

# AlburyCity – Planning & Development Committee

## AGENDA

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### 6B Albury Local Environment Plan 2010 – Planning Proposal: Land Rezoning – 222 Borella Road, East Albury (FIL12/01325)

DATE 2 October 2012

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

MEETING DATE 8 October 2012

FURTHER ENQUIRIES TO Chris Graham PHONE 6023 8148  
Planning & Environment

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#### Introduction

This report seeks Council's endorsement of 'Draft Planning Proposal: Land Rezoning – 222 Borella Road, East Albury (September 2012)' (the Planning Proposal) that proposes to amend the *Albury Local Environmental Plan 2010* (ALEP 2010) as it relates to 222 Borella Road, East Albury, being Lot A DP 354713 (the site).

An aerial photograph of the site is provided as *Attachment 1* for Councillors information. In addition, a copy of the Planning Proposal will be tabled at the meeting and is available for Councillors reference and information upon request.

The site is currently zoned 'R3 Medium Density Residential' under the ALEP 2010.

The Planning Proposal seeks to facilitate business/commercial development outcomes on the site, this is supported by a comprehensive analysis of the site in relation to constraints, context, character and likely benefits, consideration against relevant local, regional and State planning policies/directions and an assessment of likely impacts. Notwithstanding the proposed changes are primarily to rezone the site as 'B2 Local Centre Zone', it will also be necessary to implement consequential changes to the ALEP 2010 Lot Size Map, Height of Buildings Map and Floor Space Ratio Map to ensure that such provisions as they relate to the site are consistent with that applying to the adjoining 'B2 Local Centre Zone' land.

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 business/commercial development purposes.

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### Background

Investigations undertaken during the review of AlburyCity planning policy culminating in the eventual gazettal of ALEP 2010 and commencement of the Albury Development Control Plan 2010 (ADCP 2010) had previously designated 'B2 Local Centre Zone' onto land fronting Borella Road, East Albury (on the north side between East and Keene Streets). The spatial extent of 'B2 Local Centre Zone', particularly to the west (along Borella Road), was confined to the spatial extent of existing commercial/business land use activities, and consequently, was justified on the basis that the 'B2 Local Centre Zone' was an accurate reflection of existing land use practices and that external impacts associated with such a change in zoning were known and deemed to be of minor significance.

It is understood that the Proponent (Davis Sanders), who own and operates from the adjoining property (to the immediate east), have recently purchased the subject site and now seek to rezone and develop this site in a manner consistent with that permitted (with consent) in the 'B2 Local Centre Zone' not dissimilar to those developments that already exist to the immediate east along Borella Road.

In support of this request, the Proponent through local planning consultancy, Blueprint Planning, have submitted a Planning Proposal that seeks to demonstrate that the proposed rezoning (that will involve an expansion of the 'B2 Local Centre Zone' further west) is a considered, orderly and appropriate planning outcome that will enable the site to be developed for local centre commercial purposes.

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

### Discussion

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

1. a comprehensive analysis of site constraints, context, character and likely benefits;
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 in relation to constraints, context, character and likely benefits***

The site has been subject to a detailed site analysis and associated investigations that has generally concluded that the site is mostly unconstrained and capable of being further developed for commercial/business purposes.

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### ***Consideration against relevant local, regional, State planning policies/directions***

The site 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 site 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.

### ***Assessment of likely impacts and necessary mitigation***

The site 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, amongst other things, 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)*) that include:

- any precedents created and/or change in landowner expectations and that of surrounding landowners;
- cumulative impacts;
- impact in relation to land available for permanent employment generating activities;
- impact on the supply of residential land and housing affordability;
- demands and impacts on existing public infrastructure (such as; utilities, roads.);
- 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 be a positive net community benefit from those site outcomes sought by this Planning Proposal.

Amongst critical investigation criteria that has been considered, the likely impact on amenity in the location and wider community is of particular importance that warrants further discussion given that this Planning Proposal effectively seeks an expansion of the 'B2 Local Centre Zone' further west that will result in greater exposure to surrounding land, and accordingly, potential amenity issues.

Notwithstanding the rezoning and subsequent redevelopment of the site to accommodate commercial/business outcomes will result in potential amenity impacts on surrounding land, it is noted that the Planning Proposal has deferred to existing planning provisions as a mechanism to address potential compatibility, amenity, public domain, social and economic effects.

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The Planning Proposal is supported by deferring to existing planning policy (including Albury Local Environmental Plan 2010, Albury Development Control Plan 2010 and Section 79C of the Environmental Planning and Assessment Act 1979) through a detailed audit and response to relevant planning controls. This audit and response has confirmed that appropriate consideration will be undertaken in both in design and assessment (in relation to issues such as; development objectives, building height, side/rear setback and off-street parking provisions.) and should ensure that only appropriate development outcomes will ultimately be achieved on-site, especially in relation to addressing potential amenity impacts on adjoining/surrounding residential land.

It is considered that the proposed expansion of the 'B2 Local Centre Zone' further west is considered reasonable insofar as further consideration and assessment (required by existing planning policy) will ensure that all likely potential externalities are addressed by development outcomes on-site through the Development Application process.

### ***Relevant government agency issues and interests***

Any relevant public authorities to be consulted (where required) will be identified and confirmed through the issue of a Gateway Determination for this Planning Proposal.

Accordingly, it is anticipated that this section of the Planning Proposal will be completed following issue of the Gateway Determination and prior to the commencement of any formal public exhibition.

### **Conclusion**

Having undertaken an assessment of the Planning Proposal it is concluded that development of the site for commercial/business purposes is not considered unreasonable.

The Planning Proposal provides an appropriate level of investigation that demonstrates the capacity of the site to accommodate commercial/business development outcomes. More importantly, the same Planning Proposal demonstrates that the existing planning provisions will ensure that only appropriate development outcomes will ultimately be achieved on-site, especially in relation to addressing potential amenity impacts on adjoining/surrounding residential land through the Development Application process.

Whilst this Planning Proposal primarily seeks a rezoning of the site to facilitate commercial/business development outcomes, it is also acknowledged that such rezoning will also necessitate consequential amendments to the Lot Size Map, Height of Buildings Map, and Floor Space Ratio Map to ensure that such provisions, as they relate to the site, are consistent with that applying to the adjoining 'B2 Local Centre Zone' land.

Accordingly, Council endorsement of this Planning Proposal is now sought to progress this matter to public exhibition.

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### Recommendation

The Committee Recommends to Council that Council:

- a. endorse the 'Planning Proposal: Land Rezoning – 222 Borella Road, East Albury (September 2012)' to the Minister for Planning that proposes an Amendment to the Albury Local Environmental Plan 2010 that seeks to:
  1. amend the Land Zoning Map for the site from 'R3 Medium Density Residential Zone' to 'B2 Local Centre Zone';
  2. amend the Lot Size Map to remove the '450m<sup>2</sup>' minimum lot size designation from the site;
  3. amend the Height of Buildings Map to remove the '16 metre' maximum building height designation from the site;
  4. amend the Floor Space Ratio Map to remove the '2:1' floor space ratio designation from the site; 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.

- 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.
- c. 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 Environmental Planning & Assessment Act 1979, and request the Minister for Planning & Infrastructure undertake 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: Land Rezoning – 222 Borella Road, Thurgoona (September 2012) (*to be tabled at the meeting*).