

COUNCIL MEETING REPORT

(Use for MANEX, Council Meeting, Planning & Development, Engineering & Works, Community & Cultural & Finance & Administration Committee Reports)

14D Albury Local Environmental Plan 2010 - Planning Proposal: Lavington Sports Ground Rezoning (DOC15/115674)

DATE 8 December 2015

CONFIDENTIAL

Personnel Matters ☐

YES ☐

Commercial ☐

NO ☒

Legal ☐

If yes please tick one of the following reasons

Security ☐

Personal Hardship ☐

ITEM FOR DECISION ☒

Meeting Date 21 December 2015

ITEM FOR NOTING ☐

Meeting Date

FURTHER ENQUIRIES TO Michael Keys
Planning & Environment

PHONE 6023 8289

Purpose of Report

The purpose of this report is to seek Council's support for a Planning Proposal that seeks to amend the *Albury Local Environmental Plan 2010* (ALEP 2010) to rezone 745 Centaur Road (Lot A, DP 328923) and 774 Pearsall Street (Lot 25, DP 1000075), Hamilton Valley, being part of the Lavington Sports Ground from R1 General Residential to RE1 Public Recreation.

An aerial photograph of the site identifying the subject land is provided as *Attachment 1* for Councillors information and reference.

In addition, a copy of the Planning Proposal is included and provided as *Attachment 2* for Councillors information and reference.

Background

At the time of preparing ALEP 2010, the subject site was not owned by AlburyCity and was in private ownership. The land was used primarily as a private residence. Accordingly, consistent with the previous 'Living Area' zoning applicable to the subject land under the *Albury Local Environmental Plan 2000*, the property was zoned R1 General Residential in the transition to Albury Local Environmental Plan 2010 (ALEP 2010).

Since this time, however, AlburyCity has acquired the adjoining Lavington Sports Ground, being 514 Hanna Street (Lot 28, DP 1014850 and Lots 6 & 7, DP 29682) and 774 Pearsall Street (Lot 25, DP 1000075) in 2009. In 2012 AlburyCity purchased 745 Centaur Road (Lot A, DP 328923) for the expansion of the existing Lavington Sports Ground to cater for the long-term recreational and sporting needs of the Albury and wider community.

Since the purchase of the Lavington Sports Ground, Council has invested approximately \$4M in the upgrade of this facility and has committed \$3.5M in the current Council 4-year delivery program.

A draft Master Plan has been prepared for redevelopment of the Lavington Sports Ground including the subject land. This has been developed in consultation with stakeholders and the community. A copy of the draft Master Plan is included in the Planning Proposal as Appendix C and includes:

- A major upgrade of the grandstand and northern side of the facility with additional undercover seating, new change rooms to national sporting standards, toilets and function room, event, media and administration infrastructure and upgrades of existing change rooms, toilets and

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rooms. Improving the access around the facility is also identified and includes additional and improved disability accessible seating and pathways.

- New multipurpose playing fields will be developed on the land to the east of the sports ground (on the subject land). To maximise usage the installation of six lighting poles providing lighting to the playing fields is also proposed and ancillary infrastructure such as scoreboards, coaches boxes, four wicket synthetic cricket nets and an amenities building including change rooms, toilets, storage, kiosk and ticket gate entry (for access to the main ground) is also included.

In line with Council open space and playground planning strategies, the scope of work also includes playground and BBQ facilities located near the playing fields as part of this facility but also addressing some of the required community infrastructure for the Lavington and Hamilton Valley suburbs.

The total project cost for the above works will be in excess of \$8M.

It is noted that Council has recently sought Government grant funding to help fund the project on both the adjoining and subject land and has been successful in the following grant applications:

- Federal Government National Stronger Regions Funding Program (Round 3) - \$4M;
- NSW ClubGRANTS Funding Program (Category 3)(following an EOI Process) – \$1M; and
- AFL Funding Grant - \$250,000.

The successful Government grant funding has meant that the project will now commence ahead of schedule and it is proposed that the funds allocated for 2019/20 as part of the 4-year delivery program will be brought forward through to the 2016/17 budget process.

Given the size, scale and cost of the works, Council will seek relevant approval(s) (including any referral to the Joint Regional Planning Panel if the works exceed \$5M) and it is anticipated that works will commence in mid to late 2016.

At present, the subject land is zoned R1 General Residential, which prohibits 'Recreation facilities (major)'. Given certain restrictions associated with the residential zone, the subject land was previously identified for rezoning as part of Council's next scheduled city-wide LEP review. However, the success of recent grant funding bids and Council's decision to bring forward the project in its budget process to 2016/17 has required the preparation of this Planning Proposal in the interim, to effect a rezoning to RE1 Public Recreation via an amendment to ALEP 2010.

