

AlburyCity – Planning & Development Committee

AGENDA

PDC 6 – REPORTS FOR DISCUSSION

6A Albury Local Environmental Plan 2010 – Planning Proposal: Land Rezoning – Riverina Highway, Thurgoona (July 2011) (FIL10/02688)

DATE 30 June 2011

CONFIDENTIAL YES ☐ NO ☒ If yes please tick one of the following reasons
Personnel Matters ☐ Commercial ☐ Legal ☐ Security ☐ Personal Hardship ☐

MEETING DATE Monday 11 July 2011

FURTHER ENQUIRIES TO Chris Graham PHONE 6023 8148
Planning & Environment

Introduction

This report seeks Council's endorsement of the Draft 'Planning Proposal: Land Rezoning – Riverina Highway, Thurgoona (July 2011)' (the Planning Proposal) that proposes to amend the *Albury Local Environmental Plan 2010* (ALEP 2010) as it relates to land located south of Riverina Highway, Thurgoona (the site). A plan indicating the proposed land use zone changes is provided as *Attachment 1* for Council's information. In addition, a copy of the Draft Planning Proposal will be tabled at the meeting and is available for Council's reference and information upon request.

The land is currently identified as 'Deferred Matter' under the ALEP 2010 'Land Application Map'. This assignment was effected by the NSW Department of Planning and Infrastructure (DoPI) at the time of gazettal of ALEP 2010 and complies with Council's resolution. Council had previously resolved to support the rezoning of the site to 'R1 General Residential Zone' subject to the land being excluded from the ALEP 2010 as a 'Deferred Matter' pending further investigation and preparation of supporting documentation addressing the requirements of a Local Environmental Study.

The Planning Proposal seeks to amend the Land Zoning Map and Lot Size Map of ALEP 2010 following a comprehensive analysis of relevant constraints for the site and surrounding land. The proposed changes are primarily to rezone the land as 'R1 General Residential' but also provides for creation of additional 'RU2 Rural Landscape' zoned land. This zone has been identified for land unsuitable for normal urban development but where complimentary rural-residential type development could occur.

Specifically it is proposed that the ALEP 2010 be amended in relation to this site, as follows:

- Land Zoning Map change from part 'Deferred Matter' and part 'RU2 Rural Landscape Zone' to 'R1 General Residential Zone';
- Land Zoning Map change from 'Deferred Matter' to part 'RU2 Rural Landscape Zone';
- Lot Size Map change from part 'Deferred Matter' and part '100ha minimum lot size' to '450m² minimum lot size';
- Lot Size Map change from 'Deferred Matter' to part '100ha minimum lot size'; and

AlburyCity – Planning & Development Committee

AGENDA

- Identifying the site as being subject to the general ALEP 2010 and specific Part 6 Urban Release Area (URA) provisions.

The Planning Proposal has been prepared in accordance with the NSW Department of Planning publication: '*A guide to preparing planning proposals (July 2009)*' and is consistent with the ongoing assessment and advice of the AlburyCity planning staff to ensure that all necessary research has been undertaken, documented and addressed for the purposes of demonstrating land capability for residential development.

Background

NSW Government planning reforms released in 2004 required the preparation of strategies to provide clear direction for the social, economic and environmental development within local government areas (LGAs) to inform statutory decisions and the development of principal planning instruments (LEPs).

In accordance with both NSW Government planning reforms and DoPI advice the *Albury Land Use Strategy 2007* (ALUS) was prepared and exhibited. The ALUS was adopted by Council in December 2006 (effective in May 2007) providing a strategic framework for the Albury LGA that balances growth, environmental values and guides future zoning and planning decisions.

Upon completion of the ALUS a comprehensive review of planning controls commenced to facilitate the delivery of ALUS recommendations through ALEP 2010. The ALUS had identified the subject site as 'urban expansion' however the ALEP 2010 (when publicly exhibited) proposed an 'R5 Residential Large Lot Zone' and '10ha minimum lot size'.

