



New South Wales

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (S01/00622/S69)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)

1 Name of plan

This plan is *Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)*.

2 Aims of plan

This plan aims to amend *Dubbo Local Environmental Plan 1998—Urban Areas* and the Zoning Map supporting that plan so as to do the following:

- (a) make various zoning and mapping amendments as follows:
 - (i) extend the character conservation area to 117–121 Cobra Street,
 - (ii) rezone an allotment located to the south west of the intersection of Blackbutt Road and the Newell Highway to the Urban Expansion Zone,
 - (iii) designate as “Future Residential” certain areas in the Urban Expansion Zone near the junction of Old Dubbo Road and Hennessy Road,
 - (iv) change the designation of certain land to the north east of the City from “Future Industrial” to “Future Freight Rail Interchange” and rezone the area to the south of the railway line to “Utilities—Effluent Disposal” to reflect the refined extent of Industrial Candidate Area No 4,
 - (v) rezone No 94 Bultje Street, 281 Darling Street, 228 Brisbane Street and 1–7 Queen Street to the Residential Medium Density Zone to better reflect current and proposed development,
 - (vi) extend the Tourism and Leisure Zone in Whylandra Street, Dubbo, opposite Gloucester Street one lot southwards and rezone the lots immediately north of the bowling club in Whylandra Street from the Commercial Recreation Zone to the Residential Suburban Zone to reflect existing development,
 - (vii) rezone 2 sites on Cobbora Road and one in Cobra Street from the Light Industrial Zone to the Special Business Zone as a result of a review of those zones,

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- (viii) remove the designation “Education” from the school site in Wingewarra Street and replace with the designation “Cultural”,
 - (ix) rezone the school site in Bultje Street from the Residential Suburban Zone to the Institutional Zone and designate it “Education”,
 - (x) add the designation “Emergency Services” to land in the Utilities Zone located near North Burrabadine Road and the designation “Animal Shelter” to land in that zone on Boothenba Road to better reflect existing and proposed development,
 - (xi) rezone a Crown reserve at Dubbo Street, Brocklehurst from the Residential Suburban Zone to the Public Open Space Zone to better reflect the use and flood status of the site,
 - (xii) remove the cul-de-sac head of Stonehaven Avenue from the Commercial Recreation Zone and leave it unzoned and rezone the adjoining public reserve access handle from that zone to the Public Open Space Zone,
 - (xiii) remove unnecessary designations from the Zoning Map,
 - (b) modify the provisions for flood prone land,
 - (c) enable boundary adjustments which will result in the creation of an additional dwelling house entitlement in the Urban/Rural Buffer and Urban Expansion Zones and provide for subdivision along zone boundaries,
 - (d) insert clause 19C to address development applications lodged before amendments are gazetted,
 - (e) insert clause 71 to address unzoned land,
 - (f) allow for educational establishments within, and vary the subdivision provisions relating to, the Residential Fringe Zone,
 - (g) allow for community centres and community service facilities in the Neighbourhood Business Zone,
 - (h) clarify the provisions for subdivision of land in the Tourism and Leisure Zone,
 - (i) allow for machinery dealerships and motor and recreational vehicle dealerships in the General Industrial Zone,
 - (j) modify the clause addressing brothels to separate them from existing dwellings,

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- (k) require future development of the site zoned Institutional Zone in Cobra Street (known as the RAAF site) to be advertised in accordance with clause 20 (2),
- (l) clarify the basis for development in the Utilities Zone,
- (m) allow land in the Private Open Space Zone near the zone boundary to be used for certain additional uses,
- (n) restate Schedule 1 (Dictionary) in two separate Parts: Part 1 containing definitions of land uses and Part 2 containing definitions of other terms,
- (o) make changes to the land use definitions (namely, replace *biosolid waste disposal* with *treated waste application*, *community centre* with *community service facility*, *place of assembly* with *community centre* and *road transport terminal* with *freight transport terminal*, modify the definition of *entertainment facility*, omit the definition of *motel* and add definitions of *machinery dealership*, *motor and recreational vehicle dealership*, *offensive or hazardous industry* and *dairy*),
- (p) change general development control clauses for zones to reflect the changed definitions and to denote development for the purpose of materials recycling depots as development that must be advertised in accordance with clause 20 (2) and development for the purpose of transport depots as development for which consent is required in the Light Industrial Zone,
- (q) modify Schedule 3 (Additional uses of land) so as:
 - (i) to make it more user friendly, and
 - (ii) to enable the use of the land known as 100–102 Bultje Street for the purpose of medical consulting rooms, and
 - (iii) to allow the resubdivision of an anomalous lot in the Urban/Rural Buffer Zone, and
 - (iv) to recognise a pre-existing development application for land in the Sub-regional Business Zone (and so reconcile this with clause 51), and
 - (v) to better facilitate the continued use of established corner stores,
- (r) delete Schedule 4 (Commercial centres), and amend clause 52 (Other controls for Zones 3 (b), 3 (c) and 3 (e)) accordingly, and clarify the intent of the clause,

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- (s) add three sites to Schedule 5 (Heritage items) and make various corrections to that Schedule.

3 Land to which plan applies

- (1) This plan applies to all land situated in the City of Dubbo to which *Dubbo Local Environmental Plan 1998—Urban Areas* applies.
- (2) In relation to rezoning, this plan specifically applies to the following land:
- (a) Part Lots 1 and 2 DP 358031 (ICA 4—south), shown edged red and coloured yellow with purple hatching and designated “Effluent Disposal” on sheet 1,
 - (b) Lot 7017 DP 754328 (Brocklehurst), shown edged red and coloured green on sheet 1,
 - (c) Lot 9 DP 755094, Narromine Road (North Burrabadine Fire Station), shown edged red and coloured yellow with purple hatching on sheet 2,
 - (d) Lot 172 DP 753233 (Coffee), shown edged red and coloured khaki on sheet 3,
 - (e) Lot 383 DP 754308 (37 Cobbora Road, corner White Street) and the lots previously zoned Light Industrial bounded by Cobbora Road, Fitzroy Street and the railway line, shown edged heavy purple and coloured light blue with pink hatching on sheet 4,
 - (f) Lot 1 DP 530286 and Lot 3 DP 711418 (Gough and Gilmour site—235–249 Cobra Street), shown edged heavy purple and coloured light blue with pink hatching on sheet 4,
 - (g) Lot 460 DP 729852 (the High School in Wingewarra Street), shown edged heavy purple, coloured yellow and designated “Cultural” on sheet 5,
 - (h) Lot 1 DP 433947, Lots 5–7, 13 and 14 DP 18309 and Lot 101 DP 870637 (Bultje Street school), shown edged heavy purple, coloured yellow and designated “Education” on sheet 5,
 - (i) Lot 7 DP 907, Lot A DP 318972 and Lot A DP 191927 (117–121 Cobra Street), shown edged heavy purple and coloured light blue with green hatching on sheet 5,

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- (j) Lot 1 DP 626069 (281 Darling Street), shown edged heavy purple and coloured red on sheet 5, and Part Lot 100 DP 1011785 (228 Brisbane Street) and Lots 11–14 Section 27 DP 7936 (1–7 Queen Street), each shown edged heavy purple and coloured red with green hatching on sheet 5,
- (k) Lot 1 DP 19998 (78 Whylandra Street), shown edged red and coloured light blue on sheet 6,
- (l) Lots 245, 246 and 247 DP 822452 (adjoining the Bowling Club), shown edged red and coloured pink on sheet 6,
- (m) the cul-de-sac head on Stonehaven Avenue, shown edged red and not coloured on sheet 6,
- (n) Part Lot 7013 DP 753233, Stonehaven Avenue (the access handle for the reserve), shown edged red and coloured dark green on sheet 6,

of the map marked “Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)” (*the amending map*) deposited in the office of the Council of the City of Dubbo.

