

CM13.2. Development Application 10.2020.37696.1 Seventy Three Lot Torrens Title Subdivision - Ettamogah Rise Stages 7-10 Springdale Heights

DATE	9 November 2020	FIL REFERENCE	AF20/02893
CONFIDENTIAL	No		
FURTHER ENQUIRIES	David Christy City Development	PHONE	6023 8111
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Summary

This report is presented for Council's determination of Development Application 10.2020.37696.1 regarding land situated at Fenchurch Drive, Springdale Heights, and described as Ettamogah Rise, Stages 7 – 10.

The Development Application was received on 30 July 2020 and proposes the staged re-subdivision of 42 previously approved lots (in Development Consent 10.2013.32005.5) into 73 lots. The proposal also includes the provision of additional public open space and the upgrade of the left-turn traffic lane from Wagga Road to Windsor Avenue.

The proposal is consistent with the recent amendment to the Albury Local Environmental Plan (ALEP) 2010 (Amendment No. 25), endorsed by Council on 11 May 2020 and gazetted on 12 June 2020, which amended the minimum subdivision lot size for portions of the site.

The application was publicly notified between 1 August 2020 and 31 August 2020. During this period Council received one submission.

As Integrated Development, the application is also seeking Bushfire Authority from NSW Rural Fire Service (RFS) pursuant to Section 100B of the Rural Fires Act 1997. Bushfire Authority was issued by NSW RFS on 14 August 2020.

The report recommends approval of Development Application 10.2020.37696.1, subject to conditions.

People

Blueprint Planning on behalf of Peter Fitzpatrick (Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga).

Cost

Nil

Development Description

The proposed development involves:

- 73 lot subdivision over four stages, with lots ranging in area from 1,501m² to 3,948m², including 1 lot for combined public park and stormwater detention purposes and 1 lot for an extension of an existing public park;
- construction of public roads; and
- extension of new underground services with supply of independent services to each lot including underground electricity.

Consistent with traffic impact assessment work completed as part of Amendment No. 25 to the Albury Local Environmental Plan (ALEP) 2010, road works along Wagga Road will be completed as part of the proposal. Required works involve lengthening the left-turn traffic lane into Windsor Avenue to comply with Austroads guidelines. Traffic engineering documentation will be supplied with the Subdivision Works Certificate application for 'Stage 7'.

The proposed re-subdivision will affect parts of Stages 7, 8, 9 and 10. The proposal is shown in the development plans (included in attachment 1) and as described in the Statement of Environmental Effects (included as attachment 2). For reference in the context of this report, Figures 1, 2, 3 and 4 below compare the parts of each stage of the current approved subdivision lot layout (Development Consent 10.2013.32005.5) and the proposed lot layout. Please note that the current approved lot layout is shown in greyscale in the 'Proposal' column and the affected part in colour. Any changes to the layout in the greyscale area do not form part of this application and are currently the subject of a separate application for Modification of Development Consent (lodged as DA 10.2013.32005.6) which is awaiting determination of this Development Application. The modification application (10.2013.32005.6) proposes some relatively minor changes to the approved application, including:

- inclusion of the new lots proposed by 10.2020.37696.1 (this application);
- road alignment changes to reflect lot amendments;
- minor changes to lots proposed in each stage;
- reordering of proposed stages; and
- resultant changes to conditions to reflect amended plans and staging.