Both during and immediately following public exhibition of ALEP 2010 AlburyCity received submissions and representations on behalf of and by the landowner regarding the site. The submissions and representations received primarily sought an amendment to both the proposed zoning and minimum lot size for the site. Following the further consideration of submissions and representations received, planning staff agreed that the site would be more appropriately zoned 'R1 General Residential Zone' with a '450m² minimum lot size' for reasons outlined as follows:

- landowner and community expectations created by the ALUS;
- currently the Lake Hume Village Water Supply Main passes the front of the property;
- sewer can be made available to the site (at the developers expense) and an examination of the potential cost indicates that it is not prohibitive;
- the area of the site that is proposed for 'R1 General Residential Zone' is above the 1% AEP flood levels and not affected by bushfire or other known hazards;
- the site does not form any significant visual background when viewed from Albury;
- proximity to existing urban centres and access to Riverina Highway (the site is less than 10 minute drive from CBD); and
- the site is adjacent to an urban growth front.

AlburyCity – Planning & Development Committee

AGENDA

Council subsequently resolved to endorse the requested change in land use zoning and minimum lot size to 'R1 General Residential Zone' and '450m² minimum lot size' respectively, subject to the land being excluded from ALEP 2010 as a 'Deferred Matter' pending further investigation and preparation of supporting documentation addressing the requirements of a Local Environmental Study.

On Friday 13 August 2010, the DoPI notified AlburyCity that the Minister for Planning had made the ALEP 2010. As part of the ALEP 2010 plan making process, the subject land was deferred (as recommended) to allow for preparation of detailed studies into its residential development potential.

Accordingly, the proponent has prepared and submitted a Planning Proposal that investigates the residential development potential of the subject land and now seeks the further consideration of Council to enable the progression of this matter.

The following discussion briefly outlines the scope, content and subject matter contained in the submitted Planning Proposal for information purposes to assist Council's further consideration.

Discussion

The Planning Proposal provides justification for the outcomes sought, based on the following:

1. a comprehensive analysis of site constraints;
2. consideration against relevant local, regional and State planning policies/directions;
3. assessment of likely impacts and necessary mitigation; and
4. documentation and consideration of any relevant government agency issues/interests.

The considerations and responses as contained in the Planning Proposal are discussed below.

Site Analysis Investigations

The site has been subject to a detailed site analysis relating to topography, geology (soil stability and erosion), flooding (associated with the Murray River and overland intermittent watercourses), ecology (native vegetation and habitat), heritage (cultural), view catchment and developable land (cumulative assessment of all constraints to identify unencumbered land).

This detailed site analysis and associated investigations has generally concluded that the site is mostly unconstrained and capable of being further developed for residential purposes with minor design requirements.

Relationship to Strategic Planning Framework (local, regional, State planning policies/directions)

The site and outcomes sought have been subject to a detailed audit of relevant local, regional and State planning policies and directions.

This detailed audit has generally concluded that the subject land and outcomes sought are consistent with the relevant planning policy framework, and where inconsistencies have been identified, information has been provided that justifies any such inconsistency.

AlburyCity – Planning & Development Committee

AGENDA

Assessment of Likely Impacts and Necessary Mitigation

The site and outcomes sought have been subject to a net community benefit test and other investigations relating to environmental, social and economic impacts to ascertain likely costs, benefits and impacts.

This has involved a critical assessment and documented response against relevant investigation criteria (as required by NSW Department of Planning publication: *A guide to preparing planning proposals* (July 2009)) including:

- State and regional strategic development directions;
- any precedents created and/or change in landowner expectations and that of surrounding landowners;
- cumulative impacts;
- impact on the supply of residential land and housing affordability;
- demands and impacts on existing public infrastructure (utilities, roads etc.);
- impacts on critical habitat, threatened species and land with high biodiversity value;
- other environmental impacts; and
- compatibility with surrounding land uses and potential amenity impacts etc.

These tests and investigations have generally concluded that there will most likely be a positive net community benefit based on the proposed land use changes.

The Planning Proposal also suggests that anticipated impacts can be considered and addressed in more detail at the development proposal stage. This will be ensured through the proposed inclusion of the site as part of the URA on the Urban Release Area Map. Consequently, the site will be subject to Part 6 URA provisions of the ALEP 2010 which will require, amongst other things, the preparation of a site specific development control plan (DCP) that addresses matters including staging, simple and safe transport system, protection and enhancement of riparian areas, remnant vegetation, visually prominent locations, open space provision, stormwater management controls, amelioration of natural and environmental hazards (bushfire, flooding etc.), detailed urban design controls for significant development sites etc.