- (3) In relation to other site-specific changes made by this plan to *Dubbo Local Environmental Plan 1998—Urban Areas*, this plan applies to the following land:
 - (a) that part of Lot 314 DP 754308 (Boothenbah Road) that is shown edged red and coloured yellow with purple hatching on sheet 1 of the amending map (which land this plan designates “Animal Shelter”), and the lots to the south of the City shown edged red and coloured khaki on sheet 3 of the amending map (which land this plan designates “Future Residential”),
 - (b) Lot 25 DP 859859, Lots 2670 and 2671 DP 852445 and Part Lots 1 and 2 DP 358031 (ICA 4—north), shown edged red, coloured khaki and designated “Future Freight/Rail Interchange” on sheet 1 of the amending map (which land was previously designated “Future Industrial”),
 - (c) certain land in the Special Business Zone, the unnecessary designation of which is removed by this plan,
 - (d) unzoned land,
 - (e) the land known as 100–102 Bultje Street,
 - (f) land on which there are corner stores,
 - (g) Lot 101 DP 546974 in Erskine Street, Dubbo,

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- (h) the land known as 342 Macquarie Street, 169 Brisbane Street and 62–64 Erskine Street (which are added to the Schedule of heritage items to *Dubbo Local Environmental Plan 1998—Urban Areas*).

4 Amendment of Dubbo Local Environmental Plan 1998—Urban Areas

Dubbo Local Environmental Plan 1998—Urban Areas is amended as set out in Schedule 1.

5 Amendment of Zoning Map supporting Dubbo Local Environmental Plan 1998—Urban Areas

The *Zoning Map*, within the meaning of *Dubbo Local Environmental Plan 1998—Urban Areas*, is amended as set out in Schedule 2.

Schedule 1 Amendments

(Clause 4)

[1] Clause 8

Omit the clause. Insert instead:

8 Flood prone land

- (1) Consent may be granted for facilities which, in the opinion of the consent authority, are essential in times of major flooding, but only in locations where it can be shown that they will be fully operational during a Probable Maximum Flood.
- (2) Consent must not be granted for development on land that is below the Flood Planning Level, unless the consent authority is satisfied that the carrying out of the development is unlikely to significantly:
 - (a) impede the flow of floodwater, or
 - (b) imperil the safety of persons on land inundated by floodwaters, or
 - (c) exacerbate the adverse consequences of floodwaters flowing on the land with regard to erosion, siltation and the destruction of vegetation, or
 - (d) have an adverse effect on riverbank stability, or
 - (e) increase the level or flow of floodwaters over the land or over adjacent land, or
 - (f) increase dependency on emergency services,and the consent authority has considered the consequences of all floods up to the magnitude of the Probable Maximum Flood on access and evacuation routes servicing the land, particularly from the perspective of the risk of entrapment and the danger to life of the entrapped and their rescuers.
- (3) Consent must not be granted to the development of land below the Flood Planning Level unless the consent authority has taken into consideration:

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- (a) the provisions of any manual for the management of flood liable land, the publication of which has been notified in the Gazette under section 733 (5) of the *Local Government Act 1993*, and
 - (b) the relevant characteristics of flooding known to the consent authority, and
 - (c) the requirements of the Council's floodplain management plan.

[2] Clause 13 Subdivision of land generally

Insert “(except in the case of a lot created by consolidating former lots)” after “but only if” in clause 13 (2).

[3] Clause 13 (3)–(5)

Omit clause 13 (3). Insert instead:

- (3) **Boundary changes in Zones 1 (b) and 1 (e)**
Despite subclause (2), consent may be granted to a subdivision making boundary changes between allotments within Zone 1 (b) or 1 (e) that results in the creation of an additional dwelling house entitlement, but only where all lots created (including residue lots) that contain dwellings, or are created for the purpose of dwellings, satisfy the minimum lot size for dwellings in the zone.
- (4) **Subdivision for an approved purpose**
Nothing in this plan prevents consent being granted to a subdivision for a land use permitted in the zone, but only where development for that land use has been consented to and where the subdivision satisfies the other applicable provisions of this plan.
- (5) **Subdivision along zone boundaries**
Nothing in this plan prevents consent being granted to a subdivision along a zone boundary, but only where each lot created meets the minimum lot size for the relevant zone and the consent authority is satisfied that there are no constraints (such as flooding) preventing the subsequent independent development of each such lot created for the purpose of the land use for which it is zoned.

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Schedule 1 Amendments

[4] Clause 19C

Insert after clause 19B:

19C Saving provision—development applications lodged before commencement of amendments

A development application lodged, but not finally determined, before the commencement of an amendment to this plan made by a local environmental plan is to be determined as if the amending plan had been exhibited but the amendment had not commenced.

[5] Clause 20 General zoning controls

Omit the second paragraph of clause 20 (2). Insert instead:

These other Divisions also specify development which may be carried out with development consent but which must be advertised. The consent authority must give public notice of proposed development required to be advertised under this subclause:

- (a) by written notices to such landowners in the vicinity of the proposed development as the consent authority considers appropriate, and
- (b) by a notice published in a newspaper circulating generally in the Dubbo City area (unless the consent authority considers the likely impact of the proposed development on the immediate locality to be minimal), and
- (c) if the consent authority so wishes, additionally by any other appropriate means.

The notices must state that any person may make a written submission to the consent authority in relation to the proposed development during the period specified in the notice (which must be a period of at least 14 days after the issue of the notice). The consent authority must have regard to any submissions received within the specified period when determining the relevant development application.

[6] Clause 22 Zone 1 (b) Urban/Rural Buffer Zone—general development controls

Omit “community centres;” and “road transport terminals;” from clause 22 (5).

[7] Clause 22 (5)

Insert “community service facilities;” and “freight transport terminals;” in alphabetical order.

[8] Clause 22 (6)

Omit “biosolid waste disposal;”, “hazardous industries;”, “motels;”, “offensive industries;” and “places of assembly;”.

[9] Clause 22 (6)

Insert “community centres;”, “dairies;”, “machinery dealerships;”, “motor and recreational vehicle dealerships;”, “offensive or hazardous industries;” and “treated waste application;” in alphabetical order.

[10] Clause 23 Subdivision of land within Zone 1 (b)

Omit “clause 13 (2)”. Insert instead “clause 13”.

[11] Clause 26 Zone 1 (e) Urban Expansion Zone—general development controls

Omit “hazardous industries;”, “offensive industries;” and “road transport terminals;” from clause 26 (5).

[12] Clause 26 (5)

Insert “freight transport terminals;” and “offensive or hazardous industries;” in alphabetical order.

[13] Clause 26 (6)

Omit “biosolid waste disposal;”, “motels;” and “places of assembly;”.

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[14] Clause 26 (6)

Insert “community service facilities;”, “dairies;”, “machinery dealerships;”, “motor and recreational vehicle dealerships;” and “treated waste application;” in alphabetical order.

[15] Clause 27 Subdivision of land within Zone 1 (e)

Omit “clause 13 (2)” from clause 27 (1). Insert instead “clause 13”.

[16] Clause 31 Zone 2 (a) Residential Suburban Zone—general development controls

Omit clause 31 (2) (e). Insert instead:

- (e) to enable the development of land for certain non-residential purposes specified in subclauses (4), (5) and (7), where the scale, character and impacts maintain an acceptable level of residential amenity,

[17] Clause 31 (7)

Insert after clause 31 (6):

(7) Medical consulting rooms

Despite subclause (6), consent may be granted for development of land within Zone 2 (a) for the purpose of medical consulting rooms if the proposed development meets the objectives of the zone and satisfies the requirements of clause 33 (2) and the site is:

- (a) wholly or partially within 200 metres of land within Zone 3 (a), 3 (b) or 3 (c), or
- (b) within the residential precinct bounded by Barden Avenue, Myall Street, Dubbo Base Hospital, River Street, Lourdes Hospital and Cobborah Road.

