

Planning and Assessment

IRF19/6795

Gateway determination report

LGA	Albury City Council
PPA	Albury City Council
NAME	Minimum lot size changes – Ettamogah Rise (27 homes)
NUMBER	PP_2019_ALBUR_002_00
LEP TO BE AMENDED	Albury Local Environmental Plan 2010
ADDRESS	Street address and suburb
DESCRIPTION	Part Lots 15-19, 25, 26, 30 DP1189851 Part Lots 205-210, 221,222, 235-242 and 249 DP 1218522 Lots 211-216 DP 1218522 Part Lots 310, 314, 315, 329, 345, 346, 348, 349 and 357 DP 1252690 Lots 311-313, 347 and 354 DP 1252690
RECEIVED	6 November 2019
FILE NO.	IRF19/6795
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 seeks to amend the Minimum Lot Size provisions applying to specific R2 Low Density Residential Zone areas within the Land from 4,000m² to 1,500m² under the Albury Local Environmental Plan 2010. This amendment will also allow for correction of Minimum Lot Size map boundaries consistent with past development consent approvals and detailed investigations applying to the land.

1.2 Site description

The site is made up of 45 lots as detailed above. The land is located in the Ettamogah Rise Estate and are the resulting lots of the subdivision of 250 DP 1218522 and 102 DP 1120977 (Development Consent No. 10.2012.32005.4). The site is relatively clear of constraints and contains, residential dwellings and subdivision works as shown in Figure 1 below.