The application of the Part 6 URA provisions to the site will ensure an appropriate regard and mitigation of likely impacts and facilitate orderly and controlled development.

It is further noted that AlburyCity is about to commence a Precinct Structure Plan for the Thurgoona/Wirlinga URA lands (that will involve similar investigations to that required by the Part 6 URA provisions) that will result in a recommended urban structure/pattern. This will facilitate a coordinated and orderly approach to land development in Thurgoona/Wirlinga. The proposed inclusion of the site as part of the URA on the Urban Release Area Map will ensure that any cumulative impacts associated with development of the site will be identified, considered and addressed in conjunction with the Precinct Structure Plan investigations to be undertaken for the surrounding land.

AlburyCity – Planning & Development Committee

AGENDA

Relevant Government Agency Issues and Interests

Informal consultation has been undertaken with both the NSW Roads and Traffic Authority (RTA) and the NSW Department of Environment and Heritage (formerly NSW Department of Environment, Climate Change and Water)(DECCW).

It is noted that no issues of significance have been identified in this consultation with DECCW whilst RTA issues relating to cumulative traffic impacts associated with the further development of the site will be identified, considered and addressed through the Precinct Structure Plan investigations for the site and surrounding land rather than independently.

It is also noted that opportunities will be available for DECCW, RTA and any other relevant government agencies to provide further comment through the formal consultation process to be undertaken in accordance with any conditions of a Gateway Determination.

The preliminary assessment is supported and recommended to progress to the next stage of the plan making process, it is advised that the Gateway Determination will further review the adequacy of investigations undertaken (including technical reports), documentation provided and consultation required to justify the Planning Proposal. This may or may not result in the Planning Proposal being updated, amended and/or embellished in relation to investigations undertaken, documentation provided and consultation required.

Conclusions

The development of the subject land for residential purposes is consistent with ALUS recommendations that seek to, amongst other things, accommodate long term strategic growth and urban expansion of the existing Albury urban area.

The Planning Proposal provides an appropriate level of investigation that demonstrates the capability of the site for residential development purposes.

It is reiterated that outcomes sought by this Planning Proposal have already been previously endorsed by Council, following the public exhibition of the ALEP 2010, subject to the preparation of supporting documentation addressing the requirements of a Local Environmental Study or equivalent.

Local Environmental Study (or equivalent) requirements have been addressed in the Planning Proposal, and accordingly, Council endorsement of this Planning Proposal is now sought to progress this matter to public exhibition.

AlburyCity – Planning & Development Committee

AGENDA

Recommendation

That the Committee recommends to Council that:

- a. Council endorse the 'Planning Proposal: Land Rezoning – Riverina Highway, Thurgoona (July 2011)' to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 that seeks to:

1. amend the Land Zoning Map for the site from part 'Deferred Matter' and part 'RU2 Rural Landscape Zone' to 'R1 General Residential Zone';
2. amend the Land Zoning Map for the site from 'Deferred Matter' to part 'RU2 Rural Landscape Zone';
3. amend the Lot Size Map for the site from part 'Deferred Matter' and part 'AD 100ha' to 'G 450m²;
4. amend the Lot Size Map for the site from 'Deferred Matter' to part 'AD 100ha';
5. amend the Urban Release Area Map for the site by removing the 'Deferred Area' assignation and insert the 'Urban Release Area' assignation to reflect the spatial extent of that land where an 'R1 General Residential Zone' is proposed;
6. amend the Land Application Map for the subject land by removing the 'Deferred Matter' assignation;

and request that a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979 be issued to enable public exhibition of the Planning Proposal; and

- b. upon receipt of a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979, Council place the Planning Proposal on public exhibition pursuant to any requirements of the Gateway Determination and Section 57 of the Environmental Planning and Assessment Act 1979.

- **Attachments**

1. Proposed Landuse Zone Changes: Riverina Highway, Thurgoona.
2. Planning Proposal: Land Rezoning – Riverina Highway, Thurgoona (July 2011) *(to be tabled at the meeting)*.