[18] Clause 33

Omit the clause. Insert instead:

33 Non-residential uses within Zone 2 (a)

- (1) The purpose of this clause is to encourage non-residential development to cluster around existing neighbourhood focal points rather than intrude further into established residential areas, and to preserve the amenity of residential areas.
- (2) **Non-residential uses generally**
Consent may be granted to the carrying out of development on land within Zone 2 (a) that is within 200 metres of land within Zone 3 (a), 3 (b) or 3 (c) for the purpose of child care centres, educational establishments, medical consulting rooms, places of worship, recreation areas or veterinary hospitals if the impact on residential amenity (having regard to likely traffic, parking, noise, odour, signage, streetscape and safety) is acceptable to the consent authority.
- (3) **Non-residential uses on sites more than 200 metres away from land within Zone 3 (a), 3 (b) or 3 (c)**
Consent may be granted to the carrying out of development on land within Zone 2 (a) that is more than 200 metres from land within Zone 3 (a), 3 (b) or 3 (c) for a non-residential purpose specified in subclause (2) only if there are no suitable sites for the proposed development within 200 metres of land within Zone 3 (a), 3 (b) or 3 (c).

[19] Clause 34 Zone 2 (b) Residential Medium Density Zone—general development controls

Omit “medium density” from clause 34 (2) (a) and (b) wherever occurring.

[20] Clause 36 Zone 2 (c) Residential Fringe Zone—general development controls

Insert “educational establishments;” in alphabetical order in clause 36 (5).

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[21] Clause 37 Subdivision of land within Zone 2 (c)

Omit “, or” from clause 37 (1) (a). Insert instead:

“or, in the case of irregular shaped lots at the heads of cul-de-sacs, a minimum width of 50 metres at a point no more than half-way down the depth of the block, or”.

[22] Clause 37 (1) (b) (ii)

Insert “and is in a neighbourhood that, in the opinion of the consent authority, is not yet developed for residential fringe purposes” after “2,000 square metres”.

[23] Clause 41 Zone 2 (e) Residential Country Zone—general development controls

Omit “biosolid waste disposal;” from clause 41 (5).

[24] Clause 41 (5)

Insert “treated waste application;” in alphabetical order.

[25] Clause 46 Zone 3 (a) Regional Business Zone—general development controls

Omit “; road transport terminals” from clause 46 (5).

[26] Clause 46 (5)

Insert “freight transport terminals;” in alphabetical order.

[27] Clause 46 (6)

Omit “biosolid waste disposal;”, “hazardous industries;” and “offensive industries;”.

[28] Clause 46 (6)

Insert “dairies;”, “offensive or hazardous industries;” and “treated waste application;” in alphabetical order.

[29] Clause 48 Zone 3 (c) Neighbourhood Business Zone—general development controls

Insert “community centres;” and “community service facilities;” in alphabetical order in clause 48 (4).

[30] Clause 49 Zone 3 (d) Tourism and Leisure Zone—general development controls

Omit “motels;” from clause 49 (4).

[31] Clause 49 (5)

Omit “places of assembly;”.

[32] Clause 49 (5)

Insert “community centres;” in alphabetical order.

[33] Clause 49A

Insert after clause 49:

49A Subdivision of land within Zone 3 (d)

- (1) Except as allowed by clause 13 and subclause (2), subdivision of land within Zone 3 (d) is prohibited.
- (2) Subdivision of land for the purpose of tourism or a related purpose is allowed, but only with development consent and only if, in the opinion of the consent authority, it is consistent with the objectives of the zone in which the land is situated.

[34] Clause 50 Zone 3 (e) Special Business Zone—general development controls

Insert “machinery dealerships (not within the locality known as Industrial Candidate Area No 1 Mitchell/Eulomogo);” and “motor and recreational vehicle dealerships (not within the locality known as Industrial Candidate Area No 1 Mitchell/Eulomogo);” in alphabetical order in clause 50 (4).

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[35] Clause 50 (5)

Omit “community centres;” and “motels (where the sites have dual frontage to Bourke and Darling Streets or Bourke and Brisbane Streets);”.

[36] Clause 50 (5)

Insert “community service facilities;”, and “tourist accommodation (where the sites have dual frontage to Bourke and Darling Streets or Bourke and Brisbane Streets);” in alphabetical order.

[37] Clause 52 Other controls for Zones 3 (b), 3 (c) and 3 (e)

Omit “The consent authority must not consent to development that would extend the retail floor space of a commercial centre listed in Schedule 4 in excess of 1,000 square metres unless the consent authority has taken into consideration an economic impact assessment, being a statement or report which:”.

Insert instead “The consent authority must not consent to development (including any extension of an existing building or complex) on land within Zone 3 (b), 3 (c) or 3 (e) that would result in the retail floor space of the building or complex exceeding 1,000 square metres unless the consent authority has taken into consideration an economic impact assessment which:”.

[38] Clause 54 Zone 4 (a) Light Industrial Zone—general development controls

Omit “community centres;” from clause 54 (4).

[39] Clause 54 (4)

Insert “community service facilities;” and “transport depots;” in alphabetical order.

[40] Clause 54 (5)

Insert “materials recycling depots;” in alphabetical order.

[41] Clause 55 Zone 4 (b) General Industrial Zone—general development controls

Omit “biosolid waste disposal;” and “road transport terminals;” from clause 55 (4).

[42] Clause 55 (4)

Insert “freight transport terminals;”, “machinery dealerships;”, “motor and recreational vehicle dealerships;” and “treated waste application;” in alphabetical order.

[43] Clause 56 Zone 4 (c) Special Industrial Zone—general development controls

Omit “biosolid waste disposal;”, “hazardous industries;” and “offensive industries;” from clause 56 (4).

[44] Clause 56 (4)

Insert “offensive or hazardous industries;” and “treated waste application;” in alphabetical order.

[45] Clause 57 Specific controls for brothels and restricted premises

Insert after clause 57 (c):

- (d) if the building is to be used for the purpose of a brothel, the building is at least 50 metres from any dwelling house existing at the time that the relevant development application is made.

[46] Clause 59 Zone 5 (a) Institutional Zone—general development controls

Insert “(except the land known on the appointed day as Lot 1 DP 548568 (the RAAF site in Cobra Street, Dubbo)) after “land within Zone 5 (a)” in clause 59 (4).

[47] Clause 59 (4)

Omit “places of assembly;”.

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[48] Clause 59 (4)

Insert “community service facilities;” in alphabetical order.

[49] Clause 59A

Insert after clause 59:

59A Special provision concerning RAAF site

Development specified in clause 59 (4) may be carried out on the land known on the appointed day as Lot 1 DP 548568 (the RAAF site in Cobra Street, Dubbo), but only with development consent and only if it is advertised in accordance with clause 20 (2).

[50] Clause 60 Zone 5 (b) Utilities Zone—general development controls

Insert “or is in accordance with a subsequent development strategy for the land adopted or approved by the Council” after “(dated December 1996)” in clause 60 (7) (c).

[51] Clause 62 Zone 6 (a) Public Open Space Zone—general development controls

Omit “places of assembly;” from clause 62 (4).

[52] Clause 62 (4)

Insert “community service facilities;” in alphabetical order.

[53] Clause 62 (5)

Omit “biosolid waste disposal;”.

[54] Clause 62 (5)

Insert “; treated waste application” after “cultural centres”.

[55] Clause 63 Zone 6 (b) Private Open Space Zone—general development controls

Omit “hazardous industries;”, “home based child care centres;”, “motels;”, “offensive industries;”, “places of assembly;” and “road transport terminals;” from clause 63 (6).

