

Planning Proposal

Amendment to Albury Local Environmental Plan 2010

Part 4 Principal Development Standards

Amendment to Clause 4.1A Exceptions to minimum subdivision lot sizes for certain residential development

Prepared by
AlburyCity Council

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CONTENTS

PART 1 – OBJECTIVES OR INTENDED OUTCOMES.....	2
PART 2 – EXPLANATION OF PROVISIONS	2
PART 3 – JUSTIFICATION.....	3
Section A - Need for the planning proposal.	3
Section B - Relationship to strategic planning framework	5
Section C - Environmental, social and economic impact	6
Section D - State and Commonwealth interests	8
PART 4 – MAPPING	9
PART 5 – COMMUNITY CONSULTATION	9
PART 6 – PROJECT TIMELINE	10
Table 1 – Project Timeline.....	10
APPENDIX A.....	11
Table 2 – Consideration of State Environmental Planning Policies.....	11
Table 3 – Consideration of Section 117(2) Ministerial Directions.....	16
APPENDIX B.....	22
Lake Macquarie Local Environmental Plan 2014 – Clause 4.1A.....	22
Albury Local Environmental Plan 2010 – Land Zoning Map.....	23

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

AlburyCity Council has resolved to prepare a Planning Proposal as per Section 55 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The proposal seeks an amendment to the *Albury Local Environmental Plan 2010* (ALEP 2010) so as to amend *Clause 4.1A: Exceptions to minimum subdivision lot sizes for certain residential development* as currently contained within Part 4 of this Plan, which will provide for a diversity of residential development (namely via dual occupancies) on lots less than the minimum lot size shown on the lot size map, within designated residential and mixed use areas (subject to council consent).

This Planning Proposal applies to the R1 General Residential Zone, R3 Medium Density Residential Zone and B4 Mixed Use Zone, which all permit these forms of residential development.

PART 2 – EXPLANATION OF PROVISIONS

As per Part 4 – Principal Development Standards of ALEP 2010, it is proposed to amend Clause 4.1A of the LEP as follows:

4.1A Exceptions to minimum subdivision lot sizes for certain residential development

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) Despite clause 4.1, development consent may be granted to development on land in Zone R1 General Residential, R3 Medium Density Residential or B4 Mixed Use that is both of the following:*
 - (b) the erection of a dual occupancy,*
 - (a) the subdivision of the land into 2 lots if the size of each lot resulting from the subdivision is at least 300 square metres.*
- (3) Despite clause 4.1, development consent may be granted to development on land in Zone R1 General Residential, R3 Medium Density Residential or B4 Mixed Use that is both of the following:*
 - (a) the subdivision of land into 3 or more lots that each have frontage to a road,*
 - (b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house if the size of each lot resulting from the subdivision is at least 300 square metres.*
- (4) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included in calculating the lot size.*

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report and the amendment seeks to amend local *Clause 4.1A: Exceptions to minimum subdivision lot sizes for certain residential development* as contained within Part 4 of this Plan.

This request follows a number of recent enquiries and feedback received from the Albury development industry (builders, developers and surveyors) at a 'Developers Forum' held on 23 April 2015 by AlburyCity. These requests sought a reduction in the minimum lot size currently permitted under ALEP 2010, so as to allow for the construction of dual occupancy developments that could then be individually subdivided, as part of a Torrens Title subdivision. Many cited the previous *Albury Local Environmental Plan 2000* controls that allowed for this form of development (previously known as 'Integrated Housing'), as well as similar allowances available within neighbouring Wodonga.

This request also follows a number of recent development applications received by Council for dual occupancies on lots less than the minimum lot size as part of a Torrens Title subdivision. At present the subdivision of land less than the current minimum lot size for this type of development, can only be approved as part of a Community Title or Strata Title subdivision. It is noted that this ability is currently already available for multi dwelling housing (MDH) under the current version of Clause 4.1A of ALEP 2010 and the purpose of the proposed amendment is to expand this ability to cater for dual occupancies, which Council considers to be smaller scale and have less off-site impacts.