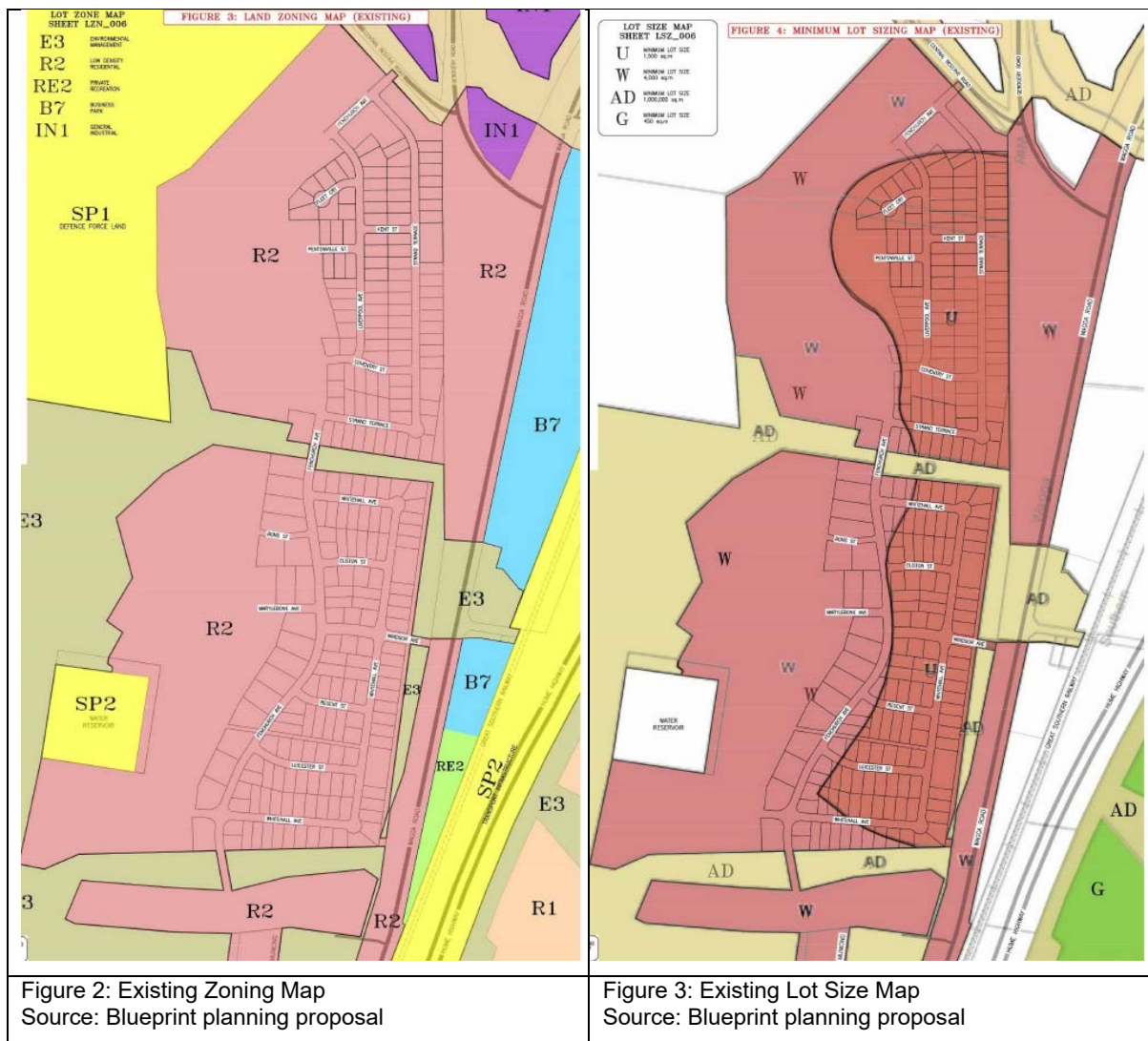


Figure 1: Aerial photograph
Source Six Maps.

The planning proposal includes the pre-subdivided lot and DPs instead of the final land title information. A condition has been included in the Gateway Determination to require Council to update the lot and DPs in the planning proposal prior to public exhibition.

1.3 Existing planning controls

The site is currently zoned R2 Low Density Residential and has minimum lots sizes of 4,000m² to 1,500m² as shown in the figures below. A small strip of E3 Environmental Management Zoned intersects the 2 areas subject to the planning proposal, as shown in Figure 2.



1.4 Surrounding area

As shown in the Figure 2 above and the aerial photograph below the site is surrounded by a mixture of land uses. To the west of the site is a E3 Environmental Management area, water reservoir and defence force land. To the north of the site is IN1 General Industry and the Nexus Industrial estate. Land on the eastern side of the site is a mixture of RE2 Private Recreation, B7 Business park, E3 Environmental Management and the Hume Highway. E3 Environmental management zoned land also borders the southern boundary of the site.