[56] Clause 63 (6)

Insert “community centres;”, “freight transport terminals;”, “home based child care establishments;” and “offensive or hazardous industries;” in alphabetical order.

[57] Clause 63 (7)

Insert after clause 63 (6):

- (7) **Other uses for land fronting the Newell Highway, North Dubbo**
Despite subclause (6), consent may be granted for development for the purpose of the display of agricultural machinery, trucks, caravans or camping equipment, or other similarly bulky but readily transportable equipment, on land fronting Brisbane Street and the Newell Highway between Myall and Talbragar Streets, but only if:
- (a) the development does not involve use of permanent structures (so as to permit the site to be vacated in time to avoid an impending flood), and
 - (b) there are no changes to the natural ground surface, and
 - (c) in the opinion of the consent authority:
 - (i) the development has little significant effect on the visual quality of the corridor, having regard to the scenic role of the corridor as one of the city’s main entries, the opportunities for views and the established character of the neighbourhood, and
 - (ii) there is no suitable site for the development in any other zone, and
 - (iii) the development has no substantial negative impact on the role of Zones 3 (e), 4 (a), 4 (b) and 4 (c).

[58] Part 5

Insert after clause 70:

Part 5 Miscellaneous

71 Land shown uncoloured

- (1) A person must not carry out development on land shown uncoloured on the Zoning Map (*unzoned land*), except with development consent.
- (2) Consent may be granted to the carrying out of development on unzoned land only if:
 - (a) development of the kind proposed may be carried out (with or without consent) on land within a zone adjoining the unzoned land, and
 - (b) the consent authority is satisfied that the proposed development is compatible with development in each adjoining zone and with the character and use of existing land and buildings in the vicinity, and
 - (c) in the case of unzoned land that is below the highbank of a river or stream, the consent authority has had regard to the following:
 - (i) whether or not the proposed development would prevent use of the waters of the river or stream for recreational purposes and, if so, whether there are sufficient other waters in the locality for use for recreational purposes to mitigate the adverse effect of the proposed development,
 - (ii) the provisions of any plan of management in force from time to time that applies to the unzoned land or land in its vicinity,
 - (iii) any impact the proposed development may have on the natural environment, and
 - (d) in the case of unzoned land that is a public road, the consent authority has had regard to the following:
 - (i) whether the proposed development involves the placement of a vehicle, structure or article (other than a sign post erected by a road authority for the purpose of directing the travelling public) on

- the road reserve or carriageway for the sole or principal purpose of displaying an advertisement or directional sign to premises at which a business or commercial activity is carried on,
- (ii) any likely impact of the proposed development on the safety and movement of the travelling public,
 - (iii) the availability of parking.

72 Redevelopment of certain corner shops

- (1) Development for the purpose of a corner shop may be carried out with development consent on a parcel of land identified in the Table to this clause.
- (2) However, consent must not be granted to the use of more floor area for the purpose of a corner shop on any such parcel of land than the floor area of the premises erected on the parcel of land on the day this clause took effect.
- (3) In this clause, *corner shop* means a shop that sells a variety of merchandise generally of a convenience type and includes a chemist's shop, newsagency, milk bar, take-away food shop, general store, video shop, butcher's shop, baker's shop, fishmonger's shop, hairdresser's or barber's shop, pet supplies shop, sandwich shop or any combination of them.

Table

35 East Street	lot 13 DP 24578 (The Scot's corner store)
115 Thompson Street	lot 142 DP 534280 (West End store)
3-7A Wattle Street	lots 9-13 DP 207464 (Wattle Street shops)
77 Myall Street	lot 1 DP 43489 (Manera Mini Mart)
1 Bishop Street	lot A DP 337776 (Ex corner store/residence)

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251 Brisbane Street	lot 16 Sec D DP 33637 (Marshall's convenience store)
6 Dalton Street	pt lot 5 DP 16093 (Ex corner store/residence)
51–53 Dalton Street	pt lot A and pt lot B DP 391802 (South Dubbo Butchery)
249 Darling Street	pt cnr lot 11 DP 193007 (Joe's Fish Shop)
174 Darling Street	lot B DP 402503 (Wallys Corner Store)
267 Darling Street	cnr Lot 11 DP 975591 (Zannes Hair)
269 Darling Street	lot C DP 162326 (Johnson's Butchery)
271–275 Darling Street	pt lot A and pt lot B DP 162326 (Dwelling/ex takeaway-hairdresser)
198 Darling Street	lot 1 DP 518204 (Bob's Pet Supplies)
293 Darling Street	pt lot 51 DP 564089 (Dwelling)
327 Darling Street	lot 1 DP 455311 and lot 1 DP 318651 (Anna's General Store/hairdresser)
343A Darling Street	lot 111 DP 209367 (Dubbo Podiatry/ex ham curers)
225–227 Fitzroy Street	lot 3 DP 11646 (Kerry's corner store/barber's shop)
247–251 Fitzroy Street	lots 5 and 6 Sec A DP 2860 (Granny's House/ex take-away)
79–85 Jubilee Street	lots 1–4 DP 703574 (Jubilee Shopping Centre)
64 Palmer Street	lot A DP 372489 (Buckley's corner store)

36 Nancarrow Street	lot 1 DP 577328 (ex shop/residence)
102 Gipps Street	lot 3 DP 14847 (Karam corner store)
11 Short Street	lot D DP 389765 (Short Street Store)
82–82A Wingewarra Street	lots 1 and 2 DP 200898 (Renatta's Hairdresser/take-away)
112 Erskine Street	lot 5 DP 12919 (Northside Sandwich Shop)
34 Bourke Street	lot 1 DP 195957 (Printorama Take-away Food)
142 Erskine Street	cnr lot B DP 346811 (Crossroads)
2/102 Fitzroy Street	cnr lots 4 and 5 DP 460 and DP 346811 (Roundabout lunch)
136–138 Myall Street	lot 4 DP 398 (Myall St Mini Mart)

[59] Schedule 1 Dictionary

Omit the definitions. Insert instead:

Part 1 Definitions of land uses

abattoir means a building or place used for the slaughter of animals, whether or not animal by-products are processed, manufactured or distributed there, and includes a knackery.

aerodrome has the same meaning as in the *Civil Aviation Act 1988* of the Commonwealth.

agriculture means:

- (a) the broad scale production of crops or fodder, or
- (b) horticulture, including fruit, vegetable and flower crop production, and wholesale plant nurseries, or
- (c) the grazing of livestock, or

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- (d) the keeping and breeding of livestock, including poultry, other birds and bees,

for commercial purposes but (in Part 3) does not include any other use elsewhere defined in this Part.

animal cemetery means a building or place used for the interment of deceased pets, including dogs, cats and other animals kept as domestic pets.

animal establishment means a building or place used for the breeding, boarding or training of, or caring for, animals for commercial purposes and includes stables and riding schools, but does not include kennels or an intensive livestock keeping establishment.

aquaculture means the cultivation of the resources of inland waters for the propagation or rearing of fish or plants or other organisms.

artificial waterbody has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

assisted accommodation means a building or place, not being a group home, used for the purposes of temporary or permanent accommodation for either:

- (a) socially disadvantaged people, in which case it must incorporate facilities for their rehabilitation or relief, or
- (b) incurable or convalescing persons.

bed and breakfast accommodation means an existing dwelling which:

- (a) provides temporary overnight accommodation for the short-term traveller, and
- (b) offers at least breakfast for guests, and
- (c) does not accommodate more than 8 guests, and
- (d) does not contain facilities in rooms for the preparation of meals by guests, and

-
- (e) is not used in whole or in part for the permanent or long-term accommodation of any person other than the person or persons who operate and manage the temporary accommodation and who normally reside in the dwelling.

boarding house means a building or place which is not licensed to sell liquor and where accommodation, together with meals and laundry facilities, are provided, but only to residents.

brothel means premises used for the purpose of prostitution, or for other activities for sexual gratification, as a business—including those premises where only one person is providing such services to others, as a business, at any time.

bulk fuel store means a fixed or mobile structure or container used for the storage of 10,000 litres or more of fuel.

bulky goods sales room or showroom means a building or place used for the sale by wholesale, retail or auction, the hire or the display of items (whether goods or materials) which are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display, or
- (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading items into their vehicles after purchase,

and includes timber yards, hardware stores, and furniture outlets, but does not include a building or place used for any sale of foodstuffs or clothing or a site the predominant use of which is the sale of other similar small items.

business premises means a building or place in which there is carried on an occupation, a profession or a trade which provides a service directly and regularly to the public, but (in Part 3) does not include a building or place elsewhere defined in this Part.

cabin or caravan site means a site used for the purpose of:

- (a) placing moveable dwellings for the temporary accommodation of tourists, or
- (b) the erection, assembly or placement of cabins for the temporary accommodation of tourists.

