

SECTION 59 PLANNING REPORT

Planning proposal details:

PP_2015_ALBUR_002_00

Planning Proposal – Inclusion of Model Rural Subdivision Clause
(Amendment No. 17)

Planning proposal summary:

Planning proposal (Department Ref: PP_2015_ALBUR_002_00) to include Model Clause 4.2AA Exceptions to minimum lot sizes for certain rural subdivisions into Part 4 of the *Albury Local Environmental Plan 2010*.

Date of Gateway determination:

30 June 2015

1.0 SUMMARY

A summary of the key issues associated with the planning proposal are outlined below:

- The planning proposal (refer to Attachment 1) seeks to amend Part 4 of ALEP 2010 by including Model Clause 4.2AA Exceptions to minimum lot sizes for certain rural subdivisions, to allow for more flexible use of land within Albury's rural zones (subject to council consent).*
- Given the wide range of land uses permitted within Albury's rural zones and the restrictions created by the current minimum lot size provisions, it is recommended that AlburyCity adopt Model Clause 4.2AA, which will allow for the subdivision of land less than the minimum lot size for non primary production purposes (excluding dwelling houses and dual occupancies).*
- An overview of the planning proposal including an explanation of development standards to be amended, rationale for proceeding with the proposal and an initial AlburyCity assessment is provided in 'Planning and Development Committee Report, 6B Albury Local Environmental Plan 2010 – Planning Proposal: Inclusion of Model Rural Subdivision Clause dated 15 June 2015 (refer to Attachment 2).*
- Public exhibition commenced 11 July 2015 and concluded on 24 July 2015;*
- No submissions were received during the public exhibition process from public authorities or service providers;*
- No amendments have been made to the planning proposal as a consequence of public exhibition.*

2.0 GATEWAY DETERMINATION

Details about the Gateway Determination (refer to Attachment 3) are outlined below:

- *Gateway Determination issued 30 June 2015;*
- *Timeframe for completion of proposal is to be 12 months from the week following the date of the Gateway Determination;*
- *The Gateway Determination required consultation with the NSW Rural Fire Service (RFS) for a period of 21 days;*
- *All conditions in the Gateway Determination relating to public notice, public exhibition and available information requirements have been complied with.*

3.0 COMMUNITY CONSULTATION

Details relating to community consultation that occurred in relation to the planning proposal are outlined below:

- *Dates of exhibition from 11 July 2015 to 24 July 2015;*
- *No submissions were received during public exhibition from the general community;*
- *As no objections were received a response was not provided;*
- *The planning proposal was not re-exhibited;*
- *All consultation requirements included in the Gateway Determination were complied with;*
- *No amendments have been made to the planning proposal (post public exhibition) as no issues have been raised during public exhibition to warrant any further changes.*

4.0 VIEWS OF PUBLIC AUTHORITIES

The Gateway Determination required consultation with the NSW RFS under section 56(2)(d) of the EP&A Act for a period of 21 days. Consultation was undertaken with this public authority and no response was received during the public exhibition period.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

Tables 3 & 4 of Appendix A of the planning proposal provides a response to applicable strategic planning documents, SEPPs and Section 117 Directions that demonstrates how the planning proposal is consistent, justifiably inconsistent or inconsistent.

As the Planning Proposal relates to bushfire prone land, s.117(2) Direction 4.4 is applicable and requires consultation with the NSW RFS. This public authority was consulted for a period of 21 days with no response received during the public exhibition period.

6.0 PARLIAMENTARY COUNSEL OPINION

A Legal Opinion was sought on the planning proposal by cover letter on 28 July 2015 and issued by Parliamentary Counsel on 25 August 2015.

7.0 OTHER RELEVANT MATTERS

No additional relevant matters are listed for further consideration for the making of the plan.

At the time of preparing ALEP 2010, a number of non-agricultural or primary production land uses were permitted with consent in Albury's rural zones, being the RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones.

These non agricultural uses were nominated for inclusion within the rural zones at the time as they generally supported rural land use activities, were ancillary to those rural activities or had similar off-site impacts to other rural land use activities permitted within the zones.

