

**RP-2      AMENDMENT TO THE WAGGA WAGGA LEP 2010 TO REDUCE THE MINIMUM LOT SIZE PROVISIONS APPLICABLE TO LOTS 1 - 3 DP 818428, LOTS 1 - 12 DP 860586 AND LOTS 1 - 7 DP 1110942, LOCATED AT LLOYD ROAD, PLANE TREE DRIVE AND STRINGYBARK PLACE, SPRINGVALE**

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**Director:** Natalie Te Pohe

**Summary:** The planning proposal is to reduce the minimum lot size for Lots 1 – 3 DP 818428, Lots 1 – 12 DP 860586 and Lots 1 – 7 DP 1110942 from 8 ha to 4500m<sup>2</sup>. This proposal originated from landowners of Lot 3 DP 818428. The recommendation is for the planning proposal to proceed.

### **Recommendation**

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That Council:

- a support the planning proposal LEP18/0006 and addendum prepared to amend the Wagga Wagga Local Environmental Plan 2010
- b submit a planning proposal to the Department of Planning and Environment for Gateway Determination
- c receive a further report after the public exhibition period;
  - i addressing any submissions made in respect of the planning proposal
  - ii proposing adoption of the planning proposal unless there are any recommended amendments deemed to be substantial and requiring a further public exhibition period

### **Application Details**

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**Submitted Proposal:** Amendment to the Wagga Wagga Local Environmental Plan 2010 to reduce the minimum lot size provisions applicable to Lot 3 DP 818428

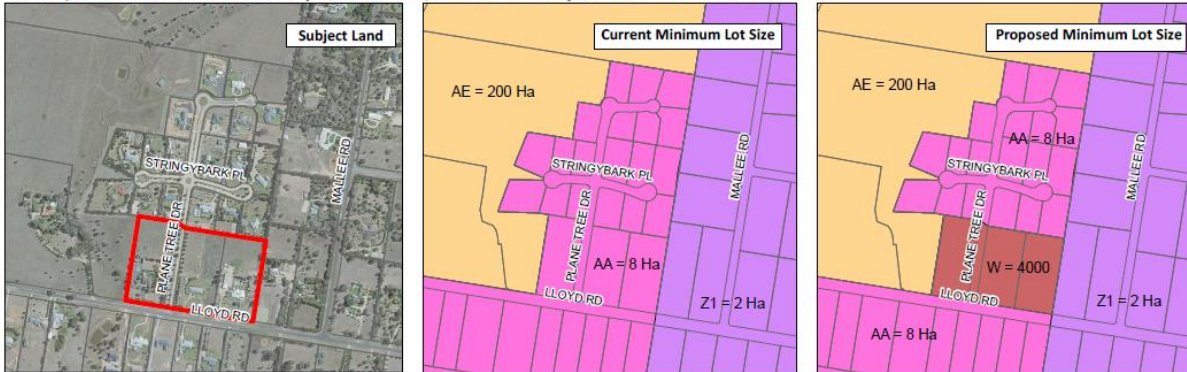
**Land Owners:** Lot 3 DP 818428 – Cheryl and Kevin Moffatt

### **Report**

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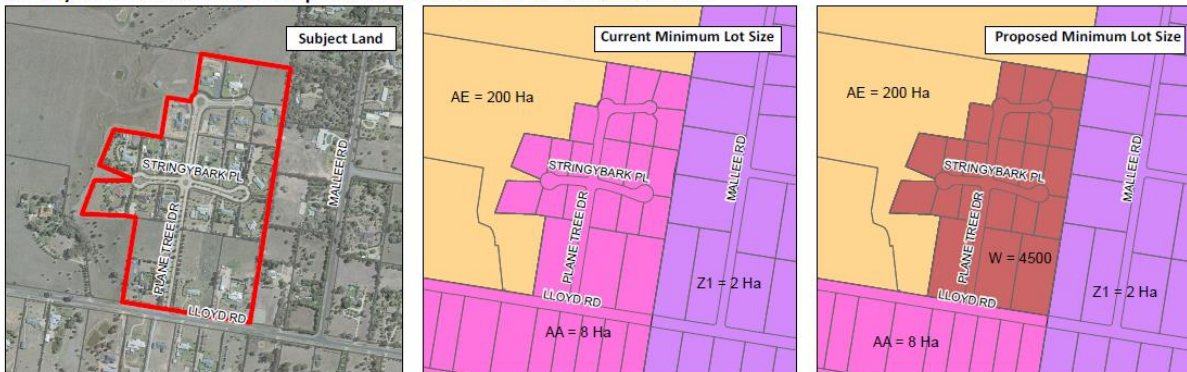
Council is in receipt of the planning proposal LEP18/0006 to reduce the minimum lot size provisions applicable to Lots 1 – 3 DP 818428 (15, 17 and 19 Lloyd Drive, Springvale) from 8 hectares to 4000m<sup>2</sup> (0.4 hectares) as per the illustration below.