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camp site means a place used for the pitching of tents or other like portable, lightweight and temporary shelters for the short-term shelter of visitors or tourists.

car park means a building or place used for parking vehicles, and any manoeuvring space and access thereto, whether operated for gain or not.

cemetery means a place used for interment of the deceased, but does not include an animal cemetery.

child care centre means a building or place used for the purpose of supervising or caring for six or more children under the age of six years and includes a long day care centre, preschool, occasional care centre, children's neighbourhood centre, or multi-purpose child care centre, but does not include a home based child care establishment.

club means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes, whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the *Registered Clubs Act 1976* which may in addition offer refreshment, entertainment and leisure facilities to members and guests.

communications facilities means a building, structure, work or place used primarily for transmitting or receiving signals for the purposes of communication, and includes radio masts and towers and satellite disks, and the like.

community centre means a building or place of assembly used for community meeting rooms and functions, or community, cultural and leisure facilities or any combination thereof and may include a community hall, or any other building or place of a like character used as such and whether used for the purpose of gain or not, but (in Part 3) does not include a community service facility, recreation area, recreation facility, place of worship, an educational establishment, entertainment facility or any other building or place separately defined in this Part.

community service facility means a building or place owned, leased or subleased by the Council, another public authority or a body of persons which provides for the physical or social

development or welfare of the local community, and is used to provide facilities comprising or relating to any one or more of the following or any like facility:

- (a) a public library,
- (b) public health services,
- (c) public rest rooms,
- (d) counselling and advisory services,
- (e) provision for government and community information and liaison,
- (f) child minding,

but (in Part 3) does not include a building or place elsewhere defined in this Part.

convenience service station means a retail establishment where motorists refuel vehicles that includes a shop with an area in excess of 50 square metres where food and household necessities are sold.

corner store means a shop which has a floor space of not more than 150 square metres, that sells a variety of merchandise generally of a convenience type and that is located at least 400 metres from any other such shop or similar commercial establishment (including the corner shop sites listed in the Table to clause 72) or land within Zone 3 (a), 3 (b) or 3 (c). It may consist of or include a chemist's shop, newsagency, milk bar, take-away food shop, general store, video shop, butcher's shop, baker's shop or be used for any similar use or combination of uses.

correctional centre means a penal or reformatory establishment.

cotton farming means the use of a site for the commercial production of cotton.

cultural centre means a gallery or museum and may include a performance space and a restaurant room.

dairy means a building or place used for the milking (other than for personal consumption) of livestock.

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depot means a building or place used only for the storage of any plant, machinery, materials or goods used or intended to be used by the owner or occupier of the building or place (but not necessarily for use on the site), but (in Part 3) does not include a building or place elsewhere defined in this Part.

drainage means the management of stormwater by engineering methods.

dual occupancy means two separate dwellings on one allotment of land, but does not include an interim additional dwelling.

dwelling house means a building containing one, but not more than one, dwelling but does not include a building or place elsewhere defined in this Part.

educational establishment means a building used as a school, college, TAFE establishment, academy or lecture hall, but does not include a building used wholly or principally as a child care centre or tourist facility.

entertainment facility means a building or place used for the purpose of commercial entertainment or exhibitions and includes theatres, cinemas, music halls, concert halls, drive-in theatres and the like.

environmental conservation means protection, rehabilitation or restoration of land which is consistent with practices agreed to or authorised by:

- (a) the Department of Land and Water Conservation (in relation to erosion control, management of drainage corridors and other activities the responsibility of that Department), or
- (b) the Department of Agriculture (in relation to conservation farming and other activities the responsibility of that Department), or
- (c) the National Parks and Wildlife Service (in relation to conservation of sites of archeological significance, flora or fauna habitat or other activities the responsibility of that Service), or
- (d) the Council.

exhibition home means a building designed to be a dwelling while it is initially operated as a display home for a period of up to but not more than 12 months, which is open to public inspection at regular times and may include a sales office.

extractive industry means an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land on which it is carried on.

farmstay establishment means an established farming enterprise which:

- (a) provides accommodation and entertainment for tourists, and
- (b) forms part of the day-to-day operation of the farm.

fast food outlet means a building or place used solely to sell meals and beverages and may include drive-through service or sit-down service or both.

forestry includes arboriculture, silviculture, forest protection, the cutting, dressing or preparation, otherwise than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products or for forest protection.

freight transport terminal means a building or place used mainly for the bulk handling of goods for transport by road (or transfer to or from air or rail transit), and includes facilities for the loading and unloading of vehicles used to transport those goods and may provide facilities for the parking, servicing and repair of those vehicles and for a courier service.

funeral establishment means a building or place used for the conducting of funerals and for any associated activities which may include a crematorium, mortuary, preparation areas, offices, caretaker's accommodation or the like but does not include a building or place used solely as an office.

group home means a dwelling that is a permanent group home or a transitional group home as defined in *State Environmental Planning Policy No 9—Group Homes*.

guest house or hostel means a building which:

- (a) provides temporary overnight accommodation for the short-term traveller, and
- (b) offers at least breakfast for guests, and

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- (c) does not contain facilities in rooms for the preparation of meals by guests, and
- (d) is not used in whole or in part for the permanent or long-term accommodation of any person other than the person or persons who operate and manage the temporary accommodation (who may normally reside in the building).

helipad means an area or place not open to public use which is set apart for the taking off and landing of helicopters.

home based child care establishment means a dwelling providing care for up to seven children (including the care giver's own children), in the premises where the care giver resides.

home business means a home occupation that involves either or both of the following:

- (a) the employment of one, but not more than one, person who is not a resident of the dwelling,
- (b) regular visits by clientele,

but does not include a business that would render the building in which it is carried on a brothel.

home industry means an industry carried on in a building (other than a dwelling house or a dwelling in a residential flat building) under the following circumstances:

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person,
- (b) the industry does not:
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
 - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or

-
- (iii) require the provision of any essential service main of a greater capacity than that available to the locality,
 - (c) the industry does not entail:
 - (i) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail, or
 - (ii) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on the dwelling or land to indicate the name and occupation of the residents), or
 - (iii) the employment of more than one person who is not a resident of the dwelling.

home occupation means an occupation carried on in a dwelling house or in a dwelling in a residential flat building by the permanent residents of the dwelling house or dwelling which does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling house or dwelling to indicate the name and occupation of the residents), or
- (e) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail, or
- (f) use of more than one room of the house or of more than 30 square metres of the floor area of the dwelling house or residential flat building, whichever is the lesser, or
- (g) regular visits by clientele.

hospital means a building or place used as a:

- (a) hospital, or
- (b) sanatorium, or

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- (c) health centre, or
- (d) nursing home, or
- (e) home for aged persons, infirm persons, incurable persons or convalescent persons,

whether public or private, and includes a shop or dispensary used in conjunction with the building or place.