Recently Council has approved a number of dual occupancies on undersized lots as part of a clause 4.6 variation, where they have complied with the relevant standards of the *Albury Development Control Plan 2010* (ADCP 2010). These variations have been reported by Council to the NSW DPE as part of its quarterly reporting.

The proposal therefore seeks to amend ALEP 2010 by amending an existing local clause that allows for the subdivision of land less than the minimum lot size shown on the minimum lot size map of ALEP 2010, as it relates to dual occupancy developments. These forms of development are currently permissible with consent in the R1 General Residential, R3 Medium Density Residential and B4 Mixed Use Zones and are generally consistent with the objectives of these zones, whilst not departing from the intent of ALEP 2010.

It is noted that the subject Planning Proposal has been prepared following a review of a number of other rural, regional and metropolitan councils, as well as discussions and advice received from NSW DPE regional staff. The amended clause has been modelled on Clause 4.1A of the *Lake Macquarie Local Environmental Plan 2014* (see **Appendix B**) and has been adapted for local purposes.

It is noted that the subject Planning Proposal only relates to the R1 General Residential, R3 Medium Density Residential and B4 Mixed Use zones. These zones have been established to encourage residential development, alternative forms of residential development and increased residential densities in close proximity to commercial centres and for this reason are appropriate zones to apply this clause to.

As a consequence, AlburyCity is now seeking to amend ALEP 2010 by amending an existing local clause to allow for exceptions to minimum lot size requirements for dual occupancy developments (subject to Council consent). The implications of not proceeding with this Planning Proposal are variable, but include restricting the diversity of housing within Albury; perpetuate/exacerbate the number of applications that depart from a development standard as per Clause 4.6 of ALEP 2010 and add unnecessary complexity to the development process.

It is noted that many of these developments have already been approved as part of either a Community Title or Strata Title subdivision development and the impacts of the proposal are considered minimal. It is also noted that any applications lodged under this revised local Clause will still be subject to a separate Development Application assessment process and will need to satisfy the provisions of ADCP 2010, with respect to the development controls of this Plan (i.e. car parking, setbacks, building heights etc).

Alternatively, these forms of development can also be approved as part of a Complying Development Certificate under *State Environmental Planning Policy (Affordable Rental Housing) 2009*, where no subdivision is proposed and the development complies with a number of pre-determined conditions.

It is also relevant to note that ADCP 2010 contains a number of objectives and provisions, which encourage a diversity of housing, particularly where the site is located close to basic amenities and services such as parks, public transport and shopping facilities. The Proposal is also consistent with a number of other strategic plans and policies including: draft Murray Regional Strategy, Council's strategic Plan – Albury 2030, as well as being consistent, or where applicable, justifiably inconsistent with a number of State Environmental Planning Policies and Section 117(2) Ministerial Directions, as detailed later in this proposal.

As a result of this Planning Proposal, a number of consequential changes will need to be made to ADCP 2010 to reflect the proposed amendment and ensure consistency between both documents. These changes will be the subject of a separate process and will be exhibited concurrently with the Planning Proposal.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

AlburyCity is of the view that the current restriction on dual occupancies is creating a constraint on the efficient development of land, as currently permitted under the land use tables of the relevant residential and mixed use zones.

By amending ALEP 2010 by amending clause 4.1A, this will allow for the more flexible use of residential and mixed use zoned land and will encourage a variety and diversity of residential development types within Albury's established residential and mixed use areas.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The draft *Murray Regional Strategy* (yet to be adopted) is Council's relevant Regional Strategy as set out by the NSW DPE and includes as part of its aims:

- *Cater for a housing demand of 13,900 new dwellings by 2036 to accommodate the combined pressure of the forecast population increase, the needs of a significantly changing population and growing tourism demands for new dwellings;*
- *Prepare for and manage the significantly ageing population and ensure that new housing meets the needs of smaller households and ageing populations by encouraging a shift in dwelling mix and type;*
- *Protect the rural landscape and natural environment by limiting urban sprawl....*

