

IRF21/1752

Gateway determination report – PP-2021-2804

Zoning and minimum lot size changes at Springvale

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Wagga Wagga City Council Addendum to Planning Proposal - nd

Wagga Wagga City Council Planning Proposal Assessment Report - nd

Wagga Wagga City Council Ordinary Meeting Agenda and Minutes - 22 March 2021

Initial Biodiversity Assessment Report by NGH Consulting – July 2020

Hydrology Report by MJM Consulting and Engineering – April 2020

Bushfire Assessment Report by Southern Bushfire Solutions – July 2020

2012 Planning Proposal Council Report – March 2012

Initial Advice on Riverina Water on Serviceability - April 2020

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Wagga Wagga City Council	
РРА	Wagga Wagga City Council	
NAME	Zoning and minimum lot size changes at Springvale (16 homes, construction related jobs)	
NUMBER	PP-2021-2804	
LEP TO BE AMENDED	Wagga Wagga Local Environmental Plan 2010	
ADDRESS	39 Currawang Drive and Dunns Road, Springvale	
DESCRIPTION	Lot 21 DP 1218487 (Multiple)	
RECEIVED	24/03/2021	
FILE NO.	IRF21/ 18242	
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	

1.2 Objectives of planning proposal

The planning proposal and addendum contain objectives and intended outcomes, that adequately explain the intent of the proposal.

In summary, the objective and intended outcome of the original planning proposal and the attached addendum is to amend the Wagga Wagga LEP 2010 to:

- a) facilitate large lot residential development at 39 Currawang Drive Springvale, and
- b) reflect the existing lot pattern in the existing large lot residential precinct.

1.3 Explanation of provisions

The planning proposal seeks to amend the Wagga Wagga LEP 2010 per the changes in Table 3 below.

Table 3 Current and proposed controls

Control Current	Proposed
-----------------	----------

Zone	RU1 Primary Production (Lot 21) and R5 Large Lot Residential (remaining subject land)	R5 Large Lot Residential
Minimum lot size	200 ha (Lot 21) and 8 ha (remaining subject land)	2 ha
Number of dwellings	N/A	16 -26 (including 10 from existing precinct)
Number of jobs	N/A	Construction related jobs

Riparian lands and waterways and Biodiversity provisions under the Wagga Wagga LEP 2010 affect the subject land but no changes are proposed to these provisions.

The planning proposal (page 4) and addendum (page 4) contain an explanation of provisions that adequately explains how the objectives of the proposal will be achieved, as summarised below.

- a) Amend the Wagga Wagga LEP 2010 Land Zoning Map in accordance with the proposed land zoning map, shown in Figure 3, which shows Lot 21 DP 1218487 39 Currawang Drive Springvale as zoned R5 Large Lot Residential
- b) Amend the Wagga Wagga LEP 2010 Minimum Lot Size Map in accordance with the proposed minimum lot size map map, shown in Figure 4, which indicates minimum lot size of 2 ha on the subject land

The explanation of provisions is clear and does not require amendment prior to public exhibition.

1.4 Site description and surrounding area

The subject land is located in Springvale, a southern suburb of Wagga Wagga about 15-minute drive from the city's CBD. Access to the site is provided by Dunns Road and Holbrook Road, which connect the area to a major distributor and arterial road and the city. With the exception of Lot 21 DP 1218487 (Lot 21) which is currently a rural property with a rural dwelling and farm structures, the rest of the subject land is developed and/or intended to be developed for large lot residential purposes. Lot 21 has an approximate area of 40 hectares and is currently used for agricultural purposes (grazing). Lot 21 has a natural water course running from the north-east corner to the western boundary with matured vegetation located along the watercourse as well as across the lot from north to south (see Figure 1).

The site is adjoined by large lot residential development to the east and RU1 Primary Production zoned land to west (see Figure 2). The adjoining rural properties appear to be used for grazing and rural residential purposes and most contain vegetation corridors that connect to the subject land, specifically Lot 21.