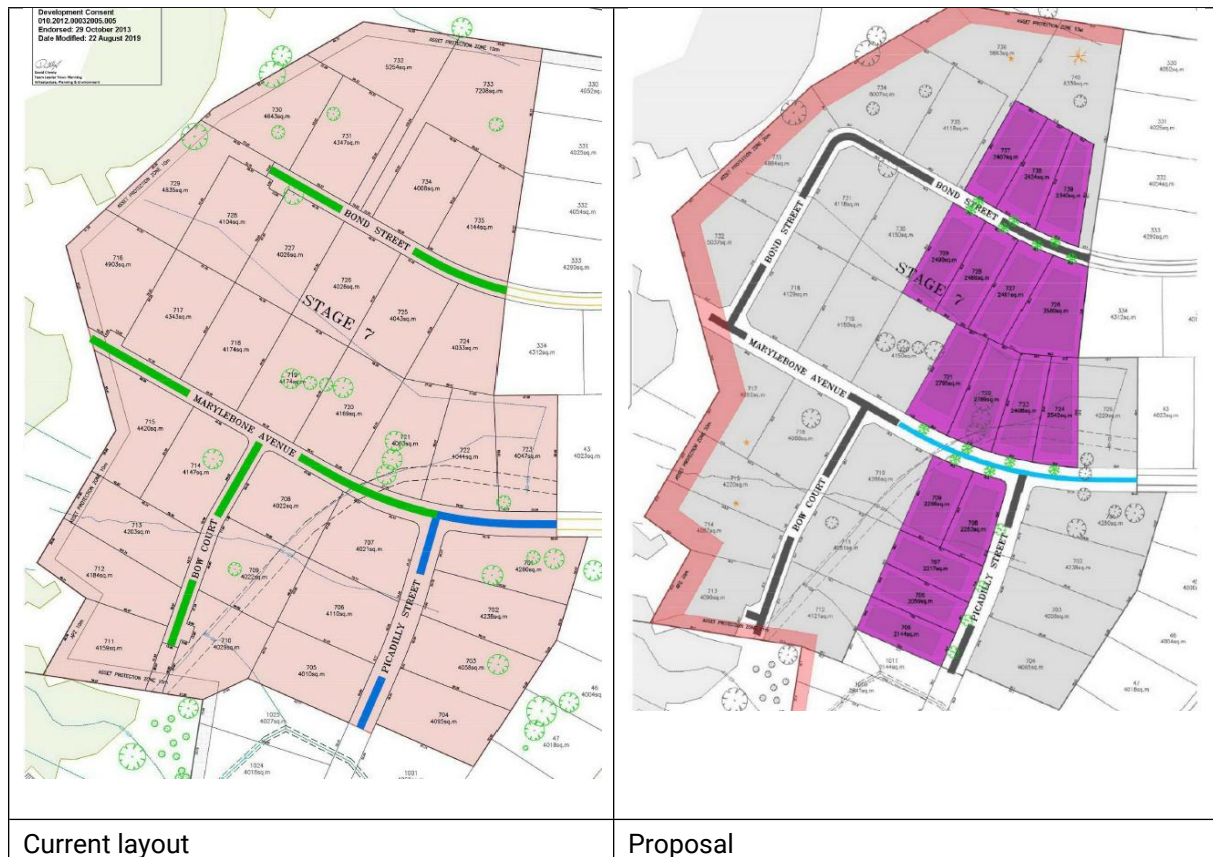


Figure 1: Proposed re-subdivision within Stage 7



Figure 2: Proposed re-subdivision within Stage 8 (sheet 1)



Figure 2: Proposed re-subdivision within Stage 8 (sheet 2)



