

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

No.	Direction Title	Applicable to Planning Proposal	Consistency
1. Employment and Resources			
1.1	Business & Industrial Zones	Not applicable	N/A
1.2	Rural Zones	Not applicable	N/A
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	N/A
2. Environment and Heritage			
2.1	Environmental Protection Zones	Not applicable	N/A
2.2	Coastal Protection	Not applicable	N/A
2.3	Heritage Conservation	Not applicable	N/A
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 in an existing or proposed residential zone	Consistent. The subject land was inadvertently rezoned RE1 Public Recreation when ALEP 2010 was made. This was a mapping error as there was no specific request from the current owners to have their land rezoned and Council does not have any intention of acquiring the land for public recreation purposes. The Planning Proposal seeks to reinstate a like residential zoning similar to that which applied under previous planning instruments. This will assist sustainable growth and housing choice.

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No.	Direction Title	Applicable to Planning Proposal	Consistency
3.1	Residential Zones cont.		The subject land is located in an existing urban area, and accordingly, adequate provision of and access to existing public infrastructure is available to assist existing and ongoing land use activities and development on-site. It is noted that the physical condition and use of the subject land has not changed from when it was previously zoned residential, therefore, there is no substantive change to the planning provisions. It is further noted that the subject land is privately owned and ownership status is not expected to alter.
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 as the Planning Proposal seeks to create a provision relating to urban land, including land zoned for residential purposes.	Consistent. This Planning Proposal gives effect to and is consistent with the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001). It is reiterated, this Planning Proposal seeks to correct a mapping error by reinstating a like residential zoning, similar to that which applied to the subject land under previous planning instruments. Accordingly, the provision, access and demand on public infrastructure (including road and transport infrastructure) is considered to be neutral.

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No.	Direction Title	Applicable to Planning Proposal	Consistency
3.5	Development Near Licensed Aerodromes	Not applicable	N/A
4. Hazard and Risk			
4.1	Acid Sulphate Soils	Not applicable	N/A
4.2	Mine Subsidence & Unstable Land	Not applicable	N/A
4.3	Flood Prone Land	Yes as the Planning Proposal seeks to alter a provision that affects flood prone land	Justifiably Inconsistent. The land, being the subject of this Planning Proposal, has been identified as a 'Flood Referral Area' on the AlburyCity Flood Referral Area Map – September 1999. A Flood Referral Area is land that may be flood affected, and consequently, may be subject to a minimum floor level requirement. Notwithstanding ,the subject land is currently 'RE1 Public Recreation Zone' under ALEP 2010, it is noted that this Planning Proposal simply seeks to correct a mapping error by reinstating a like residential zoning similar to that which applied to the subject land under previous planning instruments. It is should be noted that there was no specific request from the current owners to have their land rezoned and Council does not have any intention of acquiring the land for public recreation purposes. Any potential flood affectation is the same as that which applied under previous planning instruments. Accordingly, any likely environmental effects and flood risks resulting from the Planning Proposal are considered to be neutral

No.	Direction Title	Applicable to Planning Proposal	Consistency
	Flood Prone Land cont.		It is further noted that similar land in the locality has been sustainably developed for residential purposes despite being identified as 'Flood Referral Area'. Notwithstanding, Clause 7.4 of ALEP 2010 and Part 6 of the Albury Development Control Plan 2010 (ADCP 2010) requires appropriate consideration, assessment and response to potential flood issues affecting the subject land.
4.4	Planning for Bushfire Protection	Not applicable	N/A
5. Regional Planning			
5.1	Implementation of Regional Strategies	Not applicable	N/A
5.2	Sydney Drinking Water Catchment	Not applicable	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	Not applicable	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable	N/A
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable	N/A