Figure 1 Subject site (source: Addendum to planning proposal, no date)



Figure 2 Site context (source: Nearmaps, May 2021)

1.5 Mapping

The planning proposal requires amendment to LEP map sheets LZN_004E and LSZ_004E.

The planning proposal includes mapping showing the existing and proposed zones and minimum lot sizes (see Figures 3 and 4). However, Figure 4 may need to be updated in accordance with recommended gateway conditions, prior to public exhibition.

Other maps affecting the subject land are terrestrial biodiversity, riparian lands and watercourses, vulnerable land and bushfire prone land maps. Although no changes are proposed to these maps, their implications on the proposal are discussed in Section 3 of this report.



Figure 3 Current and proposed zoning map (Addendum to planning proposal, no date)



Figure 4 Current and proposed minimum lot size (Addendum to planning proposal, no date)

1.6 Background

- In 2012 a planning proposal was prepared to rezone part of Lot 1 DP 1013392 from RU1
 Primary Production to R5 Large Lot Residential and rezone part Lot 2 DP 1065108 from R5
 Large Lot Residential to RU1 Primary Production (see Figure 5). The planning proposal
 also sought to apply an MLS of 200 ha to the proposed RU1 Primary Production, and 2 ha
 to the proposed R5 Large Lot Residential. A copy of the 2012 planning proposal and
 Council's report are provided at Appendix H of this current planning proposal.
- The back zoning of the existing R5 Large Lot Residential to RU1 Primary Production and application of 200 ha MLS was to prevent further development or rural fragmentation west of Dunns Road of Lot 2 DP 1065108. The cost of upgrade to road network and lack of water supply capacity required to service development in the area also informed the rezoning decision.
- On 16 June 2012, the 2012 Planning Proposal was granted a Gateway Determination and the amendment was notified on 3 May 2013.
- On 31 July 2020, the landowner submitted the current planning proposal to Wagga Wagga City Council seeking to rezone the subject land which includes the previously back zoned land from RU1 Primary Production to R5 Large Lot Residential and reduce the MLS from 200 ha to 2 ha.
- Following receipt of the planning proposal, Council undertook lot size analysis of the broader large lot residential precinct which has a current MLS of 8 ha. This analysis showed the existing lot size in the precinct is predominantly 2 ha. Based on this, Council prepared an addendum to the planning proposal to apply the proposed 2 ha MLS to lots north of Dunns Road to reflect the existing lot size pattern of the area
- Council resolved at its ordinary meeting held 22 March 2021 to support the planning proposal and submit it for Gateway Determination by the Department.
- The proposal was lodged with the Department on 24 March 2021.



Figure 5 2012 planning proposal outcome zoning map (source: Wagga Wagga City Council as cited in planning proposal report)

2 Need for the planning proposal

Justification for the proposed amendment has been provided in Part 3, Section A on pages 4-5 of the planning proposal and pages 5-6 of the Addendum to the planning proposal.

The planning proposal has not been supported by a strategic study or report to justify the need for and appropriateness of the proposed rezoning and minimum lot size. In addition, the planning proposal has not discussed how the planning proposal boundaries have been determined, nor has it properly considered the infill opportunities provided by other adjoining R5 zoned land with a similar lot size and subdivision pattern (as identified in Figure 8 below).

Council's assessment of the existing large lot residential precinct showed the existing lot size is predominantly 2 ha, contrary to the 8 ha MLS applied to the area (see Figure 7). As such, Council considered that the current MLS provision does not accurately reflect the existing lot size pattern and character of the precinct. While Council's addendum to the proposal seeks to apply a 2 ha MLS to north of Dunns Road precinct, it is considered that a 2 ha MLS should be applied to the broader area, as shown in Figure 8. This will ensure orderly application of MLS, acknowledge the character of the entire area and provide opportunities for optimising the available underutilised serviced lots within the precinct. A review of the lot size analysis map (Figure 7 below) indicates that the wider precinct has the potential to provide 10 additional lots, if the MLS of 2 ha was applied. These additional lots can help satisfy immediate large lot residential needs while strategic studies are being undertaken to determine appropriate location(s) for future large lot residential development.