Figure 3: Proposed re-subdivision within Stage 9

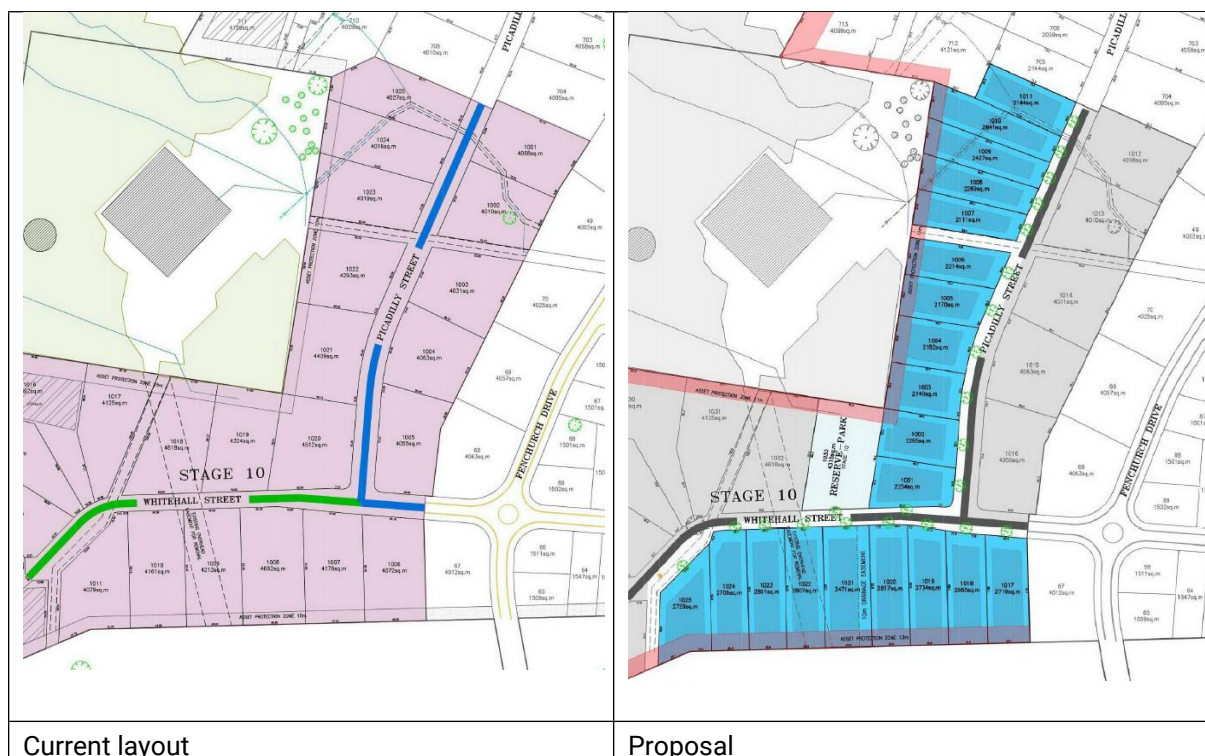


Figure 4: Proposed re-subdivision within Stage 10

The proposed development has been assessed against the requirements of Section 4.15 of the Environmental Planning and Assessment Act 1979. The assessment has involved consideration of the requirements of relevant State Environmental Planning Policies, Albury Local Environmental Plan (ALEP) 2010 and Albury Development Control Plan (ADCP) 2010, with specific reference to Appendix E: Ettamogah Development Plan. It is considered that the proposed development can be supported for the reasons outlined throughout the report.

Site and Locality Description

The land is located approximately 5.1 kilometres to the northeast of the 'Lavington fiveways road intersection' at Ettamogah Rise Estate, Springdale Heights and is otherwise known as part Lots 356 & 357 in DP1252690. The site is currently vacant and comprises grazing land while it awaits residential subdivision and development. Pedestrian and vehicle access to the site is available via Wagga Road and Central Reserve Road via existing streets (Whitehall Street, Piccadilly Street, Marylebone Avenue, Bond Street, Fenchurch Drive, Trafalgar Street, Darrow Street, Lantern Street, Liverpool Avenue and Strand Terrace).

