

Amend Albury LEP 2010 - Amend Clause 4.1A to reduce the lots size for certain types of residential development

Proposal Title :	Amend Albury LEP 2010 - Amend Clause 4.1A to reduce the lots size for certain types of residential development		
Proposal Summary :	Albury City Council seeks to amend clause 4.1A 'Exceptions to minimum subdivision lot sizes for certain residential developments'. The proposed amendment to clause 4.1A will; 1. include the B4 Mixed Use Zone in addition to the R1 general Residential Zone and R3 Medium Density Zone; 2. insert a new provision to allow Council to approve a development application for both the erection of a dual occupancy and the subdivision of the land into two lots whereby each lot has a minimum lot size of 300 m2. 3. require frontage to a road for a development application that seeks to both subdivide land into 3 or more lots and erect an attached dwelling, semi-detached dwelling or dwelling house; and 4. ensure the area of the access handle of a lot, e.g. access handle of a battle axe lot, is not included in calculating the lot size.		
PP Number :	PP_2015_ALBUR_004_00	Dop File No :	15/16419

Proposal Details

Date Planning Proposal Received :	03-Nov-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 :	R1 General Residential Zone, R3 Medium Density Residential Zone and B4 Mixed Use Zone		

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DoP Planning Officer 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 Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 0
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government **Yes**
Lobbyists Code of
Conduct has been
complied with :
If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :
If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **The proposed new provision to allow Council to approve a development application for both the erection of a dual occupancy and the subdivision of the land into two lots whereby each lot has a minimum lot size of 300 m2 is similar to clause 4.1A under Lake Macquarie LEP 2014.**

Adequacy Assessment

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

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

Comment : **The PP clearly outlines the proposed changes to clause 4.1A.**

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

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

Comment : **The PP includes the draft amendment to clause 4.1A. No changes to the LEP maps are required.**

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

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

Murray REP No. 2 - Riverine Land

SEPP (Affordable Rental Housing) 2009

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

No other matters need be considered

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

If No, explain : **The planning proposal does not generate any inconsistencies with s117 Directions.**

s117 Direction 4.4 Planning For Bushfire Protection requires Council to consult with the Commissioner of the NSW Rural Fire Service.

4.4 PLANNING FOR BUSHFIRE PROTECTION: This Direction does apply to the planning proposal as it will affect or is in close proximity to land mapped as bushfire prone land.

The proposal will affect some land identified as bush fire prone land and therefore triggers the requirement to consult with the NSW Rural Fire Service under the 117 Direction.

Council has concluded that consultation with the NSWRFSS is unnecessary because of the low impact of the proposal, i.e. impacts confined to existing residential development.

Unfortunately when this Direction is triggered by a PP the relevant planning authority (RPA) must consult with the NSWRFSS. A condition is usually applied to the Gateway determination to ensure the RPA consults with the NSWRFSS in accordance with the Direction and the NSWRFSS be given 21 days to provide a response.

The additional requirement to provide the NSWRFSS 21 days to respond is considered to be unreasonable given that the PP is considered to be of minor significance and of low impact. To accommodate Council's request the time frame for consultation with the NSWRFSS should be minimal and consultation must occur prior to community consultation.

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To avoid an inconsistency with the s117 Direction 4.4 it is recommended that the RPA be required to consult with the NSWRFs. To streamline the consultation process it is further recommended that there be no added requirement for the RPA to give the NSWRFs 21 days to reply prior to beginning community consultation.

RECOMMENDATION: A condition should be included in the Gateway determination that simply states 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 : **No mapping has been provided because the Planning proposal does not require an amendment to the LEP maps.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The PP has recommended community consultation be undertaken for 14 days because it is considered to a 'low impact proposal'. This request is supported.**

RECOMMENDATION;
Community consultation be undertaken for a minimum of 14 days.

Additional Director General's requirements

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

If Yes, reasons : **There are no additional requirements by Secretary.**

Overall adequacy of the proposal

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

If No, comment : **The PP is considered to be low impact and meets the adequacy criteria to proceed to assessment.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Albury SI LEP 2010 was notified in 2010.**

Assessment Criteria

Need for planning proposal :

Albury LEP 2010 currently applies a
The current clause 4.1A relates only to integrated development, i.e. housing and subdivision involving 3 or more lots.

The proposed amendment to clause 4.1A is necessary to;
1. include a the B4 Mixed Use Zone in addition to the R1 general Residential Zone and R3 Medium Density Zone;

2. insert a new provision to allow Council to approve a development application for both the erection of a dual occupancy and the subdivision of the land into two lots whereby each lot has a minimum lot size of 300 m2.

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3. require frontage to a road for an development application that seeks to both subdivide land into 3 or more lots and erect an attached dwelling, semi-detached dwelling or dwelling house; and

4. ensure the area of any access handle of a lot, e.g. access handle of a battle axe lot, is not included in calculating the lot size.

Consistency with strategic planning framework :

The PP is not inconsistent with Council's land use planning strategy or any state or regional strategy.

Environmental social economic impacts :

There are unlikely to be any adverse social or environmental impacts.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 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 : **The planning proposal is of minor significance and does not raise any significant planning issues or impacts.**

RECOMMENDATION: The PP be issued with a Gateway Determination.

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No other 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
Planning Proposal - Amended Clause 4.1A.pdf	Proposal	Yes
Cover Letter.pdf	Proposal Covering Letter	Yes
Council Minutes - Monday 26 October 2015.pdf	Proposal	Yes
PDC Minutes - Monday 19 October 2015.pdf	Proposal	Yes
PDC Report - Monday 19 October 2015.pdf	Proposal	Yes

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Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 4.3 Flood Prone Land
 4.4 Planning for Bushfire Protection
 6.1 Approval and Referral Requirements

Additional Information : **General Conditions**

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 Local Environmental Plan 2010 clause 4.1A 'Exceptions to minimum subdivision lot sizes for certain residential developments' 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 (Department of Planning and Infrastructure).

2. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act and in accordance with s117 Direction Direction 4.4 Planning for Bushfire Protection. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material.

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 12 months from the week following the date of the Gateway determination.

5. Council be Authorised to use its delegation for plan making to complete the LEP following public consultation.

s117 Directions

The Secretary can be satisfied that the planning proposal, subject to consultation with the NSW Rural Fire Service, is consistent with relevant s117 Directions or that any inconsistencies are of minor significance.

Supporting Reasons : **The PP is considered to be 'Low Impact' and therefore community consultation is required for only 14 days.**

S117 Direction 4.4 Planning for Bushfire Protection requires consultation with the NSW Rural Fire Service.

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Signature:



Printed Name:

Deanne Frankel

Date:

17/11/15