A strategic approach, through the development of a housing strategy, to justify the expansion of the large lot residential areas into Lot 21 would be a preferred. Considering this and the intensification opportunity identified above, the need to rezone Lot 21 from RU1 Primary Production to R5 Large Lot Residential, prior to the completion of a housing strategy is not clear.

As a result, a condition is recommended in the Gateway Determination to require Council to update the planning proposal to document the necessity of the planning proposal to proceed prior to the housing strategy. A condition has also been recommended to require Council to expand the proposed 2 ha MLS to the existing large lot residential precinct as shown in Figure 8.

Notwithstanding the above comments and conditions, it is considered that the planning proposal generally gives effect to the overall strategic development vision of Wagga Wagga as outlined in the Wagga Wagga LSPS and the recently superseded Wagga Wagga Spatial Plan 2013-2043. While the subject land is not identified as a development area in the Wagga Wagga LSPS, Principle 7 of the plan provides for growth in such areas to be considered based on the principles of the plan including service provision, connectivity, accessibility, housing diversity and environmental protection. The planning proposal satisfies these key principles as the subject land is within a 15-minute drive of the CBD, has access to infrastructure and initial concept subdivision design avoids damage to natural areas and corridors. Moreover, the proposal will increase housing supply and diversity to help meet the city's projected housing stock need of 14,000 homes by 2040.

Council has considered the need for the planning proposal against Wagga Wagga Spatial Plan 2013-2043 despite being recently superseded. The planning proposal was lodged with Council prior to the adoption of the Wagga Wagga LSPS and the Spatial Plan was still in effect. The planning proposal is partially located in candidate site 4 which has been identified as a 'potential intensification' area (see Figure 6). Review of the Spatial Plan indicates that the site is suitable for intensification, subject to a residential study and the potential road connection.

Council staff have confirmed that design, environmental studies and funding arrangements have been finalised for the planned upgrade to Dunns Road which will provide the road connection as identified in the Spatial Plan. In addition, the planning proposal indicates that it seeks to take advantage of the opportunity provided by the available and/or proposed water infrastructure capacity. A letter from Riverina Water confirming serviceability of the area is provided in Appendix I of the planning proposal.



Figure 6 Wagga Wagga Spatial Plan 2013-2043 (Source: Wagga Wagga City Council 2013 as cited in the planning proposal report)



Figure 7 Lot size assessment (source: Addendum to planning proposal, no date)



Figure 8 Recommended extent of proposed 2 ha MLS (source: Adapted from Addendum to planning proposal, no date)

3 Strategic assessment

3.1 Regional Plan

The planning proposal has undertaken an assessment against the Riverina Murray Regional Plan on pages 6-7.

Table 4 provides an assessment of the planning proposal against relevant aspects of the regional plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1 – Protect the region's diverse and productive agricultural land	Although the subject land is currently used for agricultural purposes, the planning proposal indicates that the land has capability restrictions which undermines its suitable for productive agricultural uses. This is compounded by the proximity to an established large lot residential precinct. As identified in the Directions below, the impact on agriculture and the justification to rezone the land against the applicable rural directions remain unresolved and subject to consultation with NSW DPI - Agriculture.

Direction 16 – Increase resilience to natural hazards and climate change	The subject land is affected by overland flow flooding. However, Council's assessment report indicates that the risk can be addressed through subdivision design and development. The Vegetation Buffer of the Bushfire Prone Land map partially affects the subject land, however the bushfire assessment submitted with the planning proposal concludes that the proposed 2 ha MLS would allow for sufficient area for creation of APZs within each affected lot.
Direction 22 – Promote the growth of regional cities and local centres	The planning proposal will promote growth of Wagga Wagga by increasing the supply of housing to attract more population to support and grow businesses and community facilities.
Direction 25 – Build housing capacity to meet demand	The planning proposal will contribute to housing availability and choice in the city.
Direction 27 – Manage rural residential development	The planning proposal will facilitate large lot 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.