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No.	Direction Title	Applicable to Planning Proposal	Consistency
5.8	Second Sydney Airport: Badgerys Creek	Not applicable	N/A
6. Local Plan Making			
6.1	Approval and Referral Requirements	Not applicable	N/A
6.2	Reserving Land for Public Purposes	Yes as the Planning Proposal seeks to facilitate the removal of zonings of land for public purposes	Justifiably inconsistent This Planning Proposal seeks to alter or reduce zonings of land for public purposes. It is noted that the subject land was zoned residential under previous planning instruments. The subject land was inadvertently rezoned to 'RE1 Public Recreation Zone' when ALEP 2010 was made. This was a mapping error as there was no specific request from the current private landowners to have their land rezoned and Council does not have any intention of acquiring the land for public recreation purposes. ALEP 2010 Land Reservation Acquisition Map confirms the above statement as the subject land is not identified as subject to land acquisition for local open space (RE1) purposes. The subject land is not considered suitable for recreational purposes as it is privately owned and located in and adjoining the rear yards of a number of existing private residential properties and therefore not able to offer the accessibility and passive surveillance required of a public recreation area. It is further noted that the subject land and surrounding residential area already has an adequate supply and readily available access to open space areas and parkland.

No.	Direction Title	Applicable to Planning Proposal	Consistency
	Reserving Land for Public Purposes cont.		A parkland network that caters for a broad range of recreational activities (including active and passive recreation) adjoins and is within 100-200 metre radius of the subject land. This parkland network includes: ▪ Bungambrawatha Creek bike path, ▪ Fredericks Park, ▪ Bunton Park. It is reiterated, this Planning Proposal seeks to correct a mapping error by reinstating a like residential zone similar to that which previously applied to the subject land. In recognition of previous zoning applying to the subject land it is important to note that there is no community expectation that the subject land will be developed for public recreation purposes. The physical condition and use of the subject land has not changed from when it was previously zoned residential, therefore, there is no substantive change to the planning provisions. The subject land is privately owned and ownership status is not expected to alter.
6.3	Site Specific Provisions	Not applicable	N/A
7. Metropolitan Planning			
7.1	Implementation of Metropolitan Strategy	Not applicable	N/A

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Relevant Council Reports

10B Albury Local Environmental Plan 2010 – Planning Proposal Correction of a Zoning Error (FIL10/02484)

DATE 12 November 2010

CONFIDENTIAL YES ☐

NO ☒

If yes please tick one of the following reasons

Personnel Matters ☐

Commercial ☐

Legal ☐

Security ☐

Personal Hardship ☐

ITEM FOR DECISION ☒

Meeting Date Monday 22 November 2010

ITEM FOR NOTING ☐

Meeting Date

FURTHER ENQUIRIES TO

Chris Graham
Planning & Environment

PHONE 6023 8148

Background

On the Friday 13 August 2010 the NSW Department of Planning notified AlburyCity that the Minister for Planning had made the Albury Local Environmental Plan 2010 (ALEP 2010).

The preparation and gazettal of the ALEP 2010 has been the outcome of a comprehensive and complex review of existing planning controls, public consultation and revisions undertaken following the release of further iterations of the NSW Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument).

AlburyCity officers have recently been informed that as part of ALEP 2010 a number of private landholder properties (locality plan attached) have been inadvertently rezoned from 'Living Area Zone' (residential) under Albury Local Environmental Plan 2000 (ALEP 2000) to 'RE1 Public Recreation Zone' (Open Space). This was a strategic planning mapping error as Council does not own the land and has no intention of acquiring the land for public recreation purposes.

The NSW Department of Planning have been contacted with regard to the above and have advised that AlburyCity should submit a Planning Proposal to rectify this matter. A copy of the Planning Proposal is attached for Council's information. This report seeks Council's endorsement of the planning proposal.

Discussion

The land, the subject of this proposal, was previously zoned "Living Area" under Albury LEP 2000. There is no desire and has been no specific request from the current owners to have their land rezoned and Council does not have any intention of acquiring the land.

For all intents and purposes the land and use of the land has not changed from when it was zoned as "Living Area", therefore, there is essentially no substantive change to the planning provisions. On this basis it is recommended that Council seek and expedited process for the planning proposal, especially no requirement for public exhibition or consultation with government agencies.

Conclusions

Affected landowners have requested that this matter be dealt with urgently and AlburyCity officers agree that this matter should be pursued as soon as possible.

Accordingly, Council support is now sought to endorse the attached Planning Proposal and seek NSW Department of Planning authority to progress this matter as either an expedited Amendment pursuant to Section 73A of the Environmental Planning and Assessment Act 1979 (EP&A Act) or as an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and State and Commonwealth Government public authority consultation requirement.

Notwithstanding, should an exhibition period and State and Commonwealth Government public authority consultation be required by the Gateway Determination, consultation will be undertaken in accordance any conditions of the Gateway Determination and in accordance with the EP&A Act.