hotel means any premises specified in a hotelier's licence granted under the *Liquor Act 1982*, that may also provide ancillary overnight accommodation.

industry means the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or any articles, but (in Part 3) does not include any other use elsewhere defined in this Part.

intensive agriculture means:

- (a) the use of a site predominantly for the cultivation by irrigation of fruit, vegetable crops, flower crops, pasture or fodder, or like crops which rely on irrigation, or
- (b) the commercial keeping or breeding (or both) of livestock which are substantially dependent on high quality forage produced from the land, such as horse studs or similar enterprises,

but does not include the use of animal establishments, aquaculture, cotton farming, the use of intensive livestock keeping establishments, turf farming or dairying.

intensive livestock keeping establishment means a building or place used for a commercial operation where animals are nurtured substantially on feed not produced on the land (excluding temporary feeding during and as a result of drought, fire, flood or similar emergency) and in which the animals are penned or housed and includes cattle feed lots, poultry sheds, piggeries and the like.

kennel means a building or place used for the training, breeding or boarding or a combination thereof, of domestic pets or greyhounds, or both.

light industry means an industry, not being an offensive or hazardous industry, in which the processes carried on, or the transportation involved or the machinery or materials used, do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

machinery dealership means a building or place used for the sale by retail or auction, the hire or the display, of agricultural, earthmoving or road transport machinery and equipment as well as the ancillary sale of parts, accessories and the servicing and repair of such items.

major retail attractor means a retail establishment with a retail floor space in excess of 1,000 square metres and includes a department store, discount department store or supermarket, but does not include a bulky goods sales room or showroom.

materials recycling depot means land used for the collection, storage, recycling or sale of scrap metals, waste paper, rags, bottles or other scrap materials.

medical consulting rooms means a medical centre on land within the Institutional Precinct or Zone 3 (a), 3 (b), 3 (c) or 5 (a). In any other case, **medical consulting rooms** means a number of rooms forming either the whole of or part of, attached to or within the curtilage of, a dwelling house and used by not more than three legally qualified medical practitioners or by not more than three dentists within the meaning of the *Dentists Act 1989*, or by not more than three health care professionals, who practise there the profession of medicine, dentistry, or health care, respectively and, if more than one, practise in partnership, and who employ not more than one other employee in connection with that practice. For the purpose of this definition, **the Institutional Precinct** is land bounded by Barden Avenue, Myall Street, Dubbo Base Hospital, River Street, Lourdes Hospital and Cobborah Road.

medium density housing means two or more dwellings on a site where each dwelling has an individual entrance and direct private access to private open space at ground level for the exclusive use of the occupants of the dwelling, and includes villas, residential flat buildings, terraces, town houses, cluster housing, integrated housing, serviced apartments and the like, but does not include semi-detached housing.

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mining includes a mine and any form of mining, including surface mining (whether by open-cut or any other method) and underground mining.

motor and recreational vehicle dealership means a building or place used for the sale by retail or auction, the hire or the display, of cars, motor cycles, caravans, boats, trailers and the like as well as the ancillary sale of parts, accessories and the servicing and repair of such items.

offensive or hazardous industry means an industry which by reason of the process involved or the method of manufacture or the nature of the materials used or produced, requires isolation of the building or place in which it is carried on from other buildings.

office premises means a building or place used for the purpose of administration, or for clerical, technical, professional or like activities (except for dealing with members of the public on a direct and regular basis or otherwise than by appointment), but (in Part 3) does not include a building or place elsewhere defined in this Part.

on-site waste disposal means the breaking down of human or animal wastes via natural means on land and then disposal on the same land either through spraying, in trenches or by other means.

passenger transport terminal means any building or place used for the assembly and dispersal of passengers travelling by any form of passenger transport, including any ancillary facilities required for parking, manoeuvring, storage or routine servicing of any vehicle forming part of that undertaking.

place of worship means a building or place used for the purpose of religious worship, whether or not the building or place is also used for counselling, social events or religious training by a congregation or religious group.

plant nursery means a building or place used for both the growing and selling by retail of plants, whether or not landscape supplies (including earth products) and other landscape and horticultural products are also sold there.

public building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

recreation area means:

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, including parks, reserves and ovals, or
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by the Council or a body of persons associated for the purpose of the physical, cultural or intellectual welfare of persons within the community,

and includes the aesthetic enhancement by way of tree planting and other landscaping of such areas, but does not include a racecourse or a showground.

recreation facility means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, and includes sports stadia, showgrounds, racecourses and the like, but does not include a building or place elsewhere defined in this Part.

restaurant room means a restaurant, café, tea room, eating house or the like.

restricted premises means business premises or a shop that, due to its nature, restricts access to customers over 18 years of age and includes sex shops and the like, but does not include a tavern, hotel or brothel.

road means a public thoroughfare used for the passage of humans, vehicles or animals.

roadside stall means a place used for the purpose of offering for sale by retail agricultural goods produced on the allotment on which the place is located or on allotments in the immediate locality, but only where the building, structure or device used for offering produce for sale is of a temporary nature (that is, it is capable of being erected or dismantled within 24 hours).

rural industry means:

- (a) the handling, selling, treating, processing or packing of rural products, or
- (b) the regular servicing or repairing of plant or equipment used for the purpose of a rural activity operating in the locality.

sawmill means a mill handling, cutting and processing timber from logs or baulks.

semi-detached housing means a building containing two, but not more than two, dwellings on a single allotment of land and which may or may not include shared facilities.

service station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oils and other petroleum products, whether or not the building or place is also used for any one or more of the following:

- (a) the hire of trailers,
- (b) the sale by retail of spare parts and accessories for motor vehicles,
- (c) the washing and greasing of motor vehicles,
- (d) the repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting or suspension, transmission or chassis restoration),
- (e) the retail sale or hire of other goods within an ancillary area,

but does not include a building or place or a use elsewhere defined in this Part.

shop means a building or place used for the purpose of selling items, whether by retail or auction, for hiring of items or for displaying items for the purpose of selling or hiring them (whether the items are goods or materials) but does not include a major retail attractor or bulky goods sales room or showroom.

stock and sale yard means a building or place used for the purpose of offering livestock or poultry for sale.

tavern means premises licensed for the sale of liquor but which do not provide overnight accommodation on a commercial basis.

tourist accommodation means a building or buildings substantially used for the temporary accommodation of tourists, visitors and travellers which may have facilities for the convenience of patrons, such as restaurants, convention areas and the like and includes a motel, but (in Part 3) does not include a building or place elsewhere defined in this Part.

tourist facility includes an interpretation centre associated with a site of recognised historic, natural or cultural interest and a refreshment area used in association with a tourist facility located on the same site.

tourist resort complex means a large scale, predominantly self-contained, tourist-oriented resort that may provide a range of integrated facilities (such as accommodation, entertainment, recreational, health, fitness and leisure facilities) and which may include shops, offices, cafés, restaurants and function or conference facilities and ancillary residential accommodation (short-term or permanent) where residential property owners and occupants have full resort membership entitlements (linked to the land title for the property) and access to all resort facilities as if they were guests within the resort itself, but (in Part 3) does not include a building or place elsewhere defined in this Part.

transfer station means a place set aside for the collection and transfer of domestic and commercial waste.

transport depot means a building or place used for the parking or storage of 2 or more motor powered or motor drawn vehicles or any articulated vehicles or those carrying dangerous goods used in connection with a passenger transport undertaking, business, industry or shop.

treated waste application means the application or disposal of liquid effluent, sludge or other semi-solid products of human sewage treatment plants, water treatment sludge or treated organic matter.

turf farming means the commercial cultivation, and removal from land, of turf.

utility undertaking means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purpose of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities, or
- (e) firefighting facilities, or
- (f) paramedical facilities.

