

Planning and Assessment

IRF20/4238

Gateway determination report

LGA	Greater Hume
PPA	Greater Hume Shire Council
NAME	Zoning and Minimum Lot Size Changes for Culcairn
NUMBER	PP_2020_GHUME_001_00
LEP TO BE AMENDED	Greater Hume LEP 2012 (LEP)
ADDRESS	Various Culcairn (full list on page 4 of planning proposal)
DESCRIPTION	Baird Street, Railway Parade, Walbundrie Road and Balfour Street Localities, Culcairn
RECEIVED	1 September 2020
FILE NO.	IRF20/4238
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal includes a range of amendments for sites around Culcairn as outlined below:

- Rezone selected sites (CU1 identified in figure 1 below) near Baird Street from RU1 Primary Production with a minimum lot size of 100ha to RU4 Primary Production Small Lots with a minimum lot size of 4ha to provide lifestyle housing options.
- Rezone Lot A DP 385255 (CU2 identified in figure 1 below) on Railway Parade from RU1 Primary Production with a minimum lot size of 100ha to RU5 Village with a minimum lot size of 600m² to provide for mixed uses including housing and industrial.
- Rezone Part Lot 3 DP 1105775 (CU3 identified in figure 1 below) from RU1 Primary Production with a minimum lot size of 100ha to RU5 Village with a minimum lot size of 600m² to provide for mixed uses with a focus on further housing.
- Rezone selected sites along Balfour Street (CU4 identified in figure 1 below) from RU1 Primary Production with a minimum lot size of 100ha to R2 Low Density Residential with a minimum lot size of 4000m² to provide for lifestyle housing options.

1.2 Site description

The planning proposal applies to a variety of sites in and around Culcairn as shown in Figure 1 below. Aerial photographs of each site can be found on pages 11 and 12 of the planning proposal.

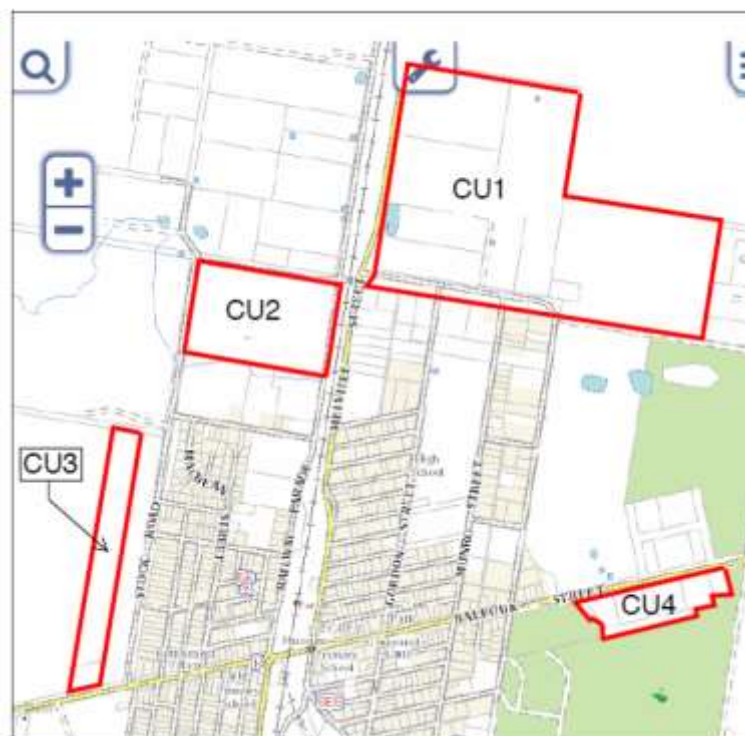
CU1 is made up of 13 lots, identified on page 4 of the planning proposal. The lots are currently used as farmland with a mixture of sown crop or pasture and established pastures. There are scattered mature trees across the site. There are two existing dwellings and associated outbuildings. The site is located to the north of the township with a railway line to the west and the towns cemetery and sewerage treatment works to the east.

CU2 is located in the north western corner of the existing settlement and appears to be predominantly used for grazing. The site is cleared with limited isolated paddock trees and a drainage line below the southern boundary. The site adjoins a RU4 Primary Production small lots to the north. The lots are made up of small 2ha lots prominently used as lifestyle lots.

CU3 is located to the west of the existing township on a site which has been routinely used for broadacre cropping with scattered mature trees remaining across the site. The site has some lower lying areas in its northern and southern sections. The site aligns with an existing strip of RU5 land which has not yet been developed.

CU4 is made up of 6 lots, identified on page 4 of the planning proposal. The sites are located to the east of the township and is currently characterised by rural residential style development with a range of vegetation across the site. To the north of the site there is a combination of undeveloped land possibly used for grazing and allotments of a rural residential scale which are partially developed, the eastern and southern boundaries of the site border the golf course and to the west of the site there is a small remnant patch of woodland.

Figure 1: Location map for candidate sites.



1.3 Existing planning controls

The land subject to this planning proposal is currently governed by the Greater Hume Local Environmental Plan 2012 (GHLEP 2012). Under the GHLEP 2012 all of the land is currently zoned RU1 Primary Production with a minimum lot size of 100 hectares. Site CU4 is identified on Terrestrial Biodiversity mapping.

While none of the sites are shown on the Heritage mapping, all of the sites directly adjoin other sites which are identified on heritage mapping as shown in Figure 9 below.

Figure 6: Extract of Current Land Use Zones



Figure7: Extract of Current Minimum Lot Sizes



Figure 8: Extract of Terrestrial Biodiversity Mapping



Figure 9: Extract of Heritage Mapping



1.4 Surrounding area

The land subject to the planning proposal is located around the edges of the existing urban settlement and is accordingly in proximity to a mixture of urban uses including housing, commercial, industrial, rural residential and recreational uses. The sites are also bordered by farmland. Site CU1 directly adjoins the sewerage treatment works and cemetery.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the proposal is to provide additional land for a range of residential development around Culcairn including standard residential lots, low density residential lots and hobby farm size parcels. The proposal also notes that part of CU2 has been identified for potential industrial development.

Council has indicated that the changes propose to reinstate some urban and rural small holdings zones originally intended for the 2012 LEP but later excluded due to a lack of flooding information following the 2012 major flood event in the Shire. This information is now available following completion of the Culcairn Floodplain Risk Management Study and Plan in 2017.

2.2 Explanation of provisions

The table on page 4 of the planning proposal report identifies current and proposed zoning and minimum lot sizes and the specific land the changes are proposed to apply to through Lot and DP references.

CU1- amend to RU4 Primary Production Small Lots, Minimum Lot Size 4 hectares.

CU2- amend to RU5 Village, Minimum Lot Size 600 square metres.

CU3- amend to RU5 Village, Minimum Lot Size 600 square metres.

CU4- amend to R2 Low Density Residential, Minimum Lot Size 4,000 square metres.

The proposed amendments are clear. However, there are a number proposed changes to candidate site CU1 as per the recommended Gateway Determination conditions below. These changes are discussed in Part 3 and Part 4 of this report.

Having regard to CU4, the R2 Low Density Residential Zone is a new zone being introduced to the township of Culcairn. The introduction of the R2 zone adds an unnecessary complexity to the planning provisions to the town of Culcairn and does not appear to be necessary in this instance. A condition has been recommended on the Gateway Determination to require Council to discuss alternative zoning options that reflects the existing zones within Culcairn.

2.3 Mapping

The planning proposal report contains map extracts on pages 13 and 14 which show proposed zones and lot sizes overlayed on existing zone and lot size mapping. This combined with the explanation in the table on page 4 of the planning proposal report is considered sufficient.

Proposed conditions on the gateway determination require consideration of the proposed zone and lot size applying to CU1. As such, some changes to mapping may become necessary prior to community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal has resulted from the Greater Hume Land Use Plan, extensive consultation with the Department, through multiple versions of planning proposal reports. Whilst it is acknowledged that the planning proposal and associated reports still require additional justification, the Department agrees with the direction and outcomes. To address this, a number of conditions have been placed on the Gateway Determination to ensure that these concerns have been addressed.

Council has provided an addendum to the original planning proposal report which provides an updated discussion of the need for the planning proposal on pages 3 and 4. It is considered that the proposal put forward would generate a significant supply in relation to historical development trends for the town, but that it is not

unreasonable to rezone the land in the circumstances of the case and allow market forces to determine the rate of uptake.

The need to rezone a portion of CU1 does however require consideration. The addendum identifies on pages 2 and 3 that a 70 metre strip of land at the eastern end will be subdivided off to allow for the future expansion of the Culcairn Sewerage Treatment Works and that a 400 metre buffer from that new boundary will apply to prevent land use conflict between residents and the sewerage treatment works.

It is recommended that the 70 metre strip proposed to be utilised for the expansion of the sewerage treatment works not be included in the proposed RU4 Primary Production Small Lots zone. It is instead recommended that it remain in its current zone, or that rezoning of the sewerage treatment works (including its expanded boundary) and cemetery to SP2 Infrastructure be added to the planning proposal.

Alteration to the minimum lot size for the 70 metre strip of CU1 can be supported if it is necessary to facilitate its subdivision for inclusion with the sewerage treatment plant if the existing zone is being retained.

However, if the sewerage treatment works and cemetery are being rezoned to SP2 Infrastructure it would be preferable to also amend the lot size map to provide a suitable size for those uses.

A Gateway Determination condition has been recommended to document this discussion. Any changes to the proposed zone boundaries and lot size boundaries are to be made prior to public exhibition of the planning proposal.

4. STRATEGIC ASSESSMENT

4.1 State

There are no state issues of concern for this proposal.

4.2 Regional / District

The Riverina Murray Regional Plan 2036 applies to Greater Hume Shire. The planning proposal has undertaken an assessment against the goals and directions in the Regional Plan (Attachment D to the planning proposal report). It identifies an inconsistency with protecting agricultural land but indicates this is justified based on the location of the land on the boundaries of the existing settlement and the minor nature of the loss of agricultural land relative to the availability of such land in the shire.

The planning proposal assessment and justification are considered appropriate, additional commentary on some matters is provided below.

In relation to Direction 16 and Actions 16.1 and 16.6 relating to resilience to natural hazards, the information and proposed actions provided in the planning proposal package along with proposed conditions in the gateway determination will ensure that risks associated with flooding and potential land contamination are suitably addressed and managed at appropriate stages of the process. Accordingly, the proposal can be considered consistent with this Direction.

In relation to Direction 27 relating to the management of rural residential development, the proposal is consistent with the local strategic land use plan shown

in Attachment A of the planning proposal report. The planning proposal is consistent with the actions associated with this direction.

4.3 Local

The planning proposal report provides a discussion of consistency with the local strategic planning framework on pages 6 and 7 and through Attachment A. The addendum provides further clarification regarding compliance with the directions shown in the Local Strategic Planning Statement.

The proposal can be considered generally consistent with the local strategic planning framework. Based on the information provided risks will be suitably considered and managed and services will be able to be provided as needed.

4.4 Section 9.1 Ministerial Directions

The following directions are considered to be the only directions that are relevant to the proposal: 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.10 Implementation of Regional Plans, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes.

The planning proposal report provides an assessment against the Ministerial Directions in Attachment C. The assessment provided is appropriate, with the exception of directions discussed below.

1.2 Rural Zones

Council considers the proposal in relation to CU1 to be consistent as that site is proposed to remain as an RU4 Primary Production Small Lots zone. However, the intended development of the land is for lifestyle housing not small scale primary production. Accordingly, it is recommended that the proposed zone be amended to R5 Large Lot Residential to reflect the true intention for development in the area.

Council has indicated that the remainder of the planning proposal is inconsistent with the requirements of 4(a) of the direction.

Following the amendment to the planning proposal suggested above the entire planning proposal would be inconsistent with the requirements of 4(a) of the direction as it rezones land from a rural zone to residential and village zones.

Council has put forward that the inconsistency is justified by strategic work already undertaken. While it is agreed that this work is a relevant consideration, it does not strictly comply with the requirements of 5 (a),(b) or (c). However, the proposal is able to satisfy the requirements of clause 5(d) as the proposal is considered to be of minor significance noting the findings of the strategic work undertaken and by virtue of its scale, location and proximity to the existing settlement.

1.5 Rural Lands

It is not agreed that CU1 is consistent with the direction, it is considered inconsistent in that the minimum lot size proposed is not likely to support any meaningful forms of agriculture. It is known to be intended for lifestyle housing which may include some hobby farming elements, but which is not likely to include genuine agricultural pursuits.

It is agreed that CU2, CU3 and CU4 are not strictly consistent with the terms of the direction.

The proposal in its entirety is able to satisfy many of the requirements of the direction but not all of them and accordingly must be considered inconsistent.

Council has put forward that the inconsistency is justified by strategic work already undertaken. While it is agreed that this work is a relevant consideration, it does not strictly comply with the requirements of 6 (a). However, the proposal is able to satisfy the requirements of clause 6(b) as the proposal is considered to be of minor significance noting the findings of the strategic work undertaken and by virtue of its scale, location and proximity to the existing settlement.

2.6 Remediation of Contaminated Land

Discussion of this Ministerial Direction is included on page 6 of the Addendum to the planning proposal.

In order to satisfy the requirements of clauses 4 and 5 of this direction it is necessary for Council to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. A condition will be placed on the gateway determination to ensure compliance with this requirement. It is noted that parts of CU1 may have been used for agricultural purposes other than grazing and that it is recommended that the report cover CU1, CU2 and CU3 as a minimum as the guidelines do not specifically exclude grazing land from assessment.

4.3 Flood Prone Land

The discussion regarding flooding in the planning proposal report is superseded by discussion on pages 1 and 2 of the addendum and the attached mapping. The planning proposal is inconsistent with the direction as it proposes to rezone land in a flood planning area from a rural zone to a residential zone.

The inconsistency can be considered justified subject to the planning proposal being demonstrated to be in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. Preliminary information provided by Council indicates that the proposal meets this requirement. It will be a condition of the gateway determination that consultation is undertaken with the Biodiversity and Conservation Division (Floodplain Management) to confirm consistency with the floodplain risk management plan prior to finalisation of the planning proposal.

Flooding experienced across the areas proposed for rezoning is understood to be minor based on the information provided.

4.4 Planning for Bushfire Protection

Whilst the Direction does not strictly apply, there is discussion in the planning proposal addendum on pages 4 to 6. The discussion provides suitable background for public consultation.

6.2 Reserving Land for Public Purposes

This direction applies to all planning proposals. There are no relevant requirements in relation to the planning proposal submitted.

However, should the proposal be amended to convert land used for the sewerage treatment plant and cemetery to SP2 Infrastructure the terms of this direction would become relevant as it would be creating a zone for a public purpose. Given Council

owns the land, the planning proposal would remain consistent with the terms of this direction.

4.5 State environmental planning policies (SEPPs)

The planning proposal has provided an assessment of the proposal against the State Environmental Planning Policies (Page 7 and Attachment B of the planning proposal report). It does not identify any inconsistencies or issues of concern.

The planning proposal assessment is considered appropriate with the exception that Clause 6 of SEPP 55 has been repealed and accordingly SEPP 55 no longer applies to planning proposals. The consideration of potential for land contamination is now considered through a Section 9.1 Ministerial Direction as outlined above.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal is anticipated to generate positive social outcomes for the community. The availability of additional land for a variety of housing options is anticipated to attract additional population growth for the community which is expected to strengthen the social fabric and viability of services provided to the town.

5.2 Environmental

The proposal relates to land which is already significantly disturbed through agricultural activities and in the instance of CU4 land which is already developed for lifestyle housing. There is some vegetation located across the sites, however, assessment at the development application stage provides a suitable opportunity to ensure that any remaining values are suitably considered and managed.

Information and proposed actions provided in the planning proposal package along with proposed conditions in the gateway determination will ensure that risks associated with flooding, bushfire and potential land contamination are suitably addressed and managed at appropriate stages of the process.

5.3 Economic

The proposal is anticipated to generate a positive economic impact for the community through attracting additional population and through construction activity.

6. CONSULTATION

6.1 Community

Council's proposed community consultation (including exhibition for 28 days) as provided in the planning proposal report on page 17 is considered appropriate. It is noted that land owners should be directly notified in addition to adjoining land owners.

6.2 Agencies

Council has not proposed any specific agency consultation unless otherwise identified in the gateway determination. The Gateway Determination requires consultation with Biodiversity and Conservation Division (Floodplain Management).

7. TIME FRAME

The timeline put forward by Council is 6 months. Council in the Council meeting minutes, noted that they would like to accelerate the processing of the planning

proposal. Based on this commitment, a 6 month timeframe (also conditioned in the determination), is considered to be appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. However, as Council is the owner of much of the land impacted by this planning proposal it has been determined that Council should not be authorised to be the local plan-making authority.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 1.5 Rural Lands are minor; and
2. agree that the inconsistency with section 9.1 Direction 4.3 Flood Prone Land can be considered justified subject to confirmation that the planning proposal is in accordance with the floodplain risk management plan.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - The Department of Planning, Industry and Environment, Biodiversity and Conservation Division (Floodplain Management).
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. Prior to undertaking community consultation, the following is required:
 - a. A preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines for candidate sites CU1, CU2 and CU3.
 - b. Amend the planning proposal to rezone candidate site CU1 to R5 large lot residential.
 - c. Document options to consider the 70-metre strip of land and interface with the existing sewerage treatment works, future infrastructure expansion, cemetery and candidate site CU1.
 - d. Investigate alternate zoning options for CU4 to reflect the existing zoning pattern applicable to Culcairn.

Council is to provide the above information to the Department prior to proceeding to consultation.



Haydon Murdoch
Team Leader, Riverina Murray Region



24.9.20

Garry Hopkins
Director, Western Region
Local and Regional Planning

Assessment officer: Barbara Gilbert
Planning Officer, Western Region
Phone: (02) 6926 8671