LEP18/0006 - Plane Tree Drive precinct - 15, 17 and 19 Lloyd Drive - Minimum Lot Size



An assessment of the application has concluded that the planning proposal is supported in principle and may proceed subject to Council addendum which recommends a LEP lot size provision of 4500m<sup>2</sup> instead of the 4000m<sup>2</sup> as proposed by the applicant. The recommendation is to apply the 4500m<sup>2</sup> minimum lot size provision to additional lots within the precinct being Lots 1 – 12 DP 860586 and Lots 1 – 7 DP 1110942 as per the image below.

LEP18/0006 - Plane Tree Drive precinct - Various Lots - Minimum Lot Size



The amended proposal will provide the opportunity to create up to 9 additional lots from existing Lots 1 – 3 DP 818428 but will not create an opportunity for the other lots included in the precinct to be subdivided from their current size. As the removal of existing dwellings is likely uneconomical, the actual achievable yield resulting from the planning proposal will be six lots. The amended proposal will merely result in a minimum lot size requirement reflective of and generally consistent with the existing subdivision pattern in the precinct.

## Site and location

The subject land is within the R5 Large Lot Residential Zone. It is bounded to the south and east by lands also within the R5 Large Lot Residential Zone. Land to the west and north is within the RU6 Transition Zone. Lands to the west within the RU6 Transition Zone are undeveloped with the exception of a single dwelling situated with some separation to the subject land.

Lots 1 – 12 DP 860586 and Lots 1 – 7 DP 1110942 addressing Plane Tree Drive and Stringybark Place are of a consistent neighbourhood character. These lots range in size from approximately 4750m<sup>2</sup> to approximately 8500m<sup>2</sup>. Lots 1 – 3 DP 818428 are the largest in the precinct, each noted as being 2 ha on plan. Underutilised portions of these lots are positioned to either side of Plane Tree Drive as with other existing lots in the precinct.

## Key considerations

Officer's assessment report (attached) has taken into account various considerations relevant to the subject lands. These include:

### 1. Future vision of the area

Council officers are currently in the process of reviewing and developing new land use strategies for the city. One of the key priorities is to consider the location of future growth areas and to identify areas in the city that may be intensified through subdivision.

In terms of current strategies, the Wagga Wagga Spatial Plan 2013 indicates that the reduction of minimum lot sizes in the locality may be considered as part of a future residential study.

As an interim arrangement, noting that it will take some time to complete the above strategic work, landowners may lodge planning proposals to increase the development opportunities for their properties prior to the finalisation of the strategic work. Planning proposals will be considered on merit. The onus is on the proponents to provide Council with the necessary information to undertake assessments to determine if there is sufficient justification for a planning proposal to proceed prior to the completion of the above strategic work.

Making isolated amendments to the LEP ('spot rezoning') is generally not supported and landowners are encouraged to work together and submit joint planning proposals for precincts instead of individual properties. Where appropriate, upfront consultation with the broader community may also need to occur to ascertain if there is general support for a planning proposal to proceed.

An assessment of the application has concluded that the proposal is suitable to be supported in principle and may proceed with the inclusion of an addendum for Gateway Determination. The addendum recommends a LEP minimum lot size provision of 4500m<sup>2</sup> instead of the 4000m<sup>2</sup> as proposed by the applicant. The recommendation for the addendum is also to include additional lots in the planning proposal.

This is a precautionary approach which is able to be supported prior to the strategic work above being completed. This reduces the maximum possible lot yield via subdivision at Lots 1 – 3 DP 818428 compared to the originally submitted proposal. It also removes the possibility of subdivision of any other existing lots within the precinct nominated for the addendum. This substantially lowers the risk of the planning proposal while enabling use of underutilised lands in accordance with zone objectives.

### 2. Subdivision pattern and character

The subdivision and use of the disused lands at Lots 1 – 3 DP 818428 is supported in principle. This outcome upholds the primary objective of the R5 zone. Notwithstanding this, the planning proposal must be more responsive to local context and neighbourhood character. This and the response received during pre-gateway consultation have resulted in the preparation of an addendum to the planning proposal. The addendum supports subdivision in the locality, but

in a manner that is consistent with the existing subdivision and character of the area.