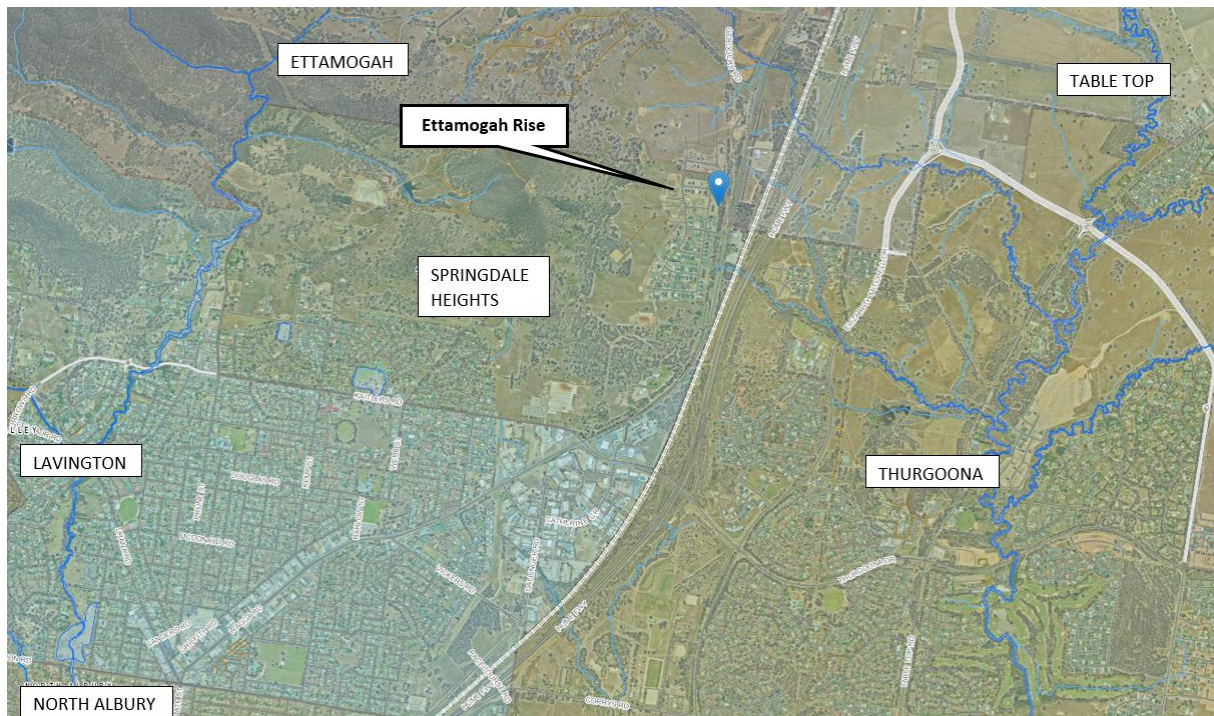


Figure 4: Locality

The site comprises the majority of the land that was the subject of Amendment No. 25 to ALEP 2010 which amended the minimum subdivision lot size for portions of the site and other land from 4,000m² to 1,500m² in area. This amendment came into force on 12 June 2020.

The site also comprises land previously approved for residential subdivision for 42 lots under Development Consent No. 10.2012.32005.5 originally approved on 29 October 2013 and most recently modified on 22 August 2019. The proposal affects three distinct pockets of land within Ettamogah Rise as shown in Figure 5 below:



Figure 5: Approximate areas within Ettamogah Rise affected by the proposal

The site is zoned “R2 Low Density Residential” zone under Albury LEP 2010 with a minimum lot size of 1,500m² under the Minimum Lot Size Map. The proposed development is permissible with consent.

Key Issues

Road Access

As noted earlier in the report, the proposal also includes the upgrade of the left-turn traffic lane from Wagga Road to Windsor Avenue, consistent with traffic impact assessment work completed as part of Amendment No. 25 to ALEP 2010. Road works along Wagga Road will extend the north bound Auxiliary Left Turn Lane (into Windsor Avenue) southwards by approximately 90 metres consistent with the Traffic Impact Assessment Report (Spotto Consulting – May 2019) to comply with Austroads guidelines. A Condition of Consent will be imposed to ensure these works are completed in the next stage of development, should Council approve the development.

It is further noted that the future intersection of Central Reserve Road and Gerogery Road must be reconstructed to form a 90-degree intersection in accordance with Austroads Guide to Road Design. Construction of proposed Stage 8 is anticipated to necessitate the construction of this intersection, and therefore a Condition of Consent to this effect will be required should Council approve the development. However, it is acknowledged that a Modification of Development Consent has been

submitted (DA 10.2020.32005.6) that seeks to change the staging boundaries for the estate and much of proposed Stage 8 will generally become Stage 5 if the Modification is approved. Whilst the Modification acknowledges this application and in fact relies upon it, it is still considered necessary to include a similar Condition of Consent on the Modification, to ensure that the intersection is properly constructed to form a 90-degree intersection as soon as the relevant stage is constructed, regardless of number.

Tree removal

The application clearly states under Part 4 of the submitted Planning Report and SEE (refer to attachment 2) that no tree removal over 4.5m in height or 3m in spread require removal as part of the application. However, it is noted that the construction of the intersection at Central Reserve Road and Gerogery Road as well as the intersection at Central Reserve Road and Fenchurch Drive may potentially require tree removal depending on final design, though this will be avoided where possible. Neither this application nor the previous approved subdivision sought tree removal and hence no tree removal has been approved to date. Should any tree removal that requires Council consent be necessary as part of the final design, then separate approval will be required from Council to permit tree removal. This is noted under Part 5 of the submitted Planning Report and SEE.

It is noted that Central Reserve Road from the intersection of Gerogery Road to approximately 200m up the road is now mapped on the NSW Biodiversity Values Map, which means that the Biodiversity Offset Scheme (BOS) Thresholds are automatically triggered. As vegetation removal in these intersection areas has not been officially approved by previous development consent it is possible a Biodiversity Development Assessment Report (BDAR) may be required for these areas.

An Advisory Note to this effect will be included in the Draft Development Consent, should Council approve the development, reiterating that no tree removal is approved and therefore not permitted unless separate approval is obtained for any tree removal.