The Planning Proposal seeks to provide greater flexibility in the development of residential and mixed use zoned land and to encourage and provide for alternative forms of housing on smaller lots, currently permitted under the land use tables of these zones, which is consistent with the draft *Murray Regional Strategy*.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The *Albury 2030 Community Strategic Plan* is Council's local community strategic planning document. The *Albury 2030 Plan* includes the following strategic aims under the theme of 'a growing economy':

- *Support and encourage a diversity of residential and commercial development in the Albury and Lavington CBDs;*
- *Support Albury's population growth – ensure policies facilitate sustainable growth and housing choice without compromising Albury's values;*
- *Review and monitor the Local Environmental Plan and the Development Control Plan with regard to outcomes within Albury 2030; and*
- *Albury Land Monitor (residential, commercial and industrial sectors) - which includes as a Target for 2016:*
 - *Maintain a diversity of options amongst all sectors and continue to meet demands for opportunities of land development; and*
 - *Maintain existing development with opportunities for infill development.*
- *Promote Albury as a major regional economy and the regional choice for lifestyle, career and investment opportunities*

The proposed amendment of local Clause 4.1A in ALEP 2010 is consistent with the above objectives and targets, as it seeks to encourage a diversity of residential development, support sustainable population growth and housing choice within Albury and encourages opportunities for infill development.

5. Is the planning proposal consistent with applicable state environmental planning policies?

The Planning Proposal is consistent, or where applicable, justifiably inconsistent with *State Environmental Planning Policies*, as set out in **Table 2** of Appendix A.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is consistent, or where applicable, justifiably inconsistent with Section 117(2) Ministerial Directions, as set out in **Table 3** of Appendix A.

Section C - Environmental, social and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no change in land use zoning proposed under the subject Planning Proposal with all existing environmental zones to remain untouched.

It is noted that ALEP 2010 has received biodiversity certification under the *Threatened Species Conservation Act 1995* (TSC Act) from the NSW Office of Environment and Heritage. The primary effect of conferring certification under this Act is that any development in an 'area proposed for development' (including the residential and business zones) that requires development consent under Parts 4 or 5 of the EP&A Act is taken to be development that is not likely to significantly affect threatened species, populations, ecological communities or their habitats. This is due to the fact that elsewhere across the city, land designated as 'natural areas' has been zoned E2 Environment Protection or E3 Environmental Management for the ongoing maintenance and improvement of this land.

In this instance, residential and business zones are classified as 'Areas proposed for development' and the *Native Vegetation Act* does not apply and has been offset elsewhere within the Albury LGA. It is also noted that these zones are generally cleared and contain very little environmental attributes. Notwithstanding, any tree removal within these zones to facilitate a particular development, will be subject to approval as part of a Tree Preservation Order.

Accordingly, no threatened species, populations or ecological communities or their habitats will be adversely affected as a result of this proposal.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposal seeks to permit the subdivision of land less than the minimum lot size for dual occupancy developments in the residential and mixed use zones, which as previously outlined in this report, are already highly fragmented in terms of extant vegetation, which will therefore not have any adverse environmental effects.

Notwithstanding, any future development of land (including subdivision) less than the minimum lot size, will be subject to a separate development application, which will require a more detailed investigation and assessment so as to manage/limit any likely environmental effects.

9. Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal has the potential to have an overall positive social and economic impact upon the wider Albury area as detailed below.

As outlined above, the proposal seeks to allow the subdivision of land less than the minimum lot size for dual occupancy development in response to feedback from Albury's development industry (builders, developers and surveyors), as well as being reflective of a number of recent development applications assessed and approved by Council for these forms of residential development.

It is noted that the subject proposal does not seek to change the land use permissibility's of the residential or mixed use zones, but rather seeks to accommodate and support a variety of residential uses already permitted within Albury's residential and mixed use areas.

The overall benefits of including this exception for dual occupancy developments is therefore seen as positive, due to the potential demand for such development types given Albury's position within the wider regional and rural catchment area of the Murray and Riverina, as well as reflecting a number of demographic and social changes.