The area is characterised by large residential lots. Lots addressing Plane Tree Drive and Stringybark Place range in size from approximately 4750m<sup>2</sup> to approximately 8500m<sup>2</sup>. The planning proposal submitted by the proponent is seeking a reduction of the minimum lot size provision of 8ha to 4000m<sup>2</sup> which would allow new lots of a size and number inconsistent with the existing subdivision pattern. That proposal would allow up to an additional 16 lots to be developed in this precinct in future, including possible subdivision of 4 lots >8000m<sup>2</sup> outside of Lots 1 – 3 DP 818428. The recommendation is to apply a minimum lot size provision of 4500m<sup>2</sup> to the precinct that will enable utilisation of underdeveloped lands whilst maintaining consistency with the existing subdivision pattern and character of Plane Tree Drive and Stringybark Place and mitigating risks to service capacity. The addendum will provide the opportunity to create up to nine additional lots in the precinct at a size similar to other lots already existing in the precinct. However, as the removal of existing dwellings is likely uneconomical, the actual achievable yield resulting from the planning proposal will be six lots.

3. The compatibility of potential development outcomes with existing infrastructure.

One of the key considerations with LEP amendments is the demands of any proposal on existing infrastructure and the ability of existing networks to cope with increased demands. Phasing and service planning of new development areas must ensure that services can be provided to meet baseline community needs and expectations. The land is located within an existing urban settlement area with access to existing infrastructure and services including roads, water, electricity, communications, waste, social and other community infrastructure. The planning proposal provides a table demonstrating that new lots can be connected to services, however is not supported with a deeper service capacity analysis to determine the impact to utilities. As a result, an addendum has been prepared which reduces the amount of subdivision possible within the precinct. The potential impact to service capacity is considered minor with the addendum with the opportunity to create nine additional lots only. As the removal of existing dwellings is likely uneconomical, this further reduces to an additional six lots. The addendum serves to limit the potential risks associated with the planning proposal in this regard.

4. The compatibility of potential development outcomes with development constraints on the site.

The assessment has found that the lots with potential for additional subdivision are not subject to development constraints including topography, native vegetation or overland flooding. The potential for contamination as a result of historical agricultural use of the land is noted. Investigation of contamination shall be during the development application process for future development of the lands.

## Conclusion

This assessment has found the planning proposal to be broadly sound, subject to a Council-initiated addendum. The addendum recommends an alternative minimum lot size and a precinct approach. The planning proposal will raise the utility of the subject lands in a manner that is responsive to site-specific circumstances and provides satisfactory consistency with existing strategy. There is sufficient strategic justification to proceed with the planning proposal.

The planning proposal with addendum is supported for the following reasons:

- The planning proposal provides potential for development maximising the available utility of the subject lands, is sympathetic to the surrounding locality and compatible with the land use zoning.
- The planning proposal has achieved an acceptable level of compliance with strategic content as assessed in this report.
- The planning proposal is justified against the requirements of relevant S9.1 Ministerial Directions.
- The investigation of the subject land provided with the application is sufficient to support the planning proposal and forward to the Department of Planning and Environment seeking Gateway Determination.

To comply with the NSW Department of Planning and Environment guidelines and to support the planning proposal, council staff will prepare a proposed timeline as an addendum to the proposal prior to submitting for Gateway Determination.

## Financial Implications

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In accordance with Council's 2018/19 Fees and Charges, a Minor LEP Amendment (minor complexity) attracts total application fees of \$7,500. The proponent has paid this fee. There are no requirements to amend the DCP therefore the \$2,000 fee for such action is not required to be paid in this instance.

## Policy and Legislation

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Environmental Planning and Assessment Act 1979.  
Wagga Wagga Local Environmental Plan 2010.

## Link to Strategic Plan

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### The Environment

Objective: We plan for the growth of the city

Outcome: We have sustainable urban development

## Risk Management Issues for Council

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An approval of the proposal may be subject to public scrutiny during the formal public consultation process and may put additional pressure on Council to consider the reduction of the minimum lot size requirements throughout the local government area.

Refusal of the application may result in an appeal process. The applicant has the ability to appeal Council's decision by submitting the planning proposal to the Department of Planning and Environment through a pre-Gateway review process. The reasons for refusal will have to be justified and withstand scrutiny and cross examination.

### Internal / External Consultation

Formal public consultation with landowners, the general public and referral agencies will occur after the Gateway Determination.

Pre-consultation with owners of nearby lands in reference to the originally submitted planning proposal occurred between 26/09/2018 and 26/10/2018. Nine submissions were received.

