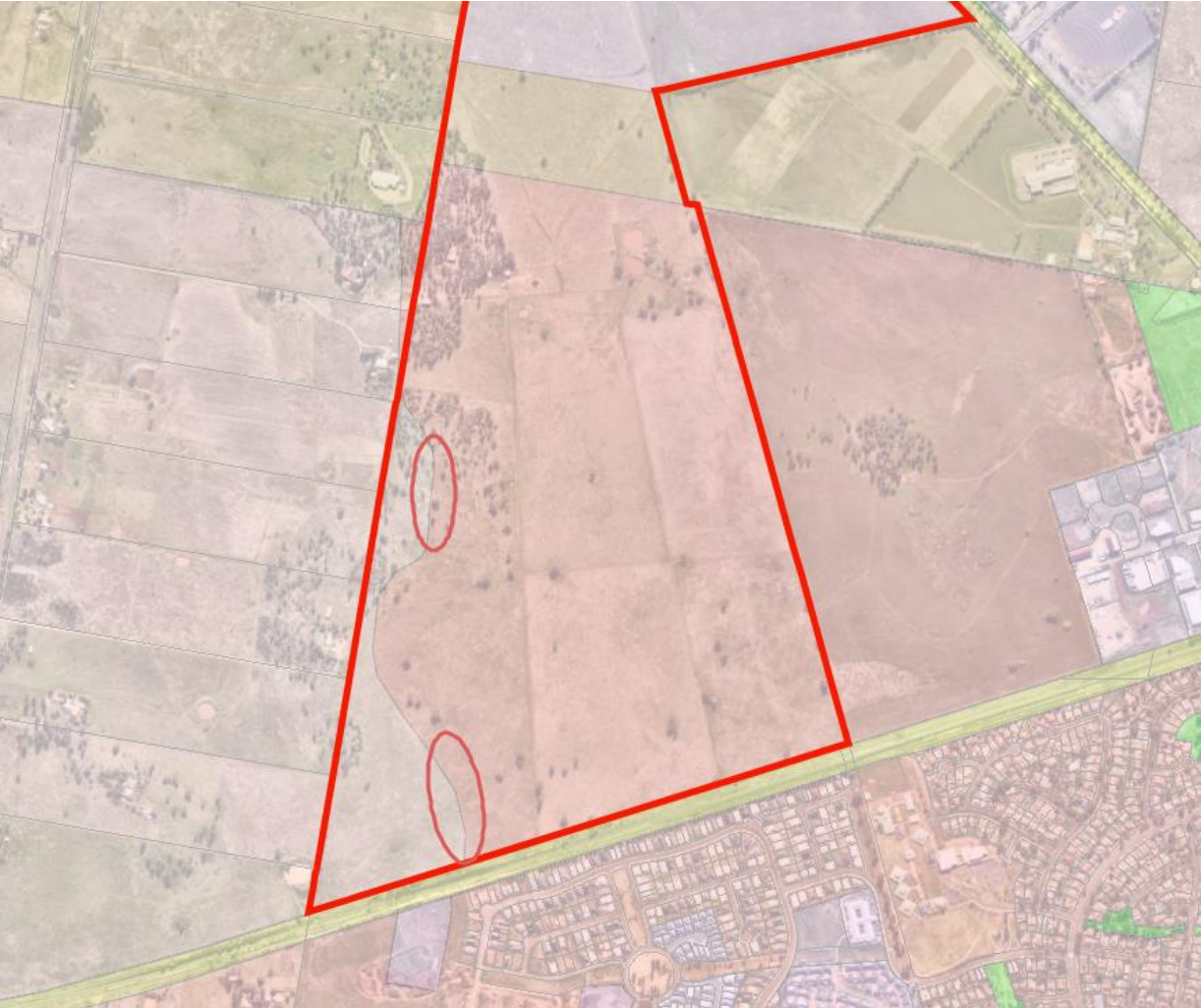


Figure 1: Location of site

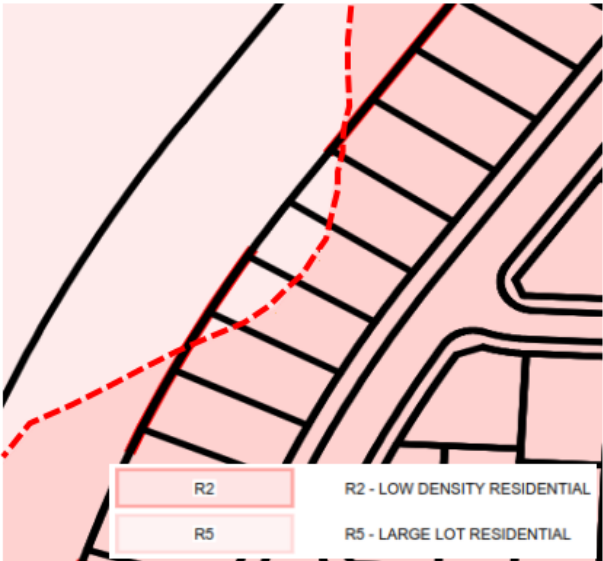


Figure 2: Northern area to be realigned – existing and proposed land use zone (source: GLN Planning)