It is acknowledged however that there could be some potential off-site impacts associated with subdividing land less than the minimum lot size, which could result in the over-development of land and associated issues regarding amenity impacts on neighbouring properties (i.e. overlooking, overshadowing, car parking etc).

Notwithstanding the above, given the fact that these types of residential development are already permitted within Albury's residential and mixed use zones and have been approved as part of either a Community Title or Strata Title subdivision development, the impacts of the proposal are considered minimal. It is also noted that any applications lodged under this local Clause will still be subject to a separate Development Application assessment process and will need to satisfy the provisions of ADCP 2010, with respect to the development controls of this Plan (i.e. car parking, setbacks, building heights etc).

Alternatively, these forms of development can also be approved as part of a Complying Development Certificate under *State Environmental Planning Policy (Affordable Rental Housing) 2009*, where no subdivision is proposed and the development complies with a number of pre-determined conditions.

The Planning Proposal will also have a positive social impact as it reflects anecdotal advice received from members of Albury's development industry that alternative forms of housing are becoming more popular. This is confirmed by data contained within the draft *Albury Development Monitor 2014-15*, which shows a 90% increase in the number of dual occupancies/secondary dwellings (being 2 dwellings on the one site) that have been constructed since 2009-10, as well as a 16% increase in the number of multi dwelling housing developments (3 or more dwellings on the one site) that have been approved during this same period.

There are a number of reasons for the increasing demand for this type of housing including; a reduction in household sizes, an ageing population ('ageing in place'), an increase in overseas migration and their housing preferences, better utilisation of infrastructure and services, the costs involved in creating/providing new vacant land, a need to limit urban sprawl, and the benefits associated with infill development located within close proximity to amenities and services such as parks, public transport and shopping facilities.

As a consequence, AlburyCity is now seeking to amend ALEP 2010 by amending an existing local clause that will allow for exceptions to minimum lot size requirements for dual occupancy developments (subject to Council consent). The implications of not proceeding with this Planning Proposal are variable, but include restricting the diversity of housing within Albury; perpetuate/exacerbate the number of applications that depart from a development standard as per Clause 4.6 of ALEP 2010 and add unnecessary complexity to the development process.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal is seeking to allow the subdivision of land (for torrens title purposes) less than the minimum lot size for dual occupancy development purposes, within Albury's established residential and mixed use areas. The proposal does not change the zoning of the land or the land use types that are permitted within these zones, which accordingly will have an overall negligible impact on infrastructure and services.

It is also noted that Council will levy developer contributions as part of any development consent issued to cater for the additional demands placed upon Council's infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage with any State and/or Commonwealth Public Authorities (with the exception of the NSW DPE) or service providers; however, any consultation will occur in accordance with the Gateway Determination.

It is noted however that as per s.117(2) *Ministerial Direction 4.4(4) – Planning for Bushfire Protection*, requires that where a Planning Proposal affects land identified as being bushfire prone, that consultation must be undertaken with the NSW Rural Fire Service (RFS).

Whilst several of Albury's residential zones are identified as being bushfire prone, it is noted that for the most part, these only relate to bushfire buffers associated with nearby hazards and only affects a very small portion of this land. Given that the proposal does not seek to change the zoning of the land and any proposed developments involving subdivision are still subject to assessment and referral by the NSW RFS under s.100B of the *Rural Fires Act 1997* for the issuing of a Bushfire Safety Authority, consultation with this agency is considered unnecessary in this instance due to the minor impacts of the proposed amendment.

AlburyCity believes that the proposal will have a low impact on existing residential development and will be generally consistent with surrounding land uses.

PART 4 – MAPPING

The proposal does not seek a change in LEP mapping as it only seeks to amend Clause 4.1A as contained within Part 4 of ALEP 2010, as it relates to exceptions to minimum subdivision lot sizes for dual occupancies.

Notwithstanding, **Appendix B** of this report contains a city wide land zoning map, showing all areas zoned R1 General Residential, R3 Medium Density Residential and B4 Mixed Use for information purposes.