3.2 Local

The planning proposal (page 8) and Council's assessment report (pages 11-12) together demonstrate the proposal's consistency with relevant local plans and endorsed strategies. The proposal supports the strategic directions and objectives of the strategic document, as stated in Table 5 below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Wagga Wagga Local Strategic Planning Statement	The planning proposal is consistent with the LSPS as it facilitates housing development in Wagga Wagga. Specifically, the planning proposal aligns with the following principles of the LSPS:
Principle 1 – Protect and enhance natural areas	
	Principle 2 – Increase resilience to natural hazards and land constraints
	Principle 3 – Manage growth sustainably
	Principle 5 – Encourage and support investment
	Principle 6 – Connected and accessible city
	Principle 7 – Growth is supported by sustainable infrastructure
	Principle 10 – Provide for a diversity of housing that meets our needs

Wagga Wagga Spatial Plan2013- 2043	The planning proposal is consistent with this plan as it will contribute to housing stock in the city. The planning proposal specifically supports the following actions of the plan:
	 Identify sites suitable for redevelopment and investigate the potential to concentrate development on infill sites to accommodate future growth
	Development is to occur in liaison with infrastructure providers to ensure efficient and cost effect provision of services
Wagga Wagga Community	The planning proposal is consistent with this plan and gives effect to the following expected outcomes:
Strategic Plan 2040	We have housing that suits our needs
	We are a city with the benefit of a country lifestyle

3.3 Section 9.1 Ministerial Directions

The planning proposal (pages 15-18) and the Council's assessment report (page 10) cumulatively provides a detailed assessment of the proposal against relevant section 9.1 Directions. The planning proposal's consistency with relevant section 9.1 Directions is discussed in Table 6 below.

Table 6 9.1	Ministerial	Direction	assessment

Directions Consistent / Not Applical		Reasons for Consistency or Inconsistency
1.2 Rural Zones. The aim is to protect the agricultural production value of rural land.	No	The planning proposal is inconsistent with this Direction it seeks to rezone land (Lot 21) from RU1 Primary Production to R5 Large Lot Residential. The planning proposal indicates that the land and the adjoining rural zoned land is identified as Class 4, 5 and 7 on the NSW Land and Soil Capability which means land has restricted agricultural capability and therefore unsuitable for high value agricultural production The planning proposal suggests that the inconsistency is minor and justified. However, it is recommended that the direction remain unresolved until consultation with DPIE-Agriculture has occurred.
1.5 Rural Lands. The aim is to protect and minimise fragmentation of rural land as well as facilitate the economic development and viability of rural lands.		This Direction applies to the planning proposal as it seeks to rezone and change MLS of land (Lot 21) within a rural zone. The planning proposal states that the land is not suitable for viable extensive agricultural As such the proposal is unlikely to cause fragmentation of rural land and/or land use conflict with rural land uses. In addition, adequate infrastructure and services are available to the subject land given its proximity to existing residential area and the Wagga Wagga CBD. However, it is recommended that the direction remain unresolved until consultation with DPIE-Agriculture has occurred.