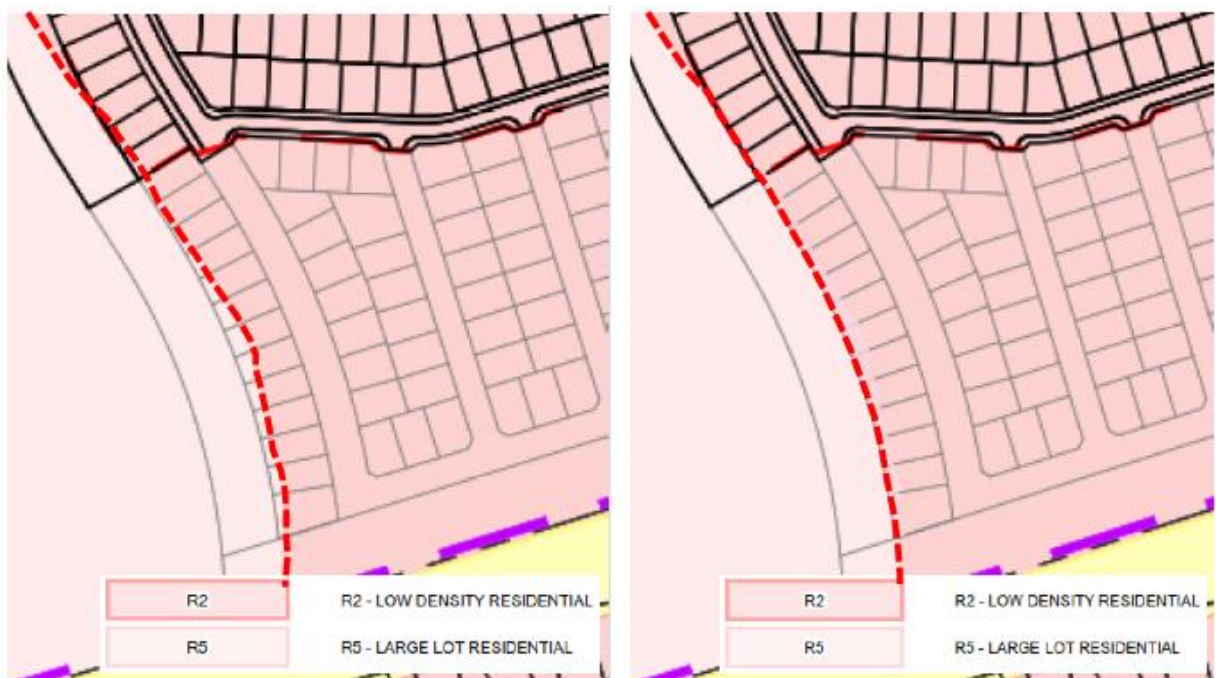


Figure 3: Southern area to be realigned – existing and proposed land use zone (source: GLN Planning)

## 2. Site characteristics

The site is approximately 3.5km west of the Dubbo Central Business District. It is approximately 202.50 hectares and is occupied by a dwelling house and ancillary sheds. Large lot residential development adjoins the site to the west, TAFE adjoins the site to the east, and a railway line adjoins the site to the south.

The site has the following characteristics:

- It is within the Central-West Urban Release Area;
- Zoned R2 Low density residential, R5 Large lot residential, RU2 Rural landscape and IN2 Light industrial;
- Minimum lot size area of 600m<sup>2</sup>, 10ha, 100ha and 2000m<sup>2</sup>;
- Contains biodiversity on the western side;
- Subject to vulnerable groundwater controls;
- Subject to the Dubbo Regional Airport obstacle limitation surface area; and
- It partly contains biophysical strategic agricultural land.

## 3. Planning assessment and considerations

The Planning Proposal has been assessed against relevant Council strategies, policies and guidelines, the NSW Department of Planning and Environment's Local Environmental Plan Making Guidelines, State Environmental Planning Policies, and Ministerial Directions.