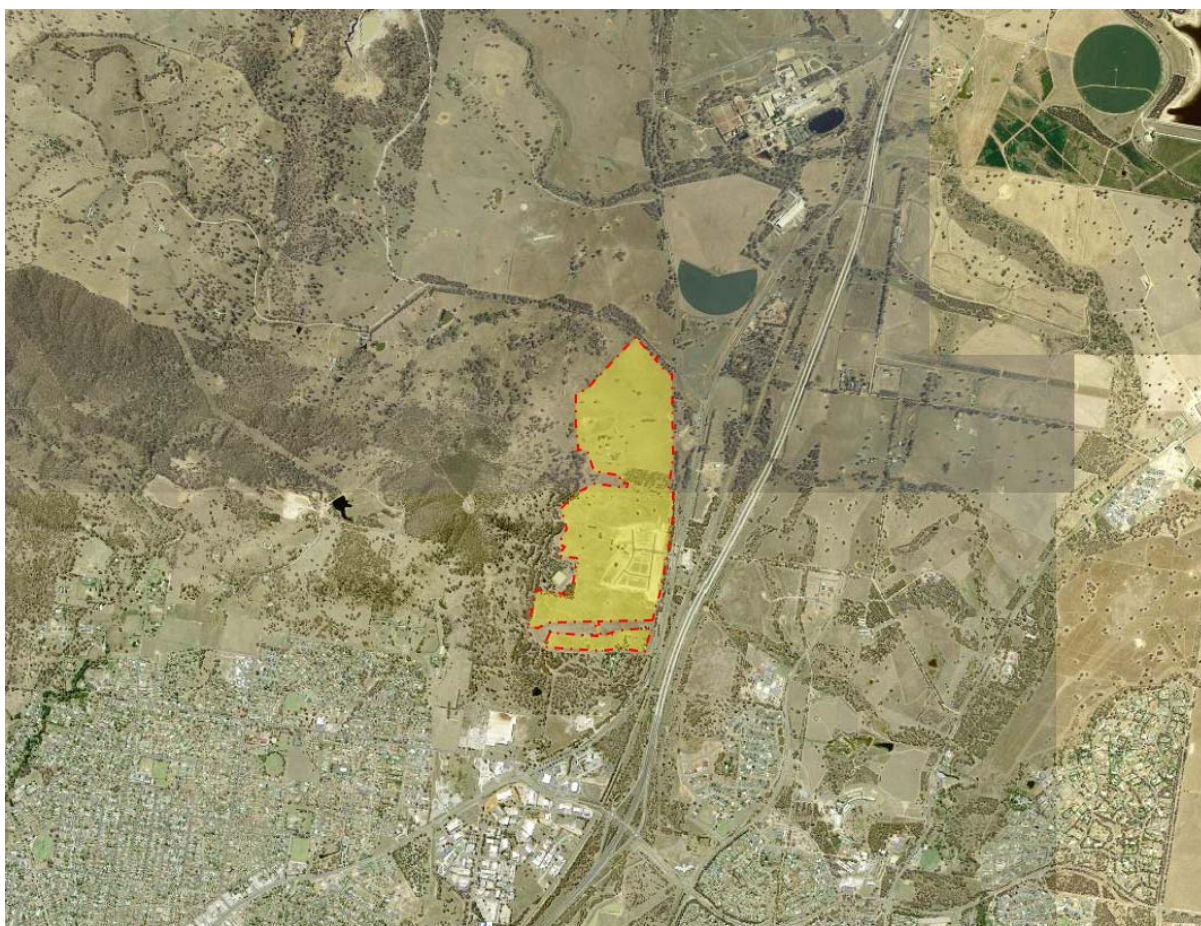


Figure 4: Aerial photograph – Surrounding area
Source: Six Maps

1.5 Summary of recommendation

Proceed with condition – The planning proposal has merit to proceed, subject to conditions requiring the planning proposal to be amended to include all newly created Lots and DP's and consult with the NSW RFS.

2. PROPOSAL

2.1 Objectives or intended outcomes

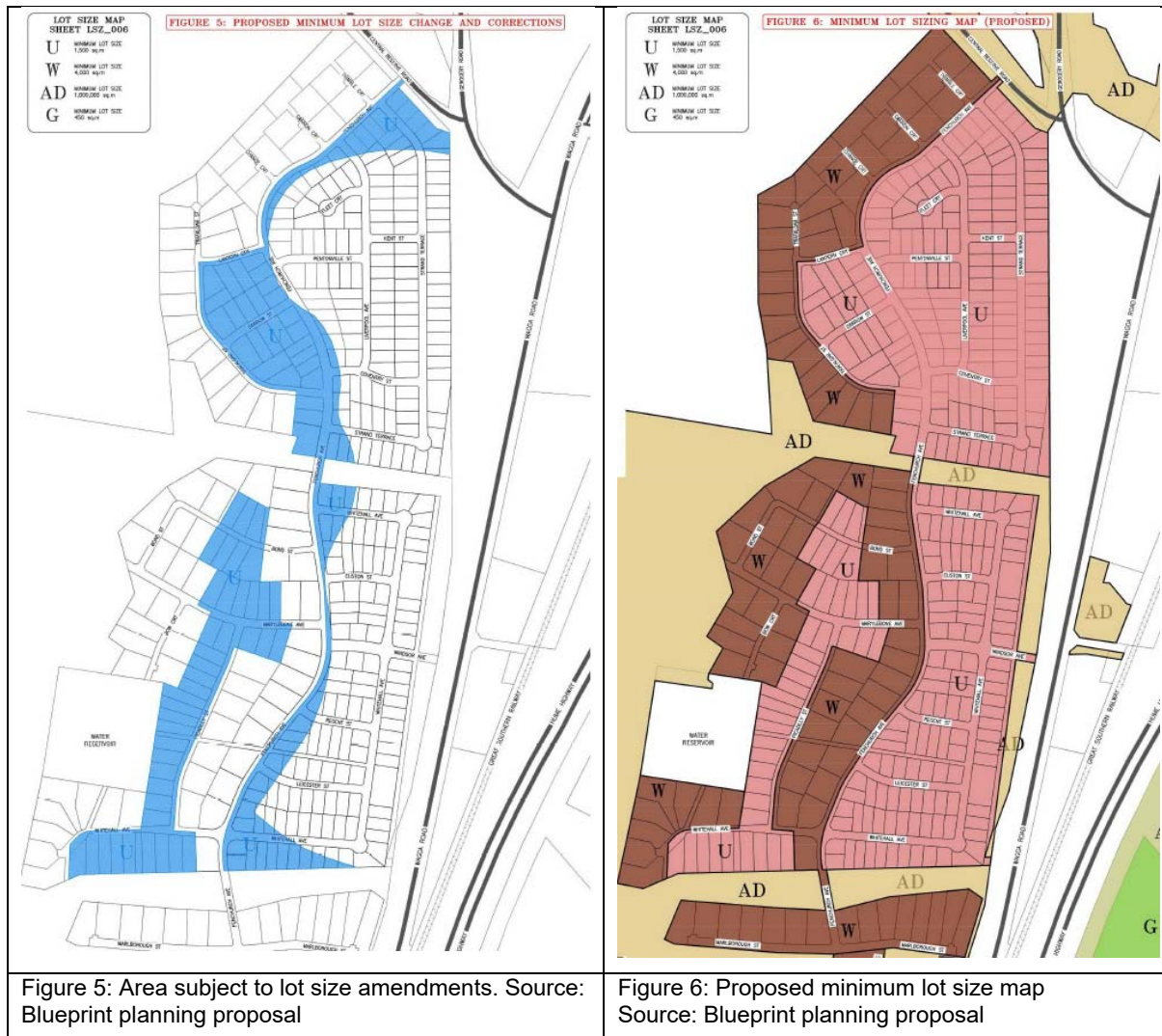
The objective of the planning proposal is to amend the Albury Local Environmental Plan 2010 to facilitate amendment of the Minimum Lot Size Map applying to part of the Land under the LEP which will:

- provide flexibility in minimum lot sizes in specific areas reflecting detailed ongoing subdivision design investigations, and
- correct Minimum Lot Size map boundaries to account for Development Consent No. 10.2012.32005.4 (created using a LEP clause 4.6 variation to the lot size), and
- allow the necessary changes to minimum lot sizes to achieve the objectives of the R2 Low Density Residential Zone.

The objectives have been clearly articulated in the planning proposal.

2.2 Explanation of provisions

The planning proposal outlines that to achieve the objective, Lot Size Map – Sheet LSZ_006 will be changed to amend the minimum lot size standard that applies to part of the land from 4,000m² to 1,500m². The planning proposal provides the following maps to demonstrate the proposed changes.



The explanation of provisions in the planning proposal have been clearly articulated.

2.3 Mapping

Figures 5 and 6, have been included as part of the planning proposal. They are considered to be appropriate for community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal responds to an approved consent for the subdivision of 343 lots, determined by Albury City Council. The development application included a request for variation under Clause 4.6 of the Albury LEP 2010, which allowed flexibility in the subdivision design across the two prescribed minimum lot size areas. Council is now seeking to reflect the approved subdivision design on the LEP's minimum lot size maps. It is therefore considered that the planning proposal is the best means of achieving the intended outcomes.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal does not contravene any State policy or plan.

4.2 Riverina Murray Regional Plan 2036

The planning proposal is considered to be consistent with the Regional Plan as it will facilitate a minor lot size amendment that supports demand and greater choice for housing, which aligns with Council's infrastructure capabilities. The planning proposal has identified the following Goal and Directions in the Riverina Murray Regional Plan 2036.

- Goal 4: Strong, connected and healthy communities;
- Direction 22: Promote the growth of regional cities and local centres;
- Direction 23: Build resilience in towns and villages;
- Direction 25: Build housing capacity to meet demand; and
- Direction 26: Provide greater housing choice.

4.3 Local

The planning proposal has identified that the Thurgoona Threatened Species Conservation Strategy (2004) and Albury Land Use Strategy (2007) apply. The planning proposal demonstrates consistency with these plans, specifically:

- provides for diversity in housing styles and lot sizes to accommodate a range of demands;
- maximises sustainable use of resources, including water, energy, transport and community services;
- retains public open space including areas identified for habitat protection and conservation;
- encourages road design that maintains a rural character in low density residential areas; and
- supports water sensitive urban design.

4.4 Section 9.1 Ministerial Directions

The planning proposal has identified the following Ministerial Directions as being applicable to the planning proposal, however they are not considered to be applicable;

- 2.1 Environmental Protection Zones – The planning proposal does not impact environmental protection zones.
- 2.4 Recreation Vehicle Areas – The planning proposal does not impact any existing or proposed recreation vehicle areas.
- 3.2 Caravan Parks and Manufactured Home Estates – The planning proposal does not impact any existing or proposed manufactured home estate.
- 3.3 Home Occupations – The planning proposal does not remove the ability to undertake home occupations on the land.
- 6.1 Approval and Referral Requirements – The planning proposal does not create any provisions that will require the concurrence, consultation or referral of development applications to the Minister or a public authority.

- 6.2 Reserving Land for Public Purposes - The planning proposal will not create/alter/reduce existing zonings or reservations of land for public purposes that require the approval of the relevant public authority and the Secretary of the Department.
- 6.3 Site Specific Provisions - The planning proposal does not relate to a particular development to be carried out.

The following Ministerial Directions are applicable to the planning proposal and are considered to be consistent, as outlined below;

2.3 Heritage Conservation

This Direction applies to the planning proposal as it adjoins a heritage listed item, 'Muniong' Homestead.

