

AlburyCity - Council Meeting

AGENDA

10B Planning Proposal Amendment to B6 Enterprise Corridor Zone to Allow Bulky Goods Premises to be Permitted with Consent (FIL11/01628)

DATE 15 August 2011

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

MEETING DATE Monday 22 August 2011

FURTHER ENQUIRIES TO Chris Graham PHONE 6023 8148
Planning & Environment

Introduction

The purpose of this report is to obtain Council's endorsement of a Planning Proposal that seeks to amend the land use permissibility of 'bulky goods premises' as it applies to the B6 Enterprise Corridor Zone as contained in *Albury Local Environmental Plan 2010* (ALEP 2010). In particular, it is proposed to list 'bulky goods premises' as permitted with consent.

A copy of the Planning Proposal will be tabled at the Council Meeting for the perusal of Councillors.

Background

The Standard Instrument (Local Environmental Plans) Amendment Order 2011 (the amending order) was made and published on the Friday 25 February 2011. The amending order amends the original Standard Instrument Order and Standard Instrument from which ALEP 2010 had been previously prepared.

The primary objective of the amending order was to effect changes to the Standard Instrument that will improve the efficiency of delivery of standard Local Environmental Plans (LEPs) through content and subject matter changes, as follows:

- clarify the intention of zones through new and amended directions, objectives, mandatory land uses and the renaming of the RU4 Zone;
- update clauses to conform with changes in legislation and State Environmental Planning Policies (SEPPs) made subsequent to the original Standard Instrument Order; and
- adjust existing land use term definitions to avoid overlap and ensure that the relationship between definitions is clearer, through the inclusion of new terms, amendments to existing terms and cross referencing the group term/sub-term relationships;

Commencement of the amending order for all Standard Instrument LEPs that were already published on the NSW Legislation website (including ALEP 2010) was deferred until Saturday 25 June 2011 to allow Council to consider proposed amendments and identify any further necessary changes (consequential changes) required to maintain the 'status quo'. These consequential changes were to be effected by an overriding State Environmental Planning Policy (SEPP) where required.

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AlburyCity reviewed the ALEP 2010 and identified a number of concerns and issues that needed to be rectified in order to maintain the status quo. These included:

- advice sought confirming the continued use of the existing Land Zoning Maps (unchanged) despite the renaming of the RU4 Zone (due to the inclusion of a savings provision in the amending order);
- identification, confirmation and support for proposed objective and land use permissibility changes in the RU4 Primary Production Small Lots Zone, B1 Neighbourhood Centre Zone, IN1 General Industrial Zone and IN2 Light Industrial Zone;
- identification, confirmation and support for an increase in the maximum gross floor area requirements for 'industrial retail outlets' and 'secondary dwellings' resulting from a change in wording of relevant clause(s) and resultant changes in the methods of calculating floor space ratio;
- clarification sought confirming investigations and procedural requirements necessary to allow 'eco-tourism' as permitted with consent in various zones in lieu of the prohibition of 'eco-tourism' by the amending order; and
- identification, confirmation and support for Schedule 2 amendments that have resulted in the deletion of several exempt development types to reflect recent inclusions and changes to SEPP (Exempt & Complying Development Codes) 2008.

Whilst some issues have been corrected with an amending SEPP, Council has recently been advised that the changes to the classification of 'bulky goods premises' was a local issue for Albury and therefore not included in the statewide amending SEPP.

As a result of changes to the hierarchy of land use definitions in the Standard Instrument as effected by the amending order (where 'bulky goods premises' have now become a subset of 'retail premises') and corresponding changes to content and subject matter of ALEP 2010 it has become apparent that 'bulky goods premises' have now inadvertently become a prohibited land use activity in the B6 Enterprise Corridor Zone.

This in itself would not be significant except that the B6 Enterprise Corridor Zone is the primary zone for bulky goods development in the City. On the advice of DoPI AlburyCity is seeking to rectify this prohibition through this planning proposal.

Discussion

'Bulky goods premises' were previously permitted with consent in the B6 Enterprise Corridor Zone under the ALEP 2010. This was on the basis that 'bulky goods premises' were identified as a separate land use definition to 'retail premises' in ALEP 2010 prior to the amending order.

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As a result of the amending order and corresponding changes to content and subject matter of ALEP 2010 it has become apparent that 'bulky goods premises' is now included as a subset of the group term 'retail premises'. The discretion AlburyCity previously had to consider 'bulky goods premises' separate to 'retail premises' is no longer available and, as a consequence, any prohibition of 'retail premises' in the B6 Enterprise Corridor Zone now also applies by default to 'bulky goods premises' (in the absence of 'bulky goods premises' being listed as permitted with consent).

The B6 Enterprise Corridor Zone is a business zone in the Albury Local Government Area (*Attachment 1 - Locality Map*) where 'bulky goods premises' are actively encouraged. However, the amending order and corresponding changes to content and subject matter of the ALEP 2010 are at odds with Council's land use intentions.

The ability exists to consider and approve new or replacement 'bulky goods premises' at specific existing premises such as the Harvey Norman Home Maker Centre or Peards Complex pursuant to the existing use provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act). However, this option is not considered ideal insofar as existing use provisions are not available to vacant land, limits development potential, can be extremely complex to prove and is not reflective of Council's endorsed land use intentions for the subject land. It is also relevant that Albury Development Control Plan 2010 contains objectives and provisions encouraging the development of 'bulky goods premises' in the B6 Enterprise Corridor Zone.

Conclusions

To ensure that development can occur and proceed in accordance with Council's intentions for these areas this matter should be resolved as soon as possible.

Accordingly, Council support is now sought to endorse the tabled Planning Proposal and seek DoPI authority to expedite this matter as an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and no State and Commonwealth Government public authority consultation requirement.

Notwithstanding, should an exhibition period and State and Commonwealth Government public authority consultation be required by Gateway Determination, such consultation will be undertaken in accordance with any conditions of Gateway Determination and in accordance with the EP&A Act.

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Recommendation

That Council:

- a. endorse the Planning Proposal to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 insofar as amending the land use permissibilities of the B6 Enterprise Corridor Zone by listing 'bulky goods premises' as permitted with consent, and request that a Gateway Determination be made, pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act) that permits an Amendment pursuant to Part 3 of the EP&A Act with no public exhibition and no State and Commonwealth Government public authority consultation requirement in recognition that the Planning Proposal seeks to reinstate same land use permissibilities to that which previously applied (maintain the status quo); and
 - b. in the event that public exhibition and public authority consultation is required and should no objections be received, furnish a copy of this report and other relevant information to the NSW Department of Planning and Infrastructure, in accordance with the EP&A Act, and request the Minister for Planning undertake appropriate actions to secure the making of the Amendment to the Albury Local Environmental Plan 2010 to the extent that it relates to the land use permissibilities of the B6 Enterprise Corridor Zone.
- **Attachments**
 1. Locality Map – B6 Enterprise Corridor Zone.
 2. Planning Proposal: Amendment to B6 Enterprise Corridor Zone to allow 'bulky goods premises' to be permitted with Consent (*to be tabled at the meeting*).