The assessment indicates the proposal has strategic merit and should be submitted to the NSW Department of Planning and Environment for a Gateway Determination.

**(i) Strategic merit assessment**

The Planning Proposal is consistent with the following strategic framework:

Strategy Title	Requirement	Consistency
<p>Central West and Orana Regional Plan 2036</p> <p>This Plan is the NSW Government's strategy for guiding land use planning decisions for the Central West and Orana Region.</p>	<p><u>Vision</u> The most diverse regional economy in NSW with a vibrant network of centres leveraging the opportunities of being at the heart of NSW.</p> <p><u>Direction 19</u> Enhance road and rail freight links.</p> <p><u>Direction 22</u> Manage growth and change in regional cities and strategic and local centres.</p> <p><u>Direction 25</u> Increase housing Diversity.</p>	<p>The Planning Proposal is consistent with the Plan.</p>
<p>Draft Central West and Orana Regional Plan 2041</p> <p>This Plan was on public exhibition until 18 February 2022, and is anticipated to be released in late 2022.</p>	<p><u>Objective 7</u> Provide for well-located housing options to meet demand.</p> <p><u>Objective 8</u> Plan for diverse, affordable, resilient and inclusive housing.</p> <p><u>Objective 14</u> Protect and leverage the existing and future road...transport networks and infrastructure.</p> <p><u>Objective 19</u> Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities.</p>	<p>The Planning Proposal is consistent with the draft Plan.</p>
<p>Towards 2040 Community Strategic Plan</p> <p>This Plan guides the actions and initiatives of Council and the community for the next 20 years.</p>	<p><u>Objective 1.1</u> Housing meets the current and future needs of our community.</p> <p><u>Objective 2.1</u> The road transportation network is safe, convenient and efficient.</p>	<p>The Planning Proposal is consistent with the Plan.</p>

Strategy Title	Requirement	Consistency
<p>Local Strategic Planning Statement (LSPS)</p> <p>This Plan sets the land use planning priorities for the next 20 years to ensure development is appropriate of the local context.</p>	<p><u>Priority 1</u> Plan for the delivery of infrastructure to support growth.</p> <p><u>Priority 9</u> Provide diversity and housing choice to cater for the needs of the community.</p> <p><u>Priority 12</u> Create sustainable and well-design neighbourhoods.</p>	<p>The Planning Proposal is consistent with the LSPS.</p>
<p>Dubbo Residential Areas Development Strategy</p> <p>This Strategy guides the strategic direction and decisions on residential development and use of residential land.</p>	<p>Central district – South West sub-district</p> <p><u>Opportunity</u> Westward suburban expansion to balance the city structure and reinforce the role of the CBD.</p>	<p>The Planning Proposal is consistent with the Strategy.</p>
<p>Dubbo Regional Local Environmental Plan 2022</p> <p>This Plan guides planning decisions in the region through development controls and provisions.</p>	<p><u>Central West Urban Release Area</u> 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.</p> <p><u>Zone R2 Low density residential</u> Provide for the housing needs of the community within a low density residential environment.</p> <p><u>Zone R5 Large lot residential</u> Ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.</p>	<p>The Planning Proposal is consistent with the Plan.</p>



(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 Title	Requirement	Consistency
SEPP (Biodiversity and Conservation) 2021	Planning proposals must protect biodiversity values of trees and other vegetation in non-rural areas.	The Planning Proposal is consistent with the SEPP as it would not contravene the relevant provisions. Although the Planning Proposal would only realign the boundaries of the land use zones and minimum lot size areas, future development of the site may necessitate the clearing of native vegetation. The clearing may exceed the biodiversity offset scheme threshold, and an accredited assessor would need to prepare a Biodiversity Development Assessment Report at the development application to assess the impacts of the proposal. Future development will need to address biodiversity in accordance with the Biodiversity Conservation Act, 2016.
SEPP (Housing) 2021	Planning proposals must enable and encourage the development of diverse housing.	The Planning Proposal is consistent with the SEPP as it would not contravene the relevant provisions. Where relevant, future residential development would be designed in accordance with the SEPP.
SEPP (Resilience and Hazards) 2021	Planning proposals must not increase the risk of harm to human health and the environment through contamination.	The Planning Proposal is consistent with the SEPP as it would not contravene the relevant provisions. The site is not listed on Council's potentially contaminated land register. A preliminary contamination report identifies minor potential for contaminants associated with the former agricultural use of the site. Further investigations will be undertaken at the development application stage to identify areas of environmental concern within the existing buildings. However, this would not prevent the Planning Proposal from progressing.