Accordingly, given the current land use restrictions of the R1 General Residential Zone, it is recommended that the subject land be rezoned to RE1 Public Recreation consistent with the adjoining Lavington Sports Ground and the future use of this land.

Issues

The preparation of the Planning Proposal supports *Albury 2030* strategic aims under the themes of 'A Growing Economy', 'An Enhanced Natural Environment' and 'A Caring Community' including:

- *Develop and strengthen the City's visitor product and infrastructure;*
- *Develop and present a range of events to attract and engage our diverse community;*

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- *Review and monitor the Local Environmental Plan and the Development Control Plan with regard to outcomes within Albury 2030;*
- *Promote Albury as a major regional economy and the regional city of choice for lifestyle, career and investment opportunities; and*
- *Provide high quality open space – to support a growing population through Open Space Master Plan.*

The proposed rezoning of the subject land is consistent with, and will assist in, facilitating the above actions as it seeks to reinforce Albury as the major regional centre of the area by encouraging a diversity and range of visitor and tourism products. This will improve the lifestyle opportunities of residents and visitors to the city and will be achieved through the provision of high quality regional open space and recreation facilities.

The proposed rezoning of the subject land also does not derogate from the aims and objectives of the *Environmental Planning & Assessment Act 1979*, the NSW Department of Planning's *Guide to Preparing Local Environmental Plans* and *Guide to Preparing Planning Proposals*, relevant Section 117(2) Ministerial Directions and *State Environmental Planning Policies*. Refer to the Planning Proposal for further details.

Discussion

At present, under the R1 General Residential Zone, 'Recreation Facilities (Outdoor)' are permitted with consent in this zone, whereas 'Recreation Facilities (Major)' are a prohibited land use.

The definition of recreation facilities (outdoor) and recreation facilities (major) are defined in ALEP 2010 as follows:

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

Following a review of these definitions against the scale and size of the proposed works and proposed future land use activities on-site, it is considered that the development proposed for the subject land would more accurately be defined as 'Recreation facilities (major)', which is currently prohibited within this zone.

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In recognition that the adjoining land (which is already zoned RE1 Public Recreation) has been largely developed and currently supports large-scale sporting and recreation activities on a regular/periodic basis, it is recommended that the subject land be rezoned from R1 General Residential to RE1 Public Recreation consistent with the adjoining land and future proposed land use activities.

Whilst the subject land was previously identified for rezoning as part of Council's next scheduled city-wide LEP review, the success of recent grant funding bids and Council's decision to bring forward the project in its budget process to 2016/17 has required the preparation of this Planning Proposal process in the interim, to effect a rezoning to RE1 Public Recreation via an amendment to ALEP 2010.

Rezoning the subject land is therefore consistent with that of the adjoining land, future proposed land use activities and development proposals. In addition, this Planning Proposal removes any potential ambiguities, obstacles or planning policy impediments in developing this land as intended in the future.

The property is already classified as 'Operational Land' and does not require reclassification.

It is noted that this Planning Proposal also seeks to rezone 774 Pearsall Street (Lot 25, DP 1000075) from R1 General Residential to RE1 Public Recreation. Although this Council owned property contains a residential dwelling that Council currently leases, it is expected that in the long term this site will also be incorporated and form part of the wider Lavington Sports Ground redevelopment precinct.

It is acknowledged that dwelling houses are prohibited within the RE1 Public Recreation Zone and as a consequence of the proposed change, the existing dwelling house would need to rely on 'Existing Use Rights' under Section 106 of the *Environmental Planning & Assessment Act 1979*. This arrangement is considered satisfactory in this instance given the sites long term likely use. Rezoning this property to RE1 Public Recreation is consistent with that of the adjoining land (to the north-east), future proposed land use activities and development proposals.

Accordingly, the purpose of the Planning Proposal is to rezone the subject land to RE1 Public Recreation consistent with the future use of this site. Notwithstanding the proposed changes are primarily to rezone the site as 'RE1 Public Recreation', it will also be necessary to implement consequential changes to the ALEP 2010 Lot Size Map to ensure that such provisions as they relate to the site, are consistent with the RE1 Public Recreation Zone that applies elsewhere throughout the Albury Local Government Area.

Risk

- Business Risk

It is noted that subsequent development on the subject land as a major capital project undertaking carries considerable business risk (being approximately \$3.5M of Council budget funds) that will require the whole of AlburyCity's involvement to oversee project administration, direction and implementation.

In the absence of this Planning Proposal, future development of the subject land would be impeded by existing planning policy that prohibits 'Recreation facilities (major)' and associated development activities.

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- **Public Risk**

It is noted that future development of the subject land for 'Recreation facilities (major)' being a facility intended to meet and accommodate the recreation needs of the local and regional community will carry a level of public risk.

It is anticipated that any subsequent Development Application, assessment and determination process will assist in minimising any public risk associated with any future development proposal and the ongoing operational issues in the use of the site, such as traffic, noise, light spill etc.