PART 5 – COMMUNITY CONSULTATION

The planning proposal will be exhibited in accordance with the requirements of section 57 of the *Environmental Planning & Assessment Act 1979* and the NSW Department of Planning's: *A guide to preparing local environmental plans* (April 2013).

As outlined above, AlburyCity considers the planning proposal to be a 'low impact proposal' for the purposes of public exhibition and would seek a public exhibition period for a minimum of 14 days only, due to the relatively minor nature of the proposal and the fact that the proposal does not change the zoning or permitted land uses of the existing zones, whilst also not having an adverse impact on services, infrastructure or the environment.

Written notification of the community consultation will be provided in a local newspaper and on Councils' website. In addition to this, any affected landowner/s will be notified in writing.

The written notice will contain:

- A brief description of the intended outcomes of the planning proposal;
- An indication of the land which is affected by the proposal;
- Information on where and when the planning proposal can be inspected;
- The name and address of Council for the receipt of submissions;
- The closing date for submissions; and
- Whether the Minister has chosen to delegate Plan Making powers to Council.

During the public exhibition period the following documents will be placed on public exhibition:

- The Planning Proposal;
- The Gateway determination;
- Relevant council reports.

PART 6 – PROJECT TIMELINE

Table 1 provides a project timeline for the proposed amendment to ALEP 2010.

Table 1 – Project Timeline

No.	Description of Tasks	Task Commencement	Task Completion
1.	Gateway Determination Anticipated Gateway Determination (including any delegated authority)	Late September 2015	Early October 2015
2.	Public Exhibition Agency and community consultation to be undertaken as part of the formal public exhibition of the Planning Proposal in accordance with any conditions of the Gateway Determination.	Early October 2015	Late October 2015
3.	Consider Submissions & Document Finalisation (only if submissions received) Post public exhibition, AlburyCity officers to consider, respond and report on submissions received and issues raised to Council (if any) and make any relevant changes to the Planning Proposal.	Late October 2015	November 2015
4.	Submission to the Department and/or Parliamentary Counsel RPA to forward Planning Proposal to the department and/or Parliamentary Counsel (if delegated) for finalisation following public exhibition (including any changes made)(if required).	Late November 2015	Early December 2015
5.	Notification Anticipated date LEP will be notified.	December 2015	December 2015