Submissions received	
Comment	Council Officer's Response
Comments suggest that the reduction of the lot size to 4000m <sup>2</sup> would reduce the amenity of the area and permit too many lots.	This assessment has found that a minimum lot size of 4000m <sup>2</sup> would be inappropriate for the precinct. An addendum to the planning proposal has been prepared which provides for a 4500m <sup>2</sup> minimum lot size. This lot size is comparable to the size of other lots in the Plane Tree Drive precinct. It provides a basis for future development to maintain the amenity and character existing in the area.
Comments suggest that water pressure supplied to the area may not be sufficient to adequately service additional allotments.	This assessment has determined that the opportunity for new lots resulting from a 4000m <sup>2</sup> minimum lot size would be excessive with available information regarding service capacity. An addendum has been prepared recommending a 4500m <sup>2</sup> minimum lot size. This provides less potential for subdivision of lands within the precinct. The suitability of this minimum lot size with respect to existing water supply capacity will be the subject of consultation with Riverina Water County Council after the planning proposal has received a Gateway Determination.
Comments suggest that the road design of the precinct will not be suitable for the addition of many new lots addressing Plane Tree Drive.	This assessment has noted the unique design of roadways within the Plane Tree Drive precinct. The provision of access to new lots will be subject to development assessment to ensure suitability. This assessment is satisfied that satisfactory solutions will be available to provide access to new lots under the 4500m <sup>2</sup> addendum scenario.
Comments suggest the 4000m <sup>2</sup> minimum lot size would not uphold zone objectives to preserve scenic quality	This assessment has found that a minimum lot size of 4000m <sup>2</sup> would be inappropriate for the area. An addendum

Submissions received	
Comment	Council Officer's Response
	to the planning proposal has been prepared which provides for a 4500m <sup>2</sup> minimum lot size. This lot size will provide for a greater extent of open space to be located on new lots and additional distance between fewer dwellings. This will be comparable to the characteristics of existing lots in the Plane Tree Drive precinct and aid in preserving scenic quality.
Comments suggest a minimum lot size provision of 8000m <sup>2</sup> should be applied instead of the suggested 4000m <sup>2</sup> .	This assessment supports the introduction of a 4500m <sup>2</sup> minimum lot size within the Plane Tree Drive precinct. While a 4000m <sup>2</sup> minimum lot size has been found to be inappropriate in the circumstances, an 8000m <sup>2</sup> would also be unrepresentative of the current development pattern of the precinct as most existing lots are smaller than this size.

Internal advice received	
Comment	Council Officer's Response
New lots created by subdivision will be subject to Development Control Plan requirements relating to native vegetation.	The requirements regarding vegetation cover requirements of the Development Control Plan are noted. This assessment is satisfied that acceptable development solutions will be available to meet vegetation related requirements of the Development Control Plan should the planning proposal succeed.
Requirements for improved vegetation planting and hazard presented by neighbouring grassland may have implications for bush fire protection measures to be provided in association with later development on the subject land.	<p>The requirements regarding bush fire protection for new development on the subject lands are noted.</p> <p>This assessment is satisfied that acceptable development solutions will be available to meet vegetation coverage requirements of the Development Control Plan if the planning proposal is successful.</p>
Assessment of land contamination will be required in order to develop the vacant lands at Lots 1 – 3 DP 818428. It is noted that these lots have previously possessed septic tanks associated with the existing residential use of these lots.	<p>The degree of uncertainty with respect to land contamination is noted. This assessment is satisfied that available information is sufficient to allow for the planning proposal to proceed to Gateway Determination.</p> <p>It is noted that the planning proposal seeks to amend minimum lot size only.</p>



Internal advice received	
Comment	Council Officer's Response
	Lands subject to the planning proposal are already zoned for residential development, so suitability of the lands at the strategic level to receive residential land uses has already been determined. More detailed consideration of land contamination matters should occur when further development of the lands is pursued.
It is possible that Aboriginal heritage may exist within the area despite the provided AHIMS search material. Information available to Council indicates 2-5 Aboriginal sites in proximity to the subject land.	The possible presence of Aboriginal heritage is noted. This issue will be addressed by the proponent in accordance with the requirements of any Gateway Determination received.

### Attachments

1. [LEP18/0006 - Planning Proposal submitted by Cheryl and Kevin Moffatt - Provided under separate cover](#)
2. [LEP18/0006 - Council Officer's Assessment - Provided under separate cover](#)
3. [LEP18/0006 - Addendum to Planning Proposal - Provided under separate cover](#)