

Clause 4.1B Minimum subdivision lot size for certain split zones

Proposal Title : **Clause 4.1B Minimum subdivision lot size for certain split zones**

Proposal Summary : **The proposal will introduce Model clause 4.1B Minimum subdivision lot sizes for certain split zones into the Albury LEP 2010.**

PP Number : **PP_2015_ALBUR_003_00**

Dop File No : **15/14515**

Proposal Details

Date Planning
Proposal Received : **01-Oct-2015**

LGA covered : **Albury City**

Region : **Southern**

RPA : **Albury City Council**

State Electorate : **ALBURY**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **The proposal will apply to those zones identified in the clause.**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**

If No, comment :

Have there been meetings or
communications with
registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Council is introducing this clause to facilitate the ability to subdivide lots containing multiple zones.**

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The proposal clearly explains the intended outcome of the proposal.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposal identifies the changes to the Albury LEP 2010 that will result from the proposal. The proposal will add Model Clause 4.1B Minimum subdivision lot sizes for certain split zones to the LEP.**

The proposal will introduce the following clause:

4.1B Minimum subdivision lot sizes for certain split zones

(1) The objectives of this clause are as follows:

- (a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,**
- (b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.**

(2) This clause applies to each lot (an original lot) that contains:

- (a) land in a business, industrial, recreation, residential, or special purpose zone, or Zone AU1 Primary Production. Zone AU4 Primary Production Small Lots or Zone PIU5 Village and**
- (b) land in Zone RU2 Rural Landscape, E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living or W2 Recreational Waterways.**

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(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:

(a) one of the resulting lots will contain:

(i) land in a business, industrial, recreation, residential, or special purpose zone, or Zone RU1 Primary Production, Zone PU4 Primary Production Small Lots or Zone RU5 Village that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and

(ii) all of the land in Zone RU2 Rural Landscape, E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living or W2 Recreational Waterways that was in the original lot, and

(b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land. Planning

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

Murray REP No. 2 - Riverine Land

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Council has identified the applicable s117 Directions and noted that the proposal is consistent with those Directions.

The proposal is considered to be consistent with the following relevant s117 Directions:

1.1 Business and Industrial Zones

1.5 Rural Lands

2.1 Environmental Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

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The Secretary's approval is not required in relation to these Directions.

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Direction 1.2 RURAL ZONES: This Direction applies to the planning proposal as it will affect land within an existing or proposed rural zone.

Although not identified in the planning proposal, the proposal is considered to be **INCONSISTENT** with this Direction as it contains provisions that may increase the permissible density of land within a rural zone (other than an existing town or village). This is because the proposed amendments to clause 4.1 Minimum subdivision lot size could allow subdivision to create lots in the RU2 zone below the minimum lot size.

Although the proposed provision could increase the number of lots, it will not increase the number of dwellings permitted and may actually facilitate the better management of that land. It is therefore considered that any inconsistency with the Direction is likely to be of minor significance.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

4.4 PLANNING FOR BUSHFIRE PROTECTION: Council has identified that this Direction applies to the planning proposal due to the fact that there is land with the Albury LGA that is mapped as bushfire prone.

This Direction requires consultation with the NSW Rural Fire Service.

RECOMMENDATION: The Secretary will need to be satisfied that the requirements of the Direction have been met. A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : This proposal does not involve mapping.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed a 14 day exhibition period. This is considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Albury Local Environmental Plan 2010 is in operation.

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Assessment Criteria

Need for planning proposal :	Council has identified that there is ambiguity over the applicable minimum lot size requirements for land that contains multiple zones. In order to clarify the requirements and enable land zoned for residential development to be subdivided for that purpose, Council is introducing a clause to deal with the subdivision of split zoned land.
Consistency with strategic planning framework :	The proposal is not inconsistent with the strategic planning framework. The zones in the LEP were introduced to give effect to the Albury Land Use Strategy 2007 and the current controls do not allow subdivision of split zoned land below the minimum lot size and therefore restrict the development of residential land.
Environmental social economic impacts :	The environmental impacts of the proposal would largely be beneficial as it provides for the most appropriate subdivision of currently zoned land and enables ownership arrangements for the ongoing management and protection of environmentally zoned land adjoining residential areas. It does not increase the development potential of environmental or rural land. The proposal will have positive economic benefits by facilitating residential development.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required.:

If Other, provide reasons :

No additional studies required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Albury - Split zone clause - Council letter.pdf	Proposal Covering Letter	Yes
Albury - Split zone clause - Council report.pdf	Proposal	Yes
Albury - Split zone clause - Planning proposal.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

Additional Information : It is **RECOMMENDED** that the Acting General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Albury LEP 2010 to insert a clause to permit the subdivision of split zoned land should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 14 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

* NSW Rural Fire Service (In accordance with s117 Direction 4.4, consultation must occur prior to community consultation of the proposal)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

5. Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

6. **SECTION 117 DIRECTIONS** - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with the relevant s117 Directions or that any inconsistencies are of minor significance:

1.1 Business and Industrial Zones

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- 1.5 Rural Lands
- 2.1 Environmental Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development near Licensed Aerodromes
- 4.3 Flood Prone Land
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

(b) The Secretary's delegate can be satisfied that the planning proposal's inconsistency with s117 Direction 1.2 Rural zones is of a minor significance.

(c) The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection, when Council has consulted with the Rural Fire Service prior to undertaking community consultation;

(d) No further consultation or referral is required in relation to s117 Directions while the planning proposal remains in its current form.

7. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

This is considered a minor proposal aimed at facilitating better development outcomes. However, it is still a policy change that requires some community consultation and consultation with the Rural Fire Service. A short time frame has been recommended. It is appropriate for delegations to be authorised to be used in this instance.

Signature:

Graham Towers

Printed Name:

Graham Towers

Date:

7/10/15