The proposal is considered to be consistent with this direction as the impacts of the zoning of the land from RU1 Primary Production to R2 Low Density Residential on the heritage item were assessed and appropriate curtilages have been applied.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal satisfies the requirements of the Direction.

3.1 Residential Zones

This Direction applies to the planning proposal as it will affect land within an existing residential zone.

The proposal is considered to be consistent with this direction as the planning proposal provides flexibility in subdivision design, which reflects an approved subdivision.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with this Direction.

3.4 Integrating Land Use and Transport

This Direction applies to the planning proposal as it will alter a provision relating to residential land.

The proposal is considered to be consistent with this direction as Council has made an assessment of the existing road infrastructure network as part of the approval of the development application.

RECOMMENDATION: The Secretary can be satisfied that the proposal is consistent with this Direction.

4.4 Planning for Bushfire Protection

This Direction applies to the planning proposal as Council identified that the land is mapped as bushfire prone land.

RECOMMENDATION: The Secretary is unable to be satisfied with the proposal's consistency with this direction until such time as Council consults with the Rural Fire

Service as per the requirements of the Direction. A condition should be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service in accordance with the Direction.

5.10 Implementation of Regional Plans

This Direction applies to the planning proposal as the Riverina Murray Regional Plan 2036 applies to the land.

As demonstrated above, the proposal is considered to be consistent with this direction.

RECOMMENDATION: The Secretary can be satisfied that the planning proposal is consistent with this Direction.

4.5 State environmental planning policies (SEPPs)

The planning proposal has adequately addressed and is considered to be consistent with the provision within the following SEPPs:

- *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008;*
- *State Environmental Planning Policy No. 36 - Manufactured Home Estate*
- *State Environmental Planning Policy No. 24 - Caravan Parks*

The planning proposal identified SEPP No 55 – Remediation of Land as being applicable to the site. Council undertook an assessment of the site at the time of the original rezoning for residential uses and the subsequent development application. Council has therefore considered whether the land is contaminated based on its current and known historical use and is satisfied that the planning proposal can proceed. Accordingly, the planning proposal is consistent with the requirements of SEPP 55.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal has adequately justified the positive social effects of the amendment. The planning proposal facilitates an approved subdivision which provides additional housing stock, utilising existing services to accommodate the growing population of the city. The proposal to rezone the land and to reduce the minimum lot size requirement is based on site opportunities to optimise use of the land that is currently serviced by public infrastructure and accessible to existing local community facilities.

5.2 Environmental

The planning proposal, previous rezonings and the development application have been supported by the Thurgoona Threatened Species Conservation Strategy (2004) and Albury Land Use Strategy (2007). It is therefore considered that the

minimum lot size amendments will not have a detrimental environmental impact on the surrounding area.

5.3 Economic

The proposal will provide residential development in proximity to existing urban settlements to maximise the efficient use of existing infrastructure and services, including roads, water, sewerage and waste services and social and community infrastructure.

6. CONSULTATION

6.1 Community

The planning proposal suggests a 4-week community consultation period. Council has proposed;

- notification letters to affected land owners, key stakeholders and interested parties;
- public notice in the Border Mail;
- exhibition material in the Council offices; and
- exhibition material on Council's website.

The community consultation proposal is considered to be appropriate.

6.2 Agencies

No agency consultation has been identified as part of the planning proposal. As stated above, to be consistent with Ministerial Direction 4.4 Planning for Bushfire Protection, consultation with the NSW RFS is necessary. A condition has been included in the Gateway Determination to ensure this occurs.

7. TIME FRAME

The planning proposal is accompanied with an indicative timeframe for each element of the planning proposal process. Given the nature of the planning proposal, it is considered that a 12-month timeframe is appropriate to allow Council to undertake the necessary requirements. This has been reflected in the Gateway Determination.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given the minor nature of the planning proposal, it is considered, in this instance, to be appropriate to allow Council to make the plan.

9. CONCLUSION

The planning proposal is supported to proceed subject to conditions requiring consultation with public authorities and the community. The intended outcome of the planning proposal is considered suitable given the existing zoning and lot sizes, the surrounding land use and subdivision pattern, and that the site has access to essential services and infrastructure.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that planning proposal is consistent with section 9.1 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection requires consultation with the NSW RFS.

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:
 - NSW RFS
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. Prior to public exhibition, the planning proposal is to be updated to include the correct, up to date lot and DP references.



11/11/2019

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18/11/2019

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