- **Corporate Risk**

AlburyCity has identified and promoted the Lavington Sportsground as the major regional sporting precinct and facility in the region. It is important that Council facilitate and support this long term commitment through strategic planning and suitable land use zoning. This rezoning will provide further protection and support for this facility and community asset.

Community Engagement

The proposed zone change is considered to be of public interest and accordingly an appropriate level of community engagement is warranted. The formal public exhibition process will be undertaken consistent with other previously exhibited Planning Proposals as outlined as follows:

- Notification letters dispatched to adjoining landowners, key stakeholders and interested parties prior to exhibition commencement;
- Notification letters and associated documentation dispatched to relevant Government Agencies (inclusive of the NSW Rural Fire Service) for comment and review;
- Public notice published in the Border Mail;
- Static displays containing all exhibition material for viewing purposes in the foyer of the Council Administration Building, LibraryMuseum and Lavington Library;
- All exhibition material being made available on the AlburyCity website including the ability to make an electronic submission also being made available on the AlburyCity website; and
- Strategic Planning staff available (on demand or by appointment) to assist with any inquiries relating to the Planning Proposal.

In addition it is noted that AlburyCity has been in consultation with key stakeholders (user groups and community interest groups) regarding the proposed future development. AlburyCity has also identified a separate community engagement program on the redevelopment project itself. This will be coordinated by the Community & Recreation team and commence in February 2016. This will provide greater detail and opportunity for community participation on this proposal separate to the statutory requirements of the Planning Proposal.

Options

Council has the following options in relation to this report:

1. Endorse the Planning Proposal that seeks to rezone 745 Centaur Road (Lot A, DP 328923) & 774 Pearsall Street (Lot 25, DP 1000075) from R1 General Residential to RE1 Public Recreation and forward this Planning Proposal to the NSW Department of Planning & Environment seeking a Gateway Determination; OR

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2. Take no further action with regards to the Planning Proposal and the proposed amendment.

In this instance, it is recommended that Council proceed with Option 1 for the reasons outlined earlier in this report.

Conclusion

The Planning Proposal seeks to amend ALEP 2010 by rezoning 745 Centaur Road (Lot A, DP 328923) & 774 Pearsall Street (Lot 25, DP 1000075) from R1 General Residential to RE1 Public Recreation to allow for the future development of this site for 'Recreation facilities (major)' purposes, which is currently prohibited within the R1 General Residential Zone.

Rezoning the subject land to RE1 Public Recreation is consistent with that of the adjoining Lavington Sports Ground and the future land use activities proposed for this site. In addition, this Planning Proposal removes any potential ambiguities, obstacles or planning policy impediments in developing this land for large scale recreation purposes consistent with the previously endorsed Master Plan for the site.

Whilst it is acknowledged that the construction and use of a regional recreation facility in proximity to residents may have the potential to create amenity impacts associated with noise, light spill, car parking etc, these have already been the subject of detailed community consultation, as part of the preparation of the draft Master Plan. It is also noted that any likely impacts associated with the development of this land can be most appropriately assessed as part of a separate Development Application process.

Accordingly, Council support is now sought to endorse the Planning Proposal and to seek NSW Department of Planning & Environment authority to progress the proposal as an amendment to ALEP 2010, pursuant to Part 3 of the *Environmental Planning & Assessment Act 1979* as a 'delegated planning proposal'.

Recommendation

That Council:

- a. Endorse the Planning Proposal and forward it to the Minister for Planning seeking an Amendment to the *Albury Local Environmental Plan 2010* so as to:
 1. amend the Land Zoning Map for the subject land (being Lot A, DP 328923 & Lot 25, DP 1000075) from 'R1 General Residential Zone' to 'RE1 Public Recreation Zone'; and
 2. amend the Lot Size Map for the subject land (being Lot A, DP 328923 & Lot 25, DP 1000075) from '450 square metres' to 'no minimum lot size';

and request that a Gateway Determination be issued, including the delegation of Plan making powers, so as to enable the public exhibition of the Planning Proposal pursuant to the *Environmental Planning & Assessment Act 1979*; and

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

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- c. Should no objections be received during public exhibition, furnish a copy of this report and any other relevant information to the NSW Department of Planning and Environment and/or NSW Parliamentary Counsels Office, in accordance with the *Environmental Planning & Assessment Act 1979*, and request the Minister for Planning (or a delegate on their behalf) undertake the appropriate actions to secure the making of the amendment to the *Albury Local Environmental Plan 2010*.

- **Attachments**

1. Aerial Photograph of the Site;
2. Planning Proposal: Rezoning of 745 Centaur Road & 774 Pearsall Street, Hamilton Valley (Lavington Sports Ground) from R1 General Residential Zone to RE1 Public Recreation Zone.