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Our ref: PP_2011_ALBUR_002_00 (11/04062)
Your ref: DOC11/10520

Mr Les Tomich
General Manager
Albury City Council
PO Box 323
ALBURY NSW 2640

Dear Mr Tomich,

Re: Planning Proposal to rezone approximately 2,500 ha of land north of Perryman Lane and Table Top Road (North Albury) from RU1 Primary Production to RU4 Primary Production Small Lots Zone and change the minimum lot size from 100 ha to 40 ha

I am writing in response to your Council's letter dated 2 March 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Albury Local Environmental Plan 2009 to rezone approximately 2,500 ha of land north of Perryman Lane and Table Top Road (North Albury) from RU1 Primary Production to RU4 Primary Production Small Lots Zone and change the minimum lot size from 100 ha to 40 ha.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should not proceed for the reasons outlined in the attached Gateway Determination.

It is considered that the intent of the planning proposal appears to be more about creating a limited amount of rural residential land than creating a rural zone and rural lot size to promote and encourage intensive primary production enterprises. The proposal is therefore considered inconsistent with the core objectives of the RU4 Primary Production Small Lots Zone with a 40ha Minimum Lot Size.

In addition, no evidence has been provided to support the assertion that there is currently a shortage of rural residential land supply in the Albury Local Government Area. The Albury Land Use Strategy identifies the area as 'Further investigation for rural lifestyle areas'. The proposal seeks only minimal rural lifestyle outcomes in a zone intended to support intensive primary industries, with no compelling supportive study to suggest fragmentation of land will promote and encourage intensive primary production enterprises. It is suggested that Council consider undertaking a broader analysis across the Local Government Area, with a view to identifying suitable future locations for rural residential development given the apparent limited demand and slow growth in the rural residential sector.

It is noted that Albury LEP 2010 rezoned about 120 lots within an R5 Large Lot Residential Zone as part of the Thurgoona and Wirlinga release areas nearby. It would be appropriate to monitor the uptake of this land to gain a clear understanding of the demand for this type of development to inform any strategic review. Should Council amend the Albury Land Use Strategy it should then seek the Director General's endorsement.

The planning proposal is inconsistent with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands, and SEPP (Rural Lands) 2008. Insufficient justification has been provided to support the inconsistencies or satisfy the Director General that the inconsistency is of minor significance. The proposal is also inconsistent with the S117 Directions and Rural Lands SEPP in that it

creates further fragmentation of land, does not justify rural lifestyle development in a primary production zone and does not adequately demonstrate how the proposal will protect the agricultural production value of rural land.

The Department's Southern Region is happy to work with Council in seeking a strategic review of its rural residential options. Should you have any queries in regard to this matter, please contact Graham Judge of the Regional Office of the Department on 02 6229 7900.

Yours sincerely,



5/7/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_ALBUR_002_00): to rezone approximately 2,500 ha of land north of Perryman Lane and Table Top Road (North Albury) from RU1 Primary Production to RU4 Primary Production Small Lots Zone and change the minimum lot size from 100 ha to 40 ha.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Albury Local Environmental Plan 2009 to rezone approximately 2,500 ha of land north of Perryman Lane and Table Top Road (North Albury) zoned RU1 Primary Production to RU4 Primary Production Small Lots Zone and change the lot size from 100 ha to 40 ha should not proceed for the following reasons:

1. Adequate justification has not been provided to rezone 2500ha of primary agricultural land for rural residential development and reduce the minimum lot size to 40ha to permit the subdivision of the land that will only create an additional 10 allotments.
2. The planning proposal appears to be more about creating a limited amount of rural residential land than creating a rural zone and rural lot size to promote and encourage intensive primary production enterprises. The proposal is therefore considered inconsistent with the objectives of the RU4 Primary Production Small Lots Zone with a 40ha Minimum Lot Size.
3. No detailed analysis and supporting study is provided that supports the argument that existing farming practices are viable on the land by reducing the minimum lot size to 40ha.
4. It is unclear from the planning proposal how a reduction in the minimum lot size from 100ha to 40ha increases the viability of the land for horticulture, particularly if there is an absence of irrigated water supply and there is no evidence that horticulture is being practiced in the area on similarly sized lots.
5. No satisfactory evidence is provided that further fragmentation of ownership will encourage and promote more intensive primary industries.
6. The planning proposal is inconsistent with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands, and SEPP (Rural Lands) 2008 and justification has not been provided by way of addressing the SEPP's Rural Planning Principles. Further, the proposal is also inconsistent with the S117 Directions and Rural Lands SEPP in that it creates further fragmentation of land, does not justify rural lifestyle development in a primary production zone and does not adequately demonstrate how the proposal will protect the agricultural production value of rural land.
7. No evidence has been provided to suggest there is shortage of rural residential land supply in the Local Government Area.
8. The planning proposal has not been justified against the actions for rural lifestyle housing or protection of agricultural lands in the draft Murray Regional Strategy 2009.

9. The change of rural zone to RU4 Primary Production Small Lots Zone and the reduced minimum lot size of 40ha will be inconsistent with the on adjoining land in a similar landscape particularly to the north in the Greater Hume Local Government Area, and would also set an undesirable precedent were the proposal to proceed without adequate justification.

Dated 5th day of July 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure