

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Wagga Wagga LGA
<b>PPA</b>	Wagga Wagga City Council
<b>NAME</b>	Amend the minimum lot size applying to Lot 2 DP 1046774, Butterbush Road, Lake Albert from 8 hectares to 4 hectares.
<b>NUMBER</b>	PP_2018_WAGGA_002_00
<b>LEP TO BE AMENDED</b>	Wagga Wagga LEP 2010
<b>ADDRESS</b>	Butterbush Road, Lake Albert
<b>DESCRIPTION</b>	Lot 2 DP 1046774
<b>RECEIVED</b>	23 April 2018
<b>FILE NO.</b>	IRF18/3062
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to amend the Wagga Wagga Local Environmental Plan 2010 (WWLEP) by reducing the minimum lot size applying to Lot 2 DP 1046774 (the site) from 8 hectares to 4 hectares.

### Site description

The site comprises 76.64 hectares of undeveloped land which has previously been used for agricultural purposes (cropping and grazing). The site is identified in **Figure 1**.

Access to the site is gained via Butterbush Road, a sealed road servicing an adjoining rural residential area.

**Figure 1:** Aerial photograph of the site

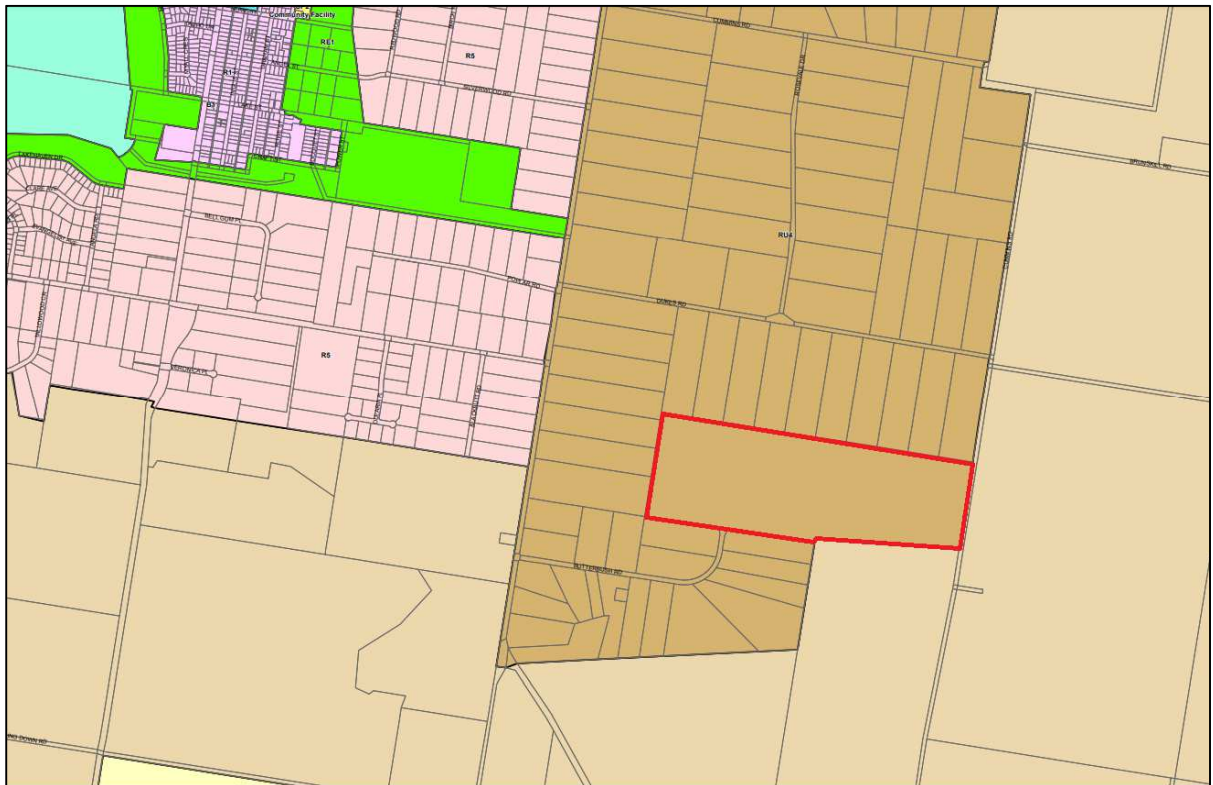


Source: [maps.six.nsw.gov.au](https://maps.six.nsw.gov.au)

### Existing planning controls

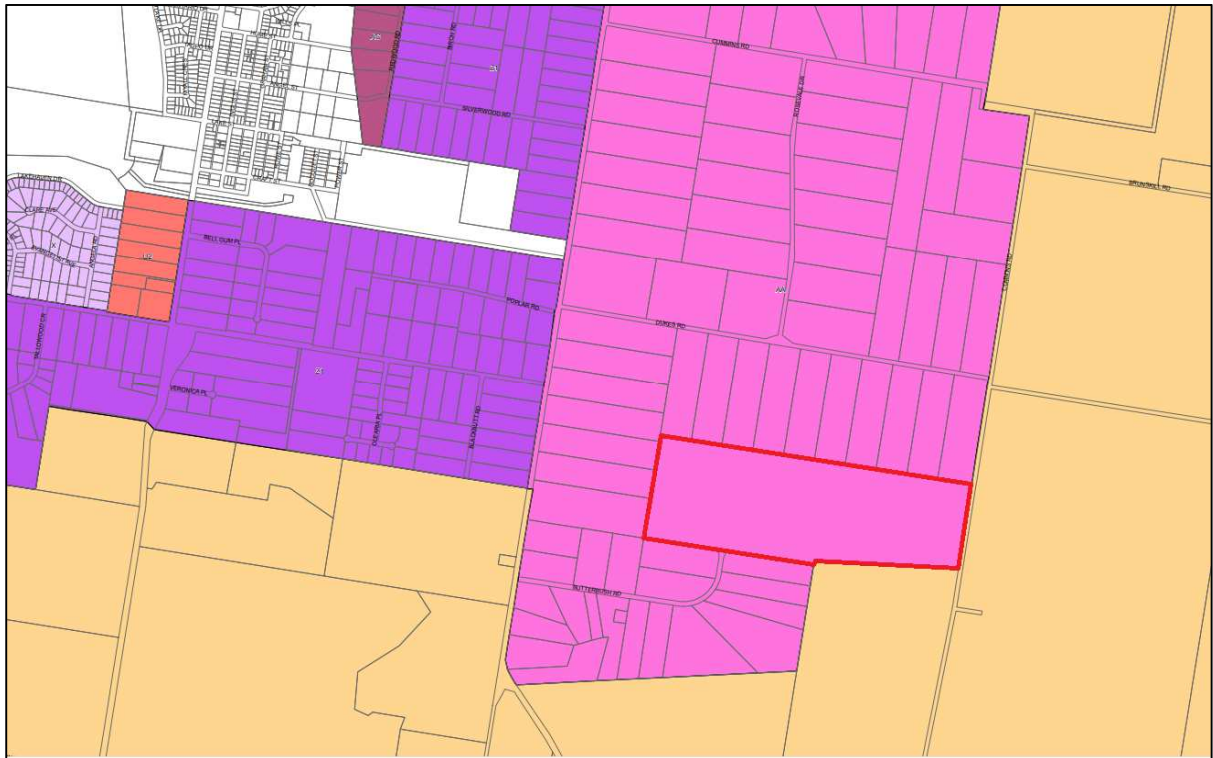
The site is zoned RU4 Primary Production Small Lots with a minimum lot size of 8 hectares under the WWLEP. The erection of a dwelling house is permitted on land zoned RU4 subject to meeting the relevant minimum lot size. The site and surrounding area are identified in the WWLEP Land Zoning Map (**Figure 2**) and Lot Size Map (**Figure 3**) shown below.

**Figure 2:** Land Zoning Map (LZN\_004G)



Source: [legislation.nsw.gov.au](https://legislation.nsw.gov.au)

**Figure 3:** Lot Size Map (LSZ\_004G)



Source: [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

### Surrounding area

The site is situated 12.7 kilometres south east of the Wagga Wagga CBD within an established rural residential area. The site adjoins rural residential lots of varying sizes to the north, west and south west, while a crown road separates the site from agricultural land to the east. The site and surrounding area are identified in **Figure 4**.

**Figure 4:** Aerial photograph of the surrounding area



Source: [maps.six.nsw.gov.au](http://maps.six.nsw.gov.au)



## Summary of recommendation

It is recommended that the Planning Proposal proceed subject to the following conditions:

- The planning proposal be amended to apply a 4 hectare minimum lot size to all land along Butterbush Road to recognise the existing subdivision pattern of the area.
- Consultation with the following public authorities:
  - Commonwealth Department of Infrastructure, Regional Development and Cities (Aviation)
- Community consultation is required for a minimum of 28 days; and
- The timeframe for completing the LEP is to be 12 months;

## PROPOSAL

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### Objectives or intended outcomes

The objective of the planning proposal is to amend the WWLEP by reducing the minimum lot size applying to the site from 8 hectares to 4 hectares.

The intended outcome of the planning proposal is clearly stated and does not need to be revised prior to community consultation.

### Explanation of provisions

The planning proposal seeks to amend WWLEP Lot Size Map LSZ\_004G by changing the lot size applying to the site from 8 hectares to 4 hectares.

The explanation of provisions is clearly stated and does not need to be revised prior to community consultation.

### Mapping

The planning proposal seeks to amend WWLEP Lot Size Map LSZ\_004G. Maps showing the current and proposed minimum lot sizes applying to the site are included in the planning proposal and are suitable for community consultation.

## NEED FOR THE PLANNING PROPOSAL

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Although the site can be subdivided in accordance with the current provisions of the WWLEP, the planning proposal seeks to reduce the applicable minimum lot size to increase the development potential of the site. Council estimates the planning proposal will increase the potential lot yield of the site from 7 lots to 15 lots.

The planning proposal seeks to facilitate subdivision of the site consistent with the subdivision pattern along Butterbush Road. This area consists of lots smaller than the applicable 8 hectare minimum lot size, with a desktop analysis indicating most of these lots have an area of between 3 and 5 hectares. The breakdown of lot sizes in this area is shown in **Figure 5** (lot sizes are based on a desktop analysis and are approximate).

**Figure 5:** Breakdown of lot sizes along Butterbush Road



Source: [maps.six.nsw.gov.au](https://maps.six.nsw.gov.au)

The existing Butterbush Road subdivision is an outcome of the provisions of Council's former *Rural Development Control Plan 2002*. Prior to the introduction of the WWLEP, land identified for rural small holdings development could be subdivided based on an average lot size of 8 hectares.

Although the RU4 zone is a rural zone, the planning proposal states the primary use of adjoining RU4 zoned land can be classified as rural residential. A report included as an attachment to the planning proposal notes that only four lots in the RU4 zoned area in which the site is located do not have a dwelling house situated on them.

The report also notes there are two RU4 zoned areas situated north of the Wagga Wagga CBD. These areas have minimum lot sizes of 8 and 2 hectares respectively, with the average lot size in these areas 2 and 3 hectares respectively.

The intended outcome of the planning proposal is appropriate noting the subdivision pattern of land along Butterbush Road, the primary use of land in the adjoining RU4 zoned area and the absence of a consistent lot size applying to RU4 zoned land across the Wagga Wagga LGA.

The proposed amendment will facilitate a consistent subdivision pattern along Butterbush Road with the proposed lot size considered large enough to avoid land use conflict with adjoining 8 hectare rural residential lots to the north and west and agricultural land to the east.

The planning proposal is the best means of achieving the intended outcome as it avoids rezoning the site which could increase the potential for land use conflicts with the adjoining RU4 and RU1 zoned areas.

## STRATEGIC ASSESSMENT

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### State

There is no applicable state strategic planning framework to which the planning proposal applies.

### Regional / District

Direction 27: Manage rural residential development, of the *Riverina-Murray Regional Plan 2036* is applicable to the planning proposal.

In accordance with Actions 27.1, 27.2 and 27.3 of the Regional Plan rural residential development should:

- be informed by a local housing strategy approved by the Department;
- be located to maximise efficient use of existing infrastructure and services;
- minimise land use conflicts with agricultural land; and
- avoid areas of high environmental, cultural and heritage significance, important agricultural land or areas affected by natural hazards.

The site to which the planning proposal applies is within an area identified in the Wagga Wagga Spatial Plan 2013/2043 as subject to potential intensification pending further investigation to determine appropriate minimum lot sizes. The Spatial Plan was endorsed by the Department in February 2014.

The site is within an established rural residential area with access to existing services and infrastructure including roads, reticulated water and waste collection services.

The location of the site within an established rural residential area minimises the potential for land use conflicts with adjoining agricultural land to the east. The proposed minimum lot size is considered large enough to enable any future subdivision of the site to be designed in a manner which minimises potential conflicts between rural residential properties and the adjoining agricultural land.

The site has no significant environmental or cultural attributes and is not identified as subject to natural hazards such as bush fire or flooding.

For the reasons outlined above the planning proposal is considered to be consistent with Direction 27 and the overall intent of the Regional Plan.

### Local

As noted above, the site to which the planning proposal applies is within an area identified in the Wagga Wagga Spatial Plan 2013/2043 as subject to potential intensification pending further investigation to determine appropriate minimum lot sizes.

Although the proposed amendment is not a direct result of a strategy identifying appropriate minimum lot sizes for the wider area identified in the Structure Plan, the planning proposal and supporting information provide sufficient justification for the reduced minimum lot size.

## **Section 9.1 Ministerial Directions**

### **1.2 Rural Zones**

Direction 1.2 Rural Zones applies as the planning proposal relates to land zoned RU4 Primary Production Small Lots. The planning proposal states it is inconsistent with the direction but the inconsistency is of minor significance.

The planning proposal is inconsistent with this direction as it seeks to increase the permissible density of land within a rural zone. A planning proposal may be inconsistent with this Direction if it is justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction. The objective of this Direction is to protect the agricultural production value of rural land.

The planning proposal is accompanied by a study which considers the agricultural production value of the land to which the planning proposal applies. The study notes the land is class 2 agricultural land, meaning the land is suitable for regular cultivation for crops but not continuous cultivation. The study concludes the planning proposal will not compromise the use of the land for small lot primary production purposes.

Although the planning proposal will facilitate further subdivision of land zoned for rural purposes, the site is within a zone intended to encourage intensive agricultural activities on smaller lots. It is considered that the planning proposal provides for rural lifestyle opportunities whilst maintaining a suitable lot size to encourage intensive primary production activities.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is justified by a study that gives consideration to the objective of this Direction.

### **1.5 Rural Lands**

Direction 1.5 Rural Lands applies as the planning proposal seeks to change the minimum lot size on land zoned RU4 Primary Production Small Lots. The planning proposal states it is consistent with the direction.

The planning proposal does not contravene the requirements of this direction as it is consistent with the Rural Planning Principles and Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

The planning proposal provides for rural lifestyle opportunities whilst maintaining a suitable lot size to encourage intensive primary production activities and minimise land use conflicts with adjoining properties.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

### **3.5 Development Near Licensed Aerodromes**

Direction 3.5 Development Near Licensed Aerodromes applies as the planning proposal seeks to amend planning controls applying to land in the vicinity of a licensed aerodrome. The planning proposal states it is consistent with the direction.

As the site to which the planning proposal applies is situated within the Obstacle Limitation Surface of Wagga Wagga Airport, consultation with the Commonwealth Department of Infrastructure, Regional Development and Cities (Aviation) is required for the planning proposal to comply with the direction.

Recommendation: The Secretary's delegate can be satisfied that the requirements of the Direction have been met. A condition is to be included in the Gateway determination requiring consultation with the Commonwealth Department of Infrastructure, Regional Development and Cities (Aviation) to be undertaken in accordance with the Direction.

#### 5.10 Implementation of Regional Strategies

Direction 5.10 Implementation of Regional Strategies applies as land within the Temora LGA is subject to the Riverina Murray Regional Plan 2036. The planning proposal states it is compliant with the direction.

The planning proposal does not contravene the requirements of this direction as it is generally consistent with the *Riverina Murray Regional Plan 2036*. A full assessment of the planning proposal's consistency with the Regional Plan is in the above Strategic Assessment section.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with this Direction.

#### **State environmental planning policies**

*State Environmental Planning Policy (Rural Lands) 2008* is applicable as the planning proposal applies to land zoned RU4 Primary Production Small Lots. The planning proposal states it is consistent with this direction.

The planning proposal is considered to be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in the SEPP. The planning proposal provides for rural lifestyle opportunities whilst maintaining a suitable lot size to encourage intensive primary production activities and minimise land use conflicts with adjoining properties.

#### **SITE-SPECIFIC ASSESSMENT**

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##### **Social**

The planning proposal is unlikely to increase the potential for land use conflicts with surrounding land uses as the site is within an established rural residential area. The lot size proposed is considered large enough to avoid land use conflict with adjoining 8 hectare rural residential lots to the north and west and agricultural land to the east.

##### **Environmental**

The south-western portion of the site is identified on WWLEP Natural Resources Sensitivity – Biodiversity and Water Maps. In considering any future development application for subdivision of the site, Council will have regard to clauses 7.3 and 7.5 of the WWLEP which stipulate development is to be designed, sited and managed to avoid, minimise or mitigate any potential adverse environmental impacts.

The site to which the planning proposal applies is not flood affected or bushfire prone.



## **Economic**

The planning proposal is supported by a Service Feasibility Report which details the servicing requirements for a subdivision of the site based on a 4 hectare minimum lot size.

The report concludes additional lots facilitated by the planning proposal would have access to essential services and infrastructure including road access, reticulated water and waste services.

It is proposed that any future lots created by a subdivision of the site would be serviced by onsite effluent management systems, as is the case in the surrounding area. The planning proposal notes site and soil assessment will be carried out as part of the development assessment process to determine an appropriate subdivision design to accommodate on-site systems.

## **CONSULTATION**

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### **Community**

The planning proposal states community consultation will be undertaken in accordance with the requirements of the Gateway Determination.

Given the nature of the planning proposal a public consultation period of 28 days is considered appropriate. The Gateway Determination will specify that consultation is to be carried out in accordance with the Department's A guide to preparing local environmental plans.

### **Agencies**

Consultation with Airservices Australia is required for the planning proposal to comply with Section 9.1 Direction 3.5 Development Near Licensed Aerodromes.

## **TIME FRAME**

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From the date a Gateway Determination is issued, Council has proposed a 6 month project timeline to complete the proposed amendment to the WWLEP.

Although the planning proposal could be completed within this timeframe, a period of 12 months is considered appropriate to account for any unexpected delays.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan making authority under section 3.36 of the Environmental Planning and Assessment Act 1979.

Due to the localised nature of planning proposal, Council's request is considered appropriate.

## **CONCLUSION**

The planning proposal is supported to proceed subject to conditions and is deemed to satisfy the requirements of the Department's *A guide to preparing planning proposals*.

It is recommended that the planning proposal be amended prior to community consultation to apply a 4 hectare minimum lot size to all land along Butterbush Road to recognise the existing subdivision pattern of the area.

Based on the above desktop analysis, this has the potential to facilitate the creation of two new allotments along Butterbush Road. This outcome is considered appropriate as it is consistent with the existing subdivision pattern of the area.

## **RECOMMENDATION**

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

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Direction 1.2 Rural Zones are minor or justified.

It is recommended that the delegate of the Minister for Planning 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:
  - Commonwealth Department of Infrastructure, Regional Development and Cities (Aviation)
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. The planning proposal is to be amended prior to community consultation to apply a 4 hectare minimum lot size to all land along Butterbush Road to recognise the existing subdivision pattern of the area.

This condition applies to the following land: Lots 1 – 10 DP 1133430, Lots 1 – 6 DP 1066491, Lots 1 – 4 DP 1017682 and Lot 1 DP 789530.



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**8 June 2018**  
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