2.1 Environment Protection Zones. The aim is to protect and conserve environmentally sensitive areas.	No	This Direction applies to the planning proposal. The subject land is identified as "biodiversity', 'vulnerable land' and 'sensitive land', 'waterway' and 'water' in the WWLEP 2010. Preliminary Biodiversity Assessment undertaken for Lot 21 concluded that development of the land can be sited and managed to preserve most of the native vegetation present to avoid significant impact on threatened species or ecological communities or their habitats. The assessment report however notes that the Biodiversity Offset Scheme may be triggered depending on the preferred subdivision. Also, the planning proposal states that future development will be designed and managed to avoid adverse impact on water quality, ecosystems and aquatic organisms. On the basis of the above, consultation with DPIE-EES is recommended to fully understand and manage biodiversity and environmental impacts of the proposal, in accordance with Clause (6)(b) of the Direction. Consistency with the Direction will remain unresolved until consultation has occurred.
2.6 Remediation of Contaminated Land. The aim is to reduce the risk of harm to human health & the environment.	No	This Direction applies as Lot 21 is currently and has been used for agricultural purposes such as grazing. Both the planning proposal and Council's assessment report indicate that the potential of land contamination is low, and that detailed assessment can be undertaken at the development application stage. However, this approach is not considered consistent with the requirements of this Direction given that the land has been and is still used for potentially contaminating activities. To ensure consistency with this Direction, a condition has been recommended for preliminary investigation to be undertaken on Lot 21 prior to finalisation of the planning proposal.
3.1 Residential Zones. The aim is to encourage housing diversity, maximise infrastructure and minimise impact of residential development.	Yes	The planning proposal is consistent with this Direction as it will facilitate housing development in an area with access to infrastructure and services.
3.3 Home Occupations. The aim is to encourage the carrying out of low-impact small businesses in dwelling houses.	Yes	The Direction applies to all planning proposals. The proposal is consistent with the Direction as home occupations are permitted without consent in the proposed zone R5 Large Lot Residential under the WWLEP 2010.

3.4 Integrating Land Use and Transport. The aim is to ensure urban development achieves specified planning objectives.	No	The planning proposal is inconsistent with this Direction as it seeks to create residential land in area with limited transport choice. The inconsistency is of minor significance as the proposal is for large lot residential purposes.
3.5 Development Near Regulated Airports and Defence Airfield. The aim is to ensure the effective and safe operation of regulated airports and defence airfields and prevent adverse impact of aircraft noise on development.	N/A	The planning proposal has considered this direction based on the distance from the Kapooka Defence Base. It is not clear in the planning proposal how the Direction is applicable The Direction is not applicable to the planning proposal as Kapooka is not a Defence airfield.
4.3 Flood Prone Land. The aim is to ensure development of flood prone land is undertaken in an appropriate manner.	Yes	The site is subject to an overland flow path. However, it is considered that any flood risk can be managed through subdivision design.
4.4 Planning for Bushfire Protection. The aim is to encourage sound management of bushfire prone land to protect life, property and the environment.	No	This Direction applies as part of the subject land, specifically Lot 21, is located within a bushfire mapping buffer area. Bushfire assessment prepared for Lot 21 concludes that the proposed 2 ha MLS would allow for sufficient area for creation of APZs within each affected lot and also provides recommendations for reducing bushfire risk to future development on the land. To ensure consistency with this Direction, consultation with NSW Rural Fire Service is required and recommended.
5.10 Implementation of Regional Plans. The aim is to give legal effect to the Regional Plans.	Yes	The Direction applies to all planning proposals. The proposal is largely consistent with the Direction (see discussion in Section 3.1 of this report).
6.1 Approval and Referral Requirements. The aim is to ensure LEP provisions encourage efficient and appropriate assessment of development	Yes	The Direction applies to all planning proposals. The proposal is consistent with the Direction as it does not intend to introduce any new referral or consultation requirements.
6.2 Reserving Land for Public Purposes. The aim is to reserve land for public purposes and facilitate the removal of reservations where land is no longer required for acquisition.	Yes	The Direction applies to all planning proposals. The proposal is consistent with the Direction as it does not intend to create, alter or reduce land reserved or zoned for public purposes.

3.4 State environmental planning policies (SEPPs)

The planning proposal identifies SEPP 55 Remediation of Land as relevant to the proposal and provides assessment of its consistency with the SEPP on pages 14-15. Other SEPPs considered relevant to the planning proposal are:

- SEPP (Koala Habitat Protection) 2021
- SEPP (Infrastructure) 2007
- SEPP (Primary Production and Rural Development) 2019

The planning proposal is not inconsistent with any of the objectives within the identified SEPPs above. The specific controls and provisions in each of the SEPPs are not relevant to determining the strategic merit of the planning proposal and may be considered as part of any future development applications on the land.