Recommendation

That Council:

- a. endorse the Planning Proposal to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 (ALEP 2010) that seeks to:

- 1. amend the Land Zoning Map for the subject land from 'RE1 Public Recreation Zone' to 'R1 General Residential Zone';
 - 2. amend the Lot Size Map for the subject land from 'no minimum lot size' to '450 square metres';

and request that a Gateway Determination be made, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act) that permits either an expedited Amendment pursuant to Section 73A of the EP&A Act or an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and no State and Commonwealth Government public authority consultation requirement owing to the urgency of the matter and in recognition that the Planning Proposal seeks to rectify a strategic planning mapping error and reinstate a like zoning similar to that which previously applied to the subject land,

- b. furnish a copy of this report and other relevant information to the NSW Department of Planning, in accordance with the EP&A Act and request the Minister for Planning undertake the appropriate actions to secure the making of the Amendment to the Albury Local Environmental Plan 2010 to the extent that it relates to the land use zoning and minimum lot size provisions for the subject land.

- **Attachment**

- 1. Albury Local Environmental Plan 2010 – Planning Proposal – Correction of a Land Use Zoning Error (*to be tabled at the Meeting*).

Planning Proposal – Albury Local Environmental Plan 2010 – Correction of a zoning error

Site Identification Map

Land Zoning Map – Sheet LZN_004 (as amended)

Lot Size Map – Sheet LSZ_004 (as amended)



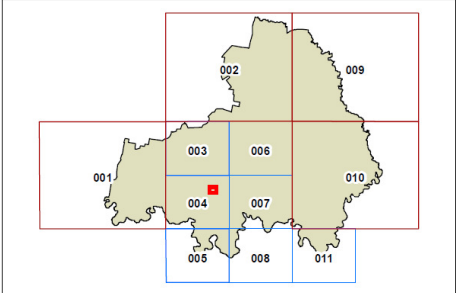
**Albury Local
Environmental
Plan 2010**
**Correction of zoning
error**

Site Identification Map
Part of map tile:
0050_COM_LZN_004_020_20101116
0050_COM_LSZ_004_020_20101116

Proposed Zone
 Subject Land

Cadastre
 Cadastre 1/11/10 © Albury City Council

This map is for explanation purposes only.
This map is not a legal document.





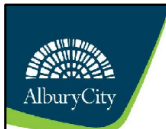
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Map Identification Number:
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Albury Local Environmental Plan 2010

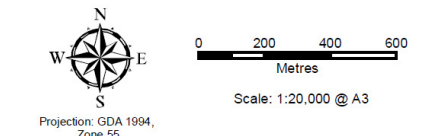
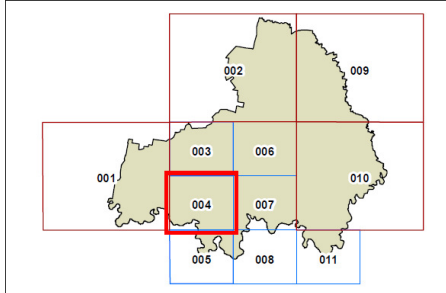
Land Zoning Map - Sheet LZN_004

Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- B6 Enterprise Corridor
- B7 Business Park
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RE1 Public Recreation
- RE2 Private Recreation
- RU1 Primary Production
- RU2 Rural Landscape
- RU4 Rural Small Holdings
- RU5 Village
- SP1 Special Activities
- SP2 Infrastructure
- W2 Recreational Waterways
- DM Deferred Matter