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel beating or spray painting.

vehicle repair station means a building or place used for the purpose of carrying out repairs or the sale and fitting of accessories to vehicles or agricultural machinery, not being a vehicle body repair workshop.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for treatment.

warehouse or distribution centre means any building or place used mainly for storing, handling or distribution of items (whether goods or materials).

waste disposal facility means a place set aside for the disposal of domestic and commercial waste and includes a place at which landfill is deposited but (in Part 3) does not include any other place or use separately defined in this Part.

Part 2 Definitions of other terms

advertisement means a symbol, message or other device displayed for promotional purposes, or for conveying information, instructions, directions or the like, whether or not the display involves the erection of a structure or the carrying out of a work, but does not include a commercial sign or advertisements on publicly owned furniture such as public seating and garbage bins.

airport obstacle limitation means the area shown as subject to obstacle limitations on the map marked “Dubbo Airport Obstacle Limitation Surface”, dated 26 August 1997 and held in the office of the Council.

alter in relation to a heritage item means:

- (a) make structural changes to the outside of the heritage item, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, but not changes resulting from the maintenance of the existing detail, fabric, finish or appearance of the outside of the heritage item.

ancillary means a use which is secondary or subsidiary to, and supportive of, the primary use on the same site.

ANEF means Australian Noise Exposure Forecast.

appointed day means the day on which this plan took effect.

archaeological site means a site identified as such in Schedule 5.

character conservation area means the area marked “Character Conservation Area” on the Zoning Map.

City means the City of Dubbo.

commercial sign means any advertisement, whether illuminated or not, which:

- (a) has an outline that would fit within a rectangular figure 1.25 metres in length and 0.6 metre in height and has an area not exceeding 0.75 square metre, and
- (b) in respect of any place or premises to which it is affixed, contains only:
 - (i) a reference to the identity or a description of the place or premises, or
 - (ii) a reference to the identity or a description of any person residing or carrying on an occupation at the place or premises, or
 - (iii) particulars of any occupation carried on at the place or premises, or

- (iv) such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on in the place or premises, or
- (v) particulars or notifications required or permitted to be displayed by or under any Act (including any Commonwealth Act), or
- (vi) particulars relating to the goods, commodities or services dealt with or provided at the place or premises, or
- (vii) particulars of any activities held or to be held at the place or premises, or
- (viii) a reference to any affiliation with a trade, professional or any other association relevant to the business conducted on the place or premises.

community land has the same meaning as in the *Local Government Act 1993*.

conservation instrument has the same meaning as in the *Heritage Act 1977*.

contaminated land means land in, on or under which any substance is present at a concentration above that normally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.

Council means the Council of the City of Dubbo.

demolish a heritage item, building, relic, tree, place or work means the damaging, defacing, destroying, pulling down, dismantling or the removal of the heritage item, building, relic, tree, place or work in whole or in part.

development has the same meaning as in the *Environmental Planning and Assessment Act 1979*. It includes:

- (a) the erection of a building on land, and
- (b) the carrying out of work in, on, over or under land, and
- (c) the use of land or of a building or work on land, and
- (d) the subdivision of land.

dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

extractive material means sand, gravel, clay, turf, soil, rock, stone and similar substances.

floodplain management plan means the document held in the office of the Council which details a co-ordinated mix of measures that addresses the existing, future and continuing flood hazards of the Macquarie and Talbragar Rivers at Dubbo.

flood planning level means the level 500 millimetres above the 1 in 100 year flood level.

flood prone land means the land susceptible to inundation by the Probable Maximum Flood (PMF) event (that is, land within the floodplain).

healthcare professional means a person who provides professional health services to members of the public, and includes:

- (a) a podiatrist registered under the *Podiatrists Act 1989*, and
- (b) a chiropractor or osteopath (or both) registered under the *Chiropractors and Osteopaths Act 1991*, and
- (c) a physiotherapist registered under the *Physiotherapists Registration Act 1945*, and
- (d) an optometrist registered under the *Optometrists Act 1930*, and
- (e) any other like health care professional.

heritage item means a building, work, place, relic or tree specified in Schedule 5.

heritage significance means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

high hazard area has the same meaning as that term in the *Dubbo City Floodplain Management Plan 2000—Urban Areas (Part A)* as adopted by the Council on 27 March 2000.

interim additional dwelling means a dwelling established for an approved purpose (see clauses 25, 29 and 44) without restriction as to time at which, when no longer required, it is to be sold and removed from the property.

land includes:

- (a) the sea or an arm of the sea, and

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- (b) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or non-tidal, and
- (c) a river, stream or watercourse, whether tidal or non-tidal.

low hazard area has the same meaning as that term in the *Dubbo City Floodplain Management Plan 2000—Urban Areas (Part A)* as adopted by the Council on 27 March 2000.

maintenance, in relation to a heritage item, means the ongoing protective care of the fabric of the heritage item and its setting.

native vegetation means vegetation that is indigenous to the State, including trees, shrubs and understorey plants. For the purpose of this definition, **indigenous vegetation** is vegetation of a species which existed in the State before European settlement.

outer boundary means, in the context of the outer edge of a zone on the Zoning Map, the boundary that is furthest from the CBD (ie not the circumference of the zone).

potential archeological site means a site or connection identified in Schedule 7 and includes a specific site or connection known to the consent authority to have archaeological potential even if it is not so identified.

principles of ecologically sustainable development means the principles derived from the following statements:

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes. Ecologically sustainable development can be achieved through the implementation of the following principles and programs:

- (a) **the precautionary principle**—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

-
- (ii) an assessment of the risk-weighted consequences of various options,
 - (b) **inter-generational equity**—namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations,
 - (c) **conservation of biological diversity and ecological integrity**—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
 - (d) **improved valuation, pricing and incentive mechanisms**—namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement, and
 - (ii) the users of goods and services should pay prices based on the costs involved in the full cycle of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

probable maximum flood means the largest flood that could conceivably occur in the Macquarie and Talbragar Rivers system. For the purposes of this plan, it is taken to be equivalent to the “Extreme Flood” having a peak discharge of three times that of the 1% AEP (1 in 100 years) event.

property development plan means a plan that has been prepared by an appropriately qualified consultant, and provides details of such of the following as are relevant to the application:

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Schedule 1

Amendments

Infrastructure/plant

- (a) specialised machinery to be used in the proposed agricultural use,
- (b) specialised handling, processing and storage facilities for the proposed agricultural use,
- (c) specialised internal fencing suitable for the proposed agricultural use,
- (d) the adequacy of road access within the allotment for the proposed agricultural use,
- (e) the adequacy of the supply of electricity to the allotment and the arrangements for its distribution for the proposed agricultural use and for its connection to any proposed dwelling house,
- (f) the location intended for any proposed dwelling house,

Economic function

- (g) the current and proposed agricultural use of the allotment,
- (h) budgets relating to the profit and loss of the proposed agricultural use,

Water

- (i) the water allocation that has been obtained and how it is appropriate for the proposed agricultural use,
- (j) the irrigation system and its likely impact on waterways and aquifers,
- (k) drainage works to contain run-off of effluent or chemical residues, or any other substance or material stored or generated on-site that is likely to result in the contamination of surface or groundwaters,
- (l) the impact localised flooding has on the land,

Aquifer

- (m) the location of any aquifer, dam, river, creek or other water source situated under or on, or passing through, the allotment,
- (n) the potential impact of the proposed agricultural use on any aquifer, including its impact on groundwater levels and water quality,

Soils

- (o) a soil survey identifying the soil capability of the allotment, likely contamination, affected salinity (both on and off-site), and the soil management practices appropriate for the proposed agricultural use, including soil erosion control measures,
- (p) the risk of soil erosion and its likely impact on groundwater and surface water quality,