APPENDIX A

Table 2 – Consideration of State Environmental Planning Policies

No.	SEPP Title	Applicable to Planning Proposal	Consistency
1	State Environmental Planning Policy – Development Standards	No, does not apply to land in the Albury LGA since gazettal of ALEP 2010	N/A
14	State Environmental Planning Policy – Coastal Wetlands	No, does not apply to the Albury LGA	N/A
15	State Environmental Planning Policy – Rural Landsharing Communities	No, does not apply to the Albury LGA	N/A
19	State Environmental Planning Policy – Bushland in Urban Areas	No, does not apply to the Albury LGA	N/A
21	State Environmental Planning Policy – Caravan Parks	Not applicable	N/A
26	State Environmental Planning Policy – Littoral Rainforests	No, does not apply to the Albury LGA	N/A
29	State Environmental Planning Policy – Western Sydney Recreation Area	No, does not apply to the Albury LGA	N/A
30	State Environmental Planning Policy – Intensive Agriculture	Not applicable	N/A
32	State Environmental Planning Policy – Urban Consolidation (Redevelopment of Urban Land)	Not applicable	Although this SEPP is not relevant in that it does not relate to land no longer needed or used for the purposes for which it is zoned, nonetheless, it does seek to encourage infill development and urban consolidation of land for dual occupancy development in established areas.
33	State Environmental Planning Policy – Hazardous & Offensive Industry	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
36	State Environmental Planning Policy – Manufactured Home Estate	Not applicable	N/A
39	State Environmental Planning Policy – Spit Island Bird Habitat	No, does not apply to the Albury LGA	N/A
44	State Environmental Planning Policy – Koala Habitat Protection	Not applicable	N/A
47	State Environmental Planning Policy – Moore Park Showground	No, does not apply to the Albury LGA	N/A
50	State Environmental Planning Policy – Canal Estate Development	Not applicable	N/A
52	State Environmental Planning Policy – Farm Dams and Other Works in Land and Water Management Plan Areas	No, does not apply to the Albury LGA	N/A
55	State Environmental Planning Policy – Remediation of Land	Not applicable	N/A
59	State Environmental Planning Policy – Central Western Sydney Regional Open Space and Residential	No, does not apply to the Albury LGA	N/A
62	State Environmental Planning Policy – Sustainable Aquaculture	Not applicable	N/A
64	State Environmental Planning Policy – Advertising & Signage	Not applicable	N/A
65	State Environmental Planning Policy – Design Quality of Residential Flat Development	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
70	State Environmental Planning Policy – Affordable Housing (Revised Schemes)	No, does not apply to the Albury LGA	N/A
71	State Environmental Planning Policy – Coastal Protection	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Affordable Rental Housing) 2009	Applicable	The Planning Proposal does not derogate from the aims and objectives of this SEPP. It is acknowledged that this SEPP allows for the construction of a secondary dwelling as Complying Development under this SEPP, where no subdivision is proposed. It is noted that the proposed amended clause does not prevent an owner wishing to construct a development for Affordable Rental Housing purposes and the provisions of this SEPP shall continue to apply. It is also noted that the proposed revised local clause also seeks to encourage dual occupancies on appropriately sized and zoned sites, which is also generally consistent with the aims and objectives of this SEPP.
	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not applicable	N/A
	State Environmental Planning Policy (Exempt & Complying Development Codes) 2008	Not applicable	This SEPP allows for a number of residential developments to be undertaken as Complying Development (including dwelling houses and secondary dwellings). The subject Planning Proposal does not alter compliance with this SEPP and rather provides an alternative option for dual occupancy developments as part of a development application.

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (Housing for Seniors & People with a Disability) 2004	Not applicable	Although the subject proposal does not specifically relate to housing for seniors and people with a disability, it does encourage a diversity of housing and infill development in close proximity to existing services that could cater for a number of household types and users groups (including for seniors or people with a disability), which is consistent with the aims of this Policy.
	State Environmental Planning Policy (Infrastructure) 2007	Not applicable	N/A
	State Environmental Planning Policy (Kosciuszko National Park–Alpine Resorts) 2007	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Kurnell Peninsula) 1989	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Major Development) 2005	Not applicable	N/A
	State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007	Not applicable	N/A
	State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007	Not applicable	N/A
	State Environmental Planning Policy (Penrith Lakes Scheme) 1989	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Rural Lands) 2008	Not applicable	N/A
	State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (State and Regional Development) 2011	Not applicable	N/A
	State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	Not applicable	N/A
	State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not applicable	N/A
	State Environmental Planning Policy (Three Ports) 2013	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Urban Renewal) 2010	Not applicable	N/A
	State Environmental Planning Policy (Western Sydney Employment Area) 2009	No, does not apply to the Albury LGA	N/A
	State Environmental Planning Policy (Western Sydney Parklands) 2009	No, does not apply to the Albury LGA	N/A
	Murray Regional Environmental Plan No. 2 – Riverine Land (Deemed SEPP)	Yes applies to the Albury LGA	Consistent, as the Planning Proposal does not derogate from the aims, objectives, development consent, general and specific planning principles and consultation requirements as provided in the REP.