Notwithstanding, given the minimum lot size controls required under ALEP 2010, being a 100ha minimum lot size in the RU1 and RU2 zones and a 40 or 80ha minimum lot size in the RU4 zone, the establishment or creation of lots for these purposes was severely limited.

Recently, Council has received a number of enquiries regarding the possible establishment or creation of rural zoned properties (less than the minimum lot size) for uses other than 'primary production' purposes, which are permitted under the Land Use Tables of the relevant rural zones. At present, the subdivision of land less than the current minimum lot size to facilitate a use other than for 'primary production' purposes is prohibited.

The proposal seeks to amend ALEP 2010 by including an additional model clause that allows for the subdivision of rural land for a use other than primary production purposes (other than a dwelling house or dual occupancy), which is permissible in the zone, is generally consistent with the objectives of these zones and will not result in any adverse impacts upon the rural lands of Albury.

The subject Planning Proposal has been prepared following discussions and advice from NSW Department of Planning & Environment regional staff and is a model clause that has been adopted by a number of other regional and rural council's including: Greater Hume Shire, Walcha, Yass Valley, Upper Hunter and Tenterfield.

Whilst it is acknowledged that subdividing land within rural areas could create issues regarding land fragmentation and land use conflicts, these matters can be deferred to the development application, assessment and determination process.

8.0 MAPPING

The planning proposal does not change any LEP maps and only seeks to include a model rural subdivision clause into Part 4 of ALEP 2010.

9.0 RECOMMENDATION

An extract from the Planning and Development Committee Meeting Report held Monday, 15 June 2015 (refer to Attachment 2) that were ratified at the Council Meeting held Monday 22 June 2015 (refer to Attachment 4) confirms that should Council receive no objections during public exhibition, then the planning proposal will be endorsed as publicly exhibited, without further amendment.

These same Meeting Minutes confirm that, Council also endorses the forwarding of the planning proposal and other relevant information to the Minister for Planning (or a delegate on their behalf) with a request to undertake necessary actions to secure the making of the resultant Amendment to the Albury Local Environmental Plan 2010.

As the planning proposal is being actioned under delegated authority, please find attached the Legal Instrument signed by the Minister's delegate (being the General Manager: Albury City Council) (refer to Attachment 6) to enable notification on the NSW Legislation website.

NOTES:

All relevant documents referred to in the summary report are listed and attached as follows properly tagged and clearly identified.

- **Attachment 1**
Planning Proposal: Amendment to Albury Local Environmental Plan 2010 – Inclusion of Clause 4.2AA Exceptions to minimum lot sizes for certain rural subdivisions;
- **Attachment 2**
Planning and Development Committee Report, 6B Albury Local Environmental Plan 2010 – Planning Proposal: Inclusion of Model Rural Subdivision Clause dated 15 June 2015
- **Attachment 3**
Gateway Determination – Planning proposal
(Department Ref: PP_2015_ALBUR_002_00) – dated 30 June 2015;
- **Attachment 4**
Extract from Council Meeting Minutes held Monday 22 June 2015;
- **Attachment 5**
Parliamentary Counsel Opinion and Legal Instrument signed by the Minister's delegate (being the General Manager: Albury City Council).

Attachment 1

Planning Proposal: Amendment to Albury Local Environmental Plan 2010 –
Inclusion of Clause 4.2AA Exceptions to minimum lot sizes for certain rural
subdivisions

Attachment 2

Planning and Development Committee Report, 6B Albury Local Environmental Plan 2010 – Planning Proposal: Inclusion of Model Rural Subdivision Clause dated 15 June 2015

Attachment 3

Gateway Determination – Planning proposal

(Department Ref: PP_2015_ALBUR_002_00) – dated 30 June 2015

Attachment 4

Extract from Council Meeting Minutes held Monday 22 June 2015

Attachment 5

Parliamentary Counsel Opinion and Legal Instrument signed by the Minister's delegate (being the General Manager: Albury City Council)