Vegetation

- (q) the impact vegetation clearance may have on the existing habitat of native fauna,
- (r) the risk of bushfire and proposed mitigation measures,
- (s) whether the removal of native vegetation will result in irreparable damage to the vegetation system in the locality.

qualified consultant means a person who possesses tertiary qualifications in agricultural science or land management (or both), has at least 2 years practical experience in that field, and is a member of a professional agricultural, natural resources management or landuse planning association that has a code of ethics.

region means the Orana region.

relic means any deposit, object or material evidence (not being a handicraft made for sale, but which may consist of, or include, human remains) relating to:

- (a) the use or settlement of the City of Dubbo, being a deposit, object or material evidence that is more than 50 years old, or
- (b) indigenous or non-European habitation of land within the City of Dubbo, being habitation, either prior to or concurrent with the occupation of that land by persons of European extraction.

remediation plan refers to a plan, prepared by a consultant accredited by the Environment Protection Authority, which details works required to be undertaken for the restoration of contaminated land.

retail means the sale of commodities to households or ultimate consumers and comprises those uses adopted by the Council, for that purpose, on 21 December 1998 (see clause 98/25 of the report of the Council meeting of 21 December 1998 and attachments A and B to the associated report dated 18 December 1998).

retail floor space means the area of the footprint of a building where the ground floor is used for retailing. It also includes any significant retailing areas that are above or below the ground floor. If the ground floor is not occupied entirely by the retail use then the retail floor space is the area of the footprint of the building less the proportion that is in use by the other non-retail occupants.

sub-region means a subset of the Orana region.

sustainable, in the context of the environmental aspects of this plan and when used in isolation, refers to existing and proposed activities that, in the consent authority's opinion, formed after considering advice provided to the consent authority by relevant government agencies, satisfy the environmental objectives of this plan.

temporary use or structure means a use or structure that is intended to operate or be erected only for a specific period of time or in specific circumstances and that is not intended to continue or remain in place on a permanent basis. Where it involves the erection of any new structure, the structure must be designed, erected and maintained so as to be able to be quickly relocated or dismantled.

the Act means the *Environmental Planning and Assessment Act 1979*.

total retail floor space means the total retail floor space in Zone 3 (a) in the City of Dubbo as determined by Dubbo City Council on 30 October 2000 and which is calculated to be 64,140 square metres for the purposes of this plan.

transport corridor means the road and rail corridors (including the land up to the adjoining property boundaries) identified as:

- (a) Mitchell Highway (comprised in part of Cobra Street and Victoria Street),
- (b) Newell Highway (comprised in part of sections of Whylandra, Erskine and Bourke Streets),

- (c) Mendooran Road,
- (d) Cobbora Road (also known as the Golden Highway and also comprised in part of sections of Erskine Street),
- (e) Main Western Railway Line,
- (f) Molong Railway Line,
- (g) Coonamble Railway Line,
- (h) Merrygoen Railway Line,
- (i) Boothenba Road,
- (j) Bunglegumbie Road, from the Mitchell Highway to the intersection of Troy Bridge Road, and
- (k) Troy Bridge Road,

on the Zoning Map.

waterway means land that is located within 40 metres of the highbank of a river or stream listed in Schedule 6.

wetland means land that is inundated with shallow water (that may be slow moving or stationary, fresh, brackish or saline) for a long enough period (either temporarily or permanently) so that the plants and animals living on or within the land are adapted to, and often dependent on, living in a wet condition for at least part of their life cycle.

Zoning Map means Sheets 1 and 2 of the map marked “Dubbo Local Environmental Plan 1998—Urban Areas”, as amended by the maps (or specified sheets of maps) marked as follows:

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 2)

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 6)

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Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)

Schedule 1 Amendments

[60] Schedule 3 Additional uses of land

Insert at the end of the Schedule:

Lots A and B DP 346429, 100–102 Bultje Street—medical consulting rooms

The land at Wheelers Lane within Zone 3 (b) designated as “Orana Mall” on the Zoning Map—a 200 square metre fast food outlet that exceeds the maximum floorspace ratio allowed by clause 51

[61] Schedule 3

Insert “lot 101 or” after “proposed on or over” in paragraph (c) of the item relating to Erskine Street.

[62] Schedule 4 Commercial centres

Omit the Schedule.

[63] Schedule 5 Heritage items

Insert “No 169” in numerical order in the matter relating to Brisbane Street.

[64] Schedule 5, matter relating to Cadell Street

Omit all matter. Insert instead:

Cadell Street

No 6

Carrington Avenue

No 40

Mayville

—

Infants School (see Nos 181–195 Darling Street)

No 51

(See No 162 Brisbane Street)

[65] Schedule 5, matter relating to Church Street

Omit entries relating to “No 62” wherever occurring. Insert instead:

Nos 62–66	The Drop Inn and Wesley Centre Uniting Church
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[66] Schedule 5, matter relating to Darling Street

Omit the following:

No 33	(cnr Tamworth Street)
209–215	Fire Station

[67] Schedule 5, matter relating to Darling Street

Insert in numerical order:

No 116	Fire Station
Nos 209–215	
No 331	(cnr Tamworth Street)

[68] Schedule 5, matter relating to Erskine Street

Insert “Nos 62–64” in numerical order.

[69] Schedule 5, matter relating to Macquarie Street

Omit the matter relating to No 215 (Old Dubbo Gaol and residence).
Insert instead:

No 215	
—	Old Dubbo Gaol and Residence

[70] Schedule 5, matter relating to Macquarie Street

Insert “No 342” in numerical order.

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Schedule 1 Amendments

[71] Schedule 5, matter relating to Tamworth Street

Omit entries for “No 62” and “No 63”. Insert instead:

No 63

Waratah (formerly
Baringa)

[72] Schedule 5, matter relating to Taylor Street

Omit “No 16” . Insert instead “No 62”.

Schedule 2 Amendment of Zoning Map

(Clause 5)

[1] Sheet 1

Omit the notations “Windsor Pde”, “Cobra St”, Victoria St (West)”, “Bourke St” and “Erskine St” applying to land in Zone 3 (e).

[2] Sheets 1 and 2

Omit from the key on sheets 1 and 2:

Urban/Rural Buffer	1 (b)
Urban Expansion	1 (e)
Residential Suburban	2 (a)
Residential Medium Density	2 (b)
Residential Fringe	2 (c)
Residential Cluster	2 (d)
Residential Country	2 (e)
Regional Business	3 (a)
Sub-Regional Business	3 (b)
Neighbourhood Business	3 (c)
Tourism and Leisure	3 (d)
Special Business	3 (e)
Light Industry	4 (a)
General Industry	4 (b)
Special Industry	4 (c)
Institutions	5 (a)

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Schedule 2 Amendment of Zoning Map

Utilities	5 (b)
Public Open Space	6 (a)
Private Open Space	6 (b)
Commercial Recreation	6 (c)

Insert instead:

1 (b)	Urban/Rural Buffer Zone
1 (e)	Urban Expansion Zone
2 (a)	Residential Suburban Zone
2 (b)	Residential Medium Density Zone
2 (c)	Residential Fringe Zone
2 (d)	Residential Cluster Zone
2 (e)	Residential Country Zone
3 (a)	Regional Business Zone
3 (b)	Sub-regional Business Zone
3 (c)	Neighbourhood Business Zone
3 (d)	Tourism and Leisure Zone
3 (e)	Special Business Zone
4 (a)	Light Industrial Zone
4 (b)	General Industrial Zone
4 (c)	Special Industrial Zone
5 (a)	Institutional Zone

Dubbo Local Environmental Plan 1998—Urban Areas (Amendment No 4)

Amendment of Zoning Map

Schedule 2

5 (b)	Utilities
6 (a)	Public Open Space Zone
6 (b)	Private Open Space Zone
6 (c)	Commercial Recreation Zone

BY AUTHORITY