Table 3 – Consideration of Section 117(2) Ministerial Directions

No.	Direction Title	Applicable to Planning Proposal	Consistency
1. Employment and Resources			
1.1	Business & Industrial Zones	Yes, as the planning proposal will affect land within a business zone, being the B4 Mixed Use Zone	Consistent, because the planning proposal does not reduce the area of land zoned for business or industrial purposes and does not reduce the total potential floor space for employment, public service or industrial uses. This Direction applies as the B4 Mixed Use zone allows for a variety of residential accommodation in close proximity to both the Albury and Lavington CBDs. The outcomes sought within the Planning Proposal are considered satisfactory in this instance and will support the objectives of this Direction by encouraging infill development, which in turn will have positive impacts upon the business zones of Albury.
1.2	Rural Zones	Not applicable as the Proposal does not relate to rural zoned land	
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable	N/A
1.4	Oyster Aquaculture	Not applicable	N/A
1.5	Rural Lands	Not applicable	
2. Environment and Heritage			
2.1	Environmental Protection Zones	Not applicable as the Proposal does not relate to land zoned for environment protection purposes	N/A
2.2	Coastal Protection	No (does not apply to land in Albury LGA)	N/A

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
2.3	Heritage Conservation	Not applicable	Not applicable as the subject Planning Proposal does not change a provision relating to heritage items or heritage conservation areas, nor does it specifically relate to a heritage item or heritage conservation area. Nonetheless, it is noted that a number of Albury's residential and mixed use zones are either identified as individual heritage items or as part of a heritage conservation areas. This is considered satisfactory in this instance, however as any form of residential accommodation (other than a single dwelling house) will require the lodgement and assessment of a development application against the provisions of Part 7 – Heritage Conservation of the <i>Albury Development Control Plan 2010</i> as well as the requirements of the <i>Heritage Act 1977</i>.
2.4	Recreation Vehicle Areas	Not applicable	N/A
3. Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Yes, as the planning proposal will affect land within a residential zone, being the R1 General Residential and R3 Medium Density Residential Zones	Consistent, as the Planning Proposal seeks to allow dual occupancy developments on lot sizes, less than the minimum lot size shown on the minimum lot size map in ALEP 2010 (subject to Council consent). This Planning Proposal achieves the objectives of this Direction as it: • Encourages a variety and choice of housing types for existing and future housing needs; and • Makes the more efficient use of existing infrastructure, services and land, by encouraging infill development.

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
3.1	Residential Zones Cont.		The proposal is also consistent with this Direction as it does not seek to reduce or alter the existing boundaries of residentially zoned land, broadens the choice of housing types, makes more efficient use of infrastructure and seeks where possible to limit the level of urban sprawl. It is noted that Albury's existing zoned residential areas are generally already serviced and can accommodate additional development with any additional demands placed on existing infrastructure, which can be offset by the payment of developer contributions.
3.2	Caravan Parks & Manufactured Home Estates	Not applicable	N/A
3.3	Home Occupations	Not applicable	N/A
3.4	Integrating Land Use and Transport	Yes because the planning proposal affects urban land zoned for residential and business purposes	Consistent because the planning proposal has regard for the two DUAP documents referenced in this Direction with the General Residential, Medium Density Residential and Mixed Use zones all already serviced by the local road network and public transport services in the area. By encouraging a greater density of residential development within established areas this will also support existing public transport systems and will encourage walking and cycling in areas located in close proximity to facilities and services.
3.5	Development Near Licensed Aerodromes	Not applicable	N/A
3.6	Shooting Ranges	Not applicable	N/A

No.	Direction Title	Applicable to Planning Proposal	Consistency
4. Hazard and Risk			
4.1	Acid Sulphate Soils	No (does not apply to land in the Albury LGA)	N/A
4.2	Mine Subsidence & Unstable Land	No (does not apply to land in the Albury LGA)	N/A
4.3	Flood Prone Land	Yes because the planning proposal creates a provision relating to land classified as flood prone	The Planning Proposal is not inconsistent with the objectives of this Direction, being to ensure development of flood prone land is consistent with the NSW <i>Floodplain Development Manual 2005</i>. It is noted that this Direction only applies, due to the fact that several of Albury's residential and mixed use zones are located within a flood prone area. It is anticipated that the impacts of flooding on owners and occupiers of flood prone land will be minimal as these properties are already zoned for these purposes and have been the subject of a number of approvals for dual occupancies, multi dwelling housing and residential flat buildings as part of either a community title or strata title subdivision. The proposal also maintains normal assessment, referral and concurrence requirements for development of land in flood prone areas and likewise, Clauses 7.2 – Water and 7.4 – Flood Planning of ALEP 2010 will also appropriately control development that is subject to flooding or that will have a potentially deleterious effect upon riparian areas.
4.4	Planning for Bushfire Protection	Yes because the planning proposal affects land classified as bushfire prone land	The Planning Proposal is not inconsistent with the objectives of this Direction, being to protect life, property and the environment from bush fire hazards by discouraging the establishment of incompatible land uses in bushfire prone areas.