4 Site-specific assessment

The planning proposal provides site-specific assessment of the proposal in Section C, pages 18-19.

4.1 Environmental

The subject land, especially Lot 21, is environmentally sensitive as it is identified as 'biodiversity', 'vulnerable land' and 'sensitive land', 'waterway' and 'water' in the WWLEP 2010. A creek and vegetation corridors run through the site. Preliminary Biodiversity Assessment undertaken for Lot 21 appears inconclusive in terms of the potential impact on native vegetation, water resources and threatened species or ecological communities or their habitats. In addition, the site is exposed to bushfire risk. On this basis, consultation with DPIE-EES and NSW RFS is recommended to fully understand and manage biodiversity and environmental impacts as well as bushfire risk of the proposal.

The proposed large lot residential use is not inconsistent with the surrounding development and uses.

4.2 Social and economic

The proposal will provide the following social and economic benefits:

- Increase in housing supply and choice to help attract or retain population to support growth
- Contribute to local economy by providing construction related jobs at the subdivision and housing development stages

4.3 Infrastructure

Infrastructure and services commensurate with the proposed development are available and/or can be extended to the subject land. Council has confirmed that design, environmental studies and funding arrangement for a planned upgrade to Dunns Road have been finalised. Also, Appendix I of the planning proposal includes a letter from Riverina Water that indicates that reticulated water supply can be provided to the subject land, albeit with restrictions on some lots.

5 Consultation

5.1 Community

Council proposes a public exhibition period of 28 days.

The exhibition period proposed is considered appropriate and forms part of the conditions in the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- DPI Agriculture
- DPIE Environment, Energy and Science
- NSW Rural Fire Services

6 Timeframe

Council proposes a 13 month time frame to complete the LEP (page 9 of Addendum).

The Department recommends a time frame of 9 months is sufficient and will provide Council adequate time to complete the LEP given the required contamination study and consultation while accomplishing its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal is of local and low risk nature the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal provides social and economic benefits to the form of housing supply and construction jobs
- The proposal facilitates development that conforms with the existing uses
- The proposal is consistent with relevant local plans, the regional plan and SEPPs

As discussed in the previous section 2, the proposal should be updated to:

- apply the proposed 2 ha MLS to the existing large lot residential precinct as shown in Figure 8 of this report.
- address the necessity for the planning proposal to proceed prior to the completion of the Wagga Wagga Housing Strategy
- discuss the intensification of the existing large lot residential precinct (i.e. reducing MLS to 2 ha)

Based on the assessment outlined in this report, the proposal must be updated before finalisation to:

• incorporate findings of preliminary investigation carried out on Lot 21 DP 1218487 in accordance with the contaminated land planning guidelines

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Direction 3.4 Integrating Land Use and Transport is minor *and*
- Note that the inconsistency with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.6 Remediation of Contaminated Land and 4.4 Planning for Bushfire Protection is unresolved and will require agency consultation and justification.

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

- 1. Prior to public exhibition, the planning proposal is to be updated to:
 - a) apply the proposed 2 ha minimum lot size to the existing large lot residential precinct as shown in Figure 8 of the Gateway Determination report
 - b) update the planning proposal, subject land map and proposed minimum lot size map to reflect the outcome of Condition (a)
 - c) provide discussion for the necessity for the planning proposal to proceed prior to the completion of the Wagga Wagga Housing Strategy
- 2. Prior to public exhibition, the planning proposal is to be revised to address condition 1 and forwarded to the Department for review and approval.
- 3. Prior to public exhibition, consultation is required with the following NSW State agencies:
 - NSW Rural Fire Services
 - DPIE Agriculture
 - DPIE Environment
- 4. Prior to finalisation, the planning proposal is to be revised to incorporate findings of preliminary investigation on Lot 21 DP 1218487 carried out in accordance with the contaminated land planning guidelines.
- 5. The planning proposal should be made available for public exhibition for a minimum of 28 days.
- 6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
- 7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.

(Signature)

_____14/05/2021_____ (Date)

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