SEPP Title	Requirement	Consistency
SEPP (Transport and Infrastructure) 2021	Planning proposals provide opportunities for infrastructure to demonstrate good design outcomes.	The Planning Proposal is consistent with the SEPP as it would not contravene the relevant provisions. A preliminary transport and traffic assessment identifies and assesses the requirements for development with frontage to a State-controlled road (Narromine Road) and adjoining a railway line. This would not prevent the planning proposal from progressing.
SEPP (Exempt and Complying Development Codes) 2008	Planning proposals must not contradict development standards that have a State-wide application	The Planning Proposal is consistent with the SEPP as exempt and complying development would continue to apply to the site.

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

**(iii) NSW EP&A Action 1979 - Ministerial directions under s9.1**

The Planning Proposal is consistent with the following Ministerial Directions. Ministerial Directions address planning issues at a state-wide level and apply to planning proposals.

Ministerial Direction	Requirement	Consistency
Direction 1.1 Implementation of Regional Plans	Planning proposals must be consistent with a Regional Plan	The Planning Proposal is consistent with the Central West and Orana Regional Plan 2036 and draft Central West and Orana Regional Plan 2040
Direction 1.4 Site specific provisions	Planning proposals must not have unnecessarily restrictive site-specific planning controls, and must allow that specific land use to be carried out in the zone on all land with the same zone	The Planning Proposal would not change permissible and prohibited development within each land use zone, and there are no site-specific provisions
Direction 3.1 Conservation zones	Planning proposals must not reduce the conservation standards that apply to the land	The site does not contain land within a conservation zone or land identified for environment conservation purposes.

Ministerial Direction	Requirement	Consistency
Direction 3.2 Heritage conservation	Planning proposals must facilitate the protection and conservation of heritage items	An Aboriginal Heritage Assessment did not find any registered Aboriginal sites or subsurface archaeological potential within the site.
Direction 4.1 Flooding	Planning proposals must be consistent with NSW Government and Council flood planning policies and guidelines	The site is not identified as being within the flood planning area.
Direction 4.3 Planning for Bushfire Protection	Planning proposals must have regard to Planning for Bushfire Protection 2019 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. This would not prevent the planning proposal from progressing.
Direction 4.4 Remediation of Contaminated Land	Planning proposals must not increase the risk of harm to human health and the environment through contamination	A preliminary contamination report identifies a minor potential for contaminants associated with the former agricultural use of the site. Further investigations will be undertaken at the Development Application stage to identify areas of environmental concern within the existing buildings. However, this would not prevent the Planning Proposal from progressing.
Direction 5.1 Integrating Land Use and Transport	Planning proposals must be consistent with NSW Government transport planning policies and guidelines.	The Planning Proposal gives effect to the aims, objectives and principles of the relevant policies and guidelines, and will not impact the delivery of key transport links
Direction 6.1 Residential zones	Planning proposals must encourage the provision of housing, and ensure residential land is adequately serviced.	The Planning Proposal would not impact the delivery of residential development.
Direction 9.1 Rural zones	A planning proposal must not rezone land from rural to a	The Planning Proposal would not rezone the existing rural land.

Ministerial Direction	Requirement	Consistency
	residential (or other) zone	

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

#### 4. Consultation and Planned Communications

If Council supports the Planning Proposal and receives a Gateway determination from the Department of Planning and Environment, it is likely the proposal would be publicly exhibited for 14 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 Customer Experience Centres, the NSW Planning Portal, and letters to relevant community members and state agencies.

The following state agencies would be consulted as part of the Gateway Determination:

- Transport for NSW
- Rural Fire Service

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:

Key Date	Explanation
23 September 2022	Consideration by Council
Late September 2022	Submit the planning proposal to the Department of Planning and Environment for Gateway determination
Early November 2022	Gateway determination issued
November 2022	Post-gateway review and requirements
Early December 2022	Public exhibition period starts
Mid-January 2023	Public exhibition period ends
February 2023	Consideration of submissions
March 2023	Consideration by Council
April 2023	Submit the planning proposal to the Department of Planning and Environment for finalisation
May 2023	Gazettal of the planning proposal

## 6. Resourcing Implications

Council received \$10,000 upon lodgement, and will receive a further \$3,000 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	\$13,000	0	0	0	0	0
b. Operating expenses	0	0	0	0	0	0
c. Operating budget impact (a – b)	\$13,000	0	0	0	0	0
d. Capital Expenditure	0	0	0	0	0	0
e. Total net impact (c – d)	\$13,000	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 [↓](#) Six key stages of amending a LEP
- 2 [↓](#) Planning Proposal