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
4.4	Planning for Bushfire Protection Cont.		It is noted that this Direction only applies, due to the fact that several of Albury's residential zones are located within a bushfire prone area associated with nearby hazards, which only affect a very small portion of this land. Furthermore, the proposal also maintains normal assessment, referral and concurrence (if required) requirements for development of land in bushfire prone areas, whilst still requiring compliance with the aims, objectives and controls of the RFS Guideline: <i>Planning for Bushfire Protection 2006</i> and the <i>Rural Fires Act 1997</i>.
5. Regional Planning			
5.1	Implementation of Regional Strategies	No (there is no gazetted regional strategy applicable to the AlburyCity LGA)	N/A
5.2	Sydney Drinking Water Catchment	No (does not apply to the AlburyCity LGA)	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	No (does not apply to the AlburyCity LGA)	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	No (does not apply to the AlburyCity LGA)	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	No (does not apply to the AlburyCity LGA)	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No (does not apply to the AlburyCity LGA)	N/A

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No (does not apply to the AlburyCity LGA)	N/A
5.8	Second Sydney Airport: Badgerys Creek	No (does not apply to the AlburyCity LGA)	N/A
5.9	North West Rail Link Corridor Strategy	No (does not apply to the AlburyCity LGA)	N/A
6. Local Plan Making			
6.1	Approval and Referral Requirements	Yes, applies to all relevant Planning Authorities	Consistent, as the planning proposal is not proposing to add any provisions which require referral of development applications to the Minister.
6.2	Reserving Land for Public Purposes	Not applicable as the proposal does not relate to public land	N/A
6.3	Site Specific Provisions	Not applicable	N/A
7. Metropolitan Planning			
7.1	Implementation of Metropolitan Strategy	Not applicable	N/A

APPENDIX B

Lake Macquarie Local Environmental Plan 2014 – Clause 4.1A

Lake Macquarie Local Environmental Plan 2014

Current version for 2 October 2015 to date (accessed 13 October 2015 at 10:56)

[Part 4](#) > [Clause 4.1A](#)

[<< page >>](#)

4.1A Exceptions to minimum subdivision lot sizes for certain residential development

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) Despite clause 4.1, development consent may be granted to development on land in Zone R1 General Residential or Zone R2 Low Density Residential that is both of the following:
 - (b) the erection of a dual occupancy,
 - (a) the subdivision of the land into 2 lots if the size of each lot resulting from the subdivision is at least 250 square metres.
- (3) Despite clause 4.1, development consent may be granted to development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential that is both of the following:
 - (a) the subdivision of land into 3 or more lots that each have frontage to a road,
 - (b) the erection of:
 - (i) a dwelling house or semi-detached dwelling on land in Zone R2 Low Density Residential if the size of each lot resulting from the subdivision is at least 300 square metres but no more than 450 square metres, or
 - (ii) a dwelling house or an attached dwelling on land in Zone R3 Medium Density Residential if the size of each lot resulting from the subdivision is at least 200 square metres but no more than 450 square metres.
- (4) Despite subclause (3), development consent may be granted for development under subclause (3) (a), but only if the consent authority is satisfied that:
 - (a) an attached dwelling, dwelling house or semi-detached dwelling could be appropriately located on each lot, or
 - (b) the subdivision would be consistent with a development control plan prepared specifically for the site.

[Top of page](#)

Albury Local Environmental Plan 2010 – Land Zoning Map