Contamination

Whilst the site is not on the NSW EPA Contaminated Land Record, nor Albury City's Contaminated Lands list, some concerns regarding potential contaminated land in Stages 8 and 9 have previously been raised due to past agricultural use of the land. The current Development Consent 10.2013.32005.5 includes the following Condition of Consent:

(B16) Contamination (Modified by Development Consent 10.2012.32005.5)

Prior to the issue of a Construction Certificate for Stage 4 and/or Stage 5 (whichever occurs first), a Preliminary Investigation Report for the land contained within Stages 8 and 9 and the parts of those Stages contained within the area of forward works proposed in Stages 4 and 5, is to be prepared by a suitably qualified person in accordance with clause 6 of State Environmental Planning Policy 55 – Remediation of Land and Managing Land Contamination Planning Guidelines: SEPP 55 – Remediation of Land (DUAP & EPA, 1998) and submitted to Council. The report is to investigate the suitability of land in those stages for residential use due to known past agricultural activities with any recommended remedial works arising being

completed prior to the issue of a Subdivision Certificate for Stage 4, 5, 8 and 9 (as applicable to the works required) with documentary evidence of same being provided to Council.

Prior to the installation of any earth berms, temporary sediment basins, detention basins or any earthworks for drainage, service provision, roads or land shaping in any area contained within Stages 8 and 9, evidence is to be provided to Council that the land to be disturbed has been identified in the Preliminary Investigation Report as not being contaminated, or that all areas to be disturbed by the works have been remediated prior to any of those works being undertaken. (B998)

This condition is considered adequate to deal with potential land contamination, and therefore no additional action is required at this stage.

Submissions

The Development Application was publicly exhibited from 1 August 2020 to 31 August 2020. One submission was received in relation to this development.

The submission stated:

We welcome development to the community by way of subdivision to residential land. This however will mean an increase in population and the need for standardised recreational facilities. The park in the area barely accommodates current residents. Therefore, with the proposed development there is need for expansion of the park to include more play and exercise equipment and a car park. Also, it will be beneficial to make provision for a soccer/sports oval in the proposed development.

Planning Comment: The proposed subdivision is consistent with the Ettamogah Development Plan which does not include a sports oval. Whilst the proposal does increase residential density from the previously approved Development Consent 10.2013. 32005.5, the proposal increases the public open space/park area by providing an extension of 2,150m² to the existing park located in Stage 3 as well as providing 4,315m² new dedicated open space, which constitutes a park of 2,234m² and a drainage reserve (detention pond) of 2,081m². The additional park area (2,150m² + 2,234m² = 4,384m²) is considered adequate for the additional 31 lots. The previously approved Development Consent did not include a sports oval and the additional 31 lots is not considered to warrant the inclusion of such significant infrastructure. The provision of additional open space demands was also considered by Council as part of Amendment 25 to ALEP 2010.

Options

The Council has the following options in relation to this report;

1. Approve the application; or
2. Approve the application, subject to conditions; or
3. Defer the application for further information or redesign; or
4. Refuse the application.

Based on the assessment of the application and the manageable impacts arising from the proposed development, this report recommends that Council resolve to approve the application subject to the conditions contained in the Draft Determination, included as attachment 5 to this report as per Option 2.

Conclusion

Council staff have assessed the proposed development with regard to the submitted information, issues raised during public notification, and planning controls and requirements contained within ALEP 2010, ADCP 2010 (with specific reference to Appendix E: Ettamogah Development Plan) and relevant State legislation. The application is also consistent with Amendment 25 to ALEP 2010 endorsed by Council on 11 May 2020 and gazetted on 12 June 2020.

It is the role of Council staff to objectively weigh and consider the submitted information as well as any issues raised during public notification. This involves balancing the issues identified by all parties and will not always result in agreement with the noted opinion of any of these parties.

The development is considered appropriate to the context and setting of the site. The proposed development is considered consistent with the objectives of the R2 Zone and the Ettamogah Development Plan, and the assessment has concluded that the proposed development provides a suitable and satisfactory planning outcome. The environmental impacts generated by the proposal, whether considered individually or cumulatively in the context of the site and the broader area, are not considered significant and therefore warrants the support of Council and the issue of Development Consent.

Recommendation

That Council:

- a. Receives the contents of this report; and
- b. Grants consent to Development Application 10.2020.37696.1 for the staged re-subdivision of 42 previously approved lots (in Development Consent 10.2013.32005.5) into 73 lots subject to the conditions contained in the Draft Determination, included at attachment 5 to this report.

Attachments

1. Development Plans (DOC20/226795).
2. Statement of Environmental Effects (DOC20/226793).
3. Submission (DOC20/228779).
4. Development Application Assessment Report (DOC20/223690).
5. Draft Determination (DOC20/227332).