Cadastre

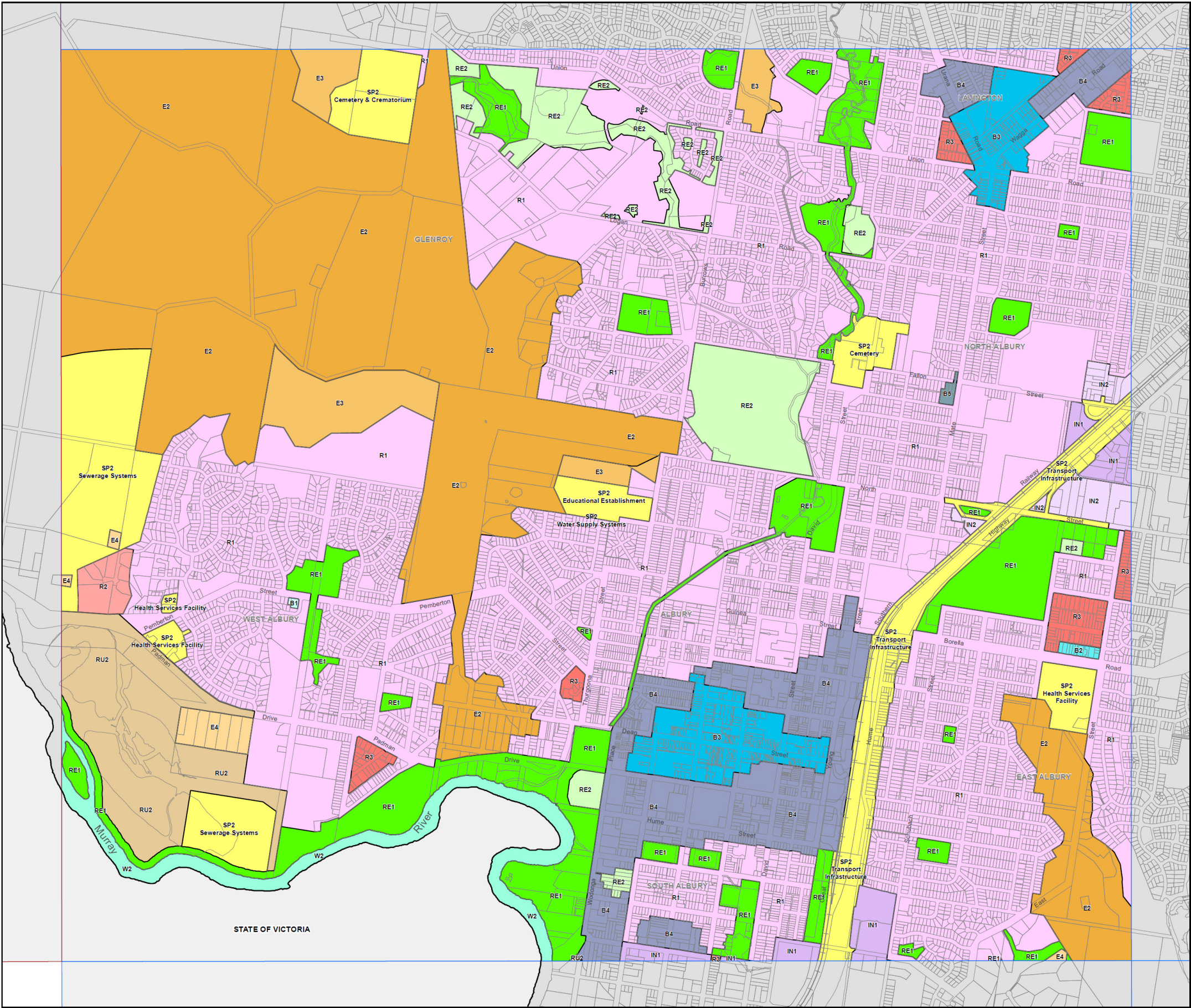
Cadastre 14/05/10 © Albury City Council

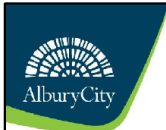


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**Albury Local
Environmental
Plan 2010**

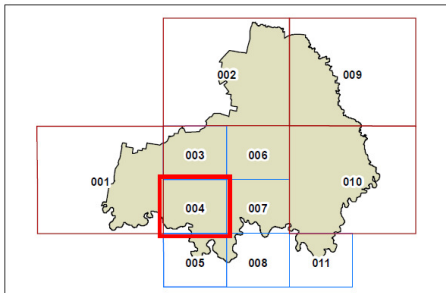
Lot Size Map - Sheet LSZ_004

Minimum Lot Size

A	100m2
D	300m2
G	450m2
U	1500m2
V	2000m2
W	4000m2
X	5000m2
Y	1ha
Z	2ha
AB1	10ha
AB2	40ha
AC	80ha
AD	100ha
AE	300ha
DM	Deferred Matter

Cadastre

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Projection: GDA 1994, Zone 55



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