

AlburyCity – Planning & Development Committee

AGENDA

6B Albury Local Environmental Plan 2010 - Planning Proposal: Rezoning for Industrial Development – 423 Wagga Road, Springdale Heights (DOC13/56999)

DATE 31 July 2013

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

MEETING DATE 12 August 2013

FURTHER ENQUIRIES TO Chris Graham **PHONE** 6023 8148
Planning and Environment

Introduction

This report seeks Council's endorsement of 'Planning Proposal: Rezoning for Industrial Development, 423 Wagga Road, Springdale Heights (July 2013)' (the Planning Proposal) that proposes to amend the *Albury Local Environmental Plan 2010* (ALEP 2010) as it relates to 423 Wagga Road, Springdale Heights, being Lot 108 DP 1146428 (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 'R2 Residential Low Density' under the ALEP 2010.

The Planning Proposal seeks to facilitate industrial development outcomes on the site, this is supported by an analysis of the site and intended outcomes against net community benefit test criteria, consideration against relevant local, regional and State planning policies/directions, an assessment of likely impacts and documented consideration of relevant government agency issues and interests.

The proposed changes are primarily to rezone the site to 'IN1 General Industrial', however, 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 that applying elsewhere throughout the Albury Local Government Area in the 'IN1 General Industrial Zone'.

The Planning Proposal has been prepared in accordance with the NSW Department of Planning publication: '*A guide to preparing planning proposals (October 2012)*' and is generally consistent with the ongoing assessment and advice of AlburyCity planning staff to ensure that all necessary research has been undertaken, documented and addressed for the purposes of supporting outcomes sought.

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Discussion

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

1. an analysis of the site and intended outcomes against net community benefit test criteria;
2. consideration against relevant local, regional and State planning policies/directions;
3. assessment of likely environmental, social and economic impacts and necessary mitigation; and
4. documented consideration of any relevant government agency issues/interests.

These documented considerations, responses and an AlburyCity position following an initial assessment are discussed below.

1. Net community benefit test

The site outcomes sought have been subject to a net community benefit test that has included, amongst other things, an assessment and documented response against relevant investigation criteria, listed below:

- any precedents created and/or change in landowner expectations and that of surrounding landowners;
- cumulative impacts of other spot rezoning proposals in the immediate vicinity;
- 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 (utilities, roads etc.);
- impacts on critical habitat, threatened species and land with high biodiversity value;
- other environmental impacts;
- compatibility with surrounding land uses and potential amenity impacts; and
- public interest etc.

The Planning Proposal, in consideration of above criteria, has generally concluded that there will be a positive net community benefit from those site outcomes sought.

This response is outlined as follows:

- The progression of this Planning Proposal is unlikely to create an unhealthy precedent and/or foster unrealistic expectations from other land owners that might seek to facilitate the same/similar outcomes elsewhere. Site circumstances in this instance are unique (i.e. close proximity to existing industrial, supporting infrastructure and buffers to existing/future residential) to suggest that outcomes sought can be accommodated without impact on residential amenity, these same circumstances are unlikely to occur elsewhere to an extent that would warrant a similar change in zoning;
- There are no other similar spot rezoning proposals that have occurred in the immediate vicinity of the site that would warrant further consideration of this Planning Proposal with respect to cumulative impacts;

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- A proposed change in zoning for the site to facilitate industrial development outcomes will both consolidate and strengthen the existing industrial node around the Kaitlers Road/ Thurgoona Drive intersection, and in turn, provide additional land available for permanent employment generating activities;
- Whilst the proposal will result in a net loss of residential zoned land, current zoning and minimum lot size provisions do limit potential lot yield to no more than 20 lots. A loss of 20 lots, when added to the existing vacant residential lot count of 462 (as cited in the 2011-2012 Albury Land Monitor), will result in an approximate decline of 4% in the supply of vacant residential lots in Albury. This is not considered to be a significant encumbrance on both residential land supply and affordability, especially when considering that the rural residential densities that would otherwise result will generally be in the upper end of the Albury housing market;
- Investigations provided suggest that existing public infrastructure (including utilities, roads etc.) are capable of servicing anticipated development outcomes on the site (subject to detailed assessment being undertaken at the time of future development works). Proximity of the site to major transport infrastructure (Hume Highway/Thurgoona Drive interchange) will reduce travel times and distances for employees, suppliers and distributors. This in turn will minimise the need to use low order roads (reducing conflicts with local traffic), and consequently, will facilitate the efficient transport of goods within and outside the region;
- The site has been largely modified for grazing purposes, and consequently, does not possess any significant habitat attributes other than its close proximity to adjoining E3 Environmental Management Zone lands. Any consideration of the impact of future development on the adjoining E3 Environmental Management Zone lands has been deferred to the development application, assessment and determination process to be undertaken at time of development. The site also adjoins land identified as being bushfire prone, and accordingly, further consideration and assessment against the NSW Rural Fire Service publication '*Planning for Bushfire Protection Guidelines 2006*' has been deferred to the development application, assessment and determination process to be undertaken at the time of development;
- Adverse impact on amenity in the locality and wider community is not anticipated on the basis that land to the immediate south and west is in an industrial zone and has already largely been developed for commercial/industrial purposes (i.e. a similar urban character to that proposed). In addition, the nearest residential zoned land/land use (to the north of the site) is buffered by a strip of E3 Environmental Management Zone land which is between 150-300 metres wide;
- Public interests are served by outcomes sought on the basis that the proposed change in zoning will make land available for additional employment generating activities and boost investment in the area, and
- A change in zoning on the site would recognise the highest and best use on the land.

AlburyCity Response

Current conditions suggest that the proposed future development of the site for industrial purposes is both reasonable and appropriate.

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These conditions include industrial zoning/development to the immediate south and west, proximity to the Hume Highway/Thurgoona Drive interchange/corridor, proximity to major road network and other supporting infrastructure, absence of any environmental values on-site and adequate separation/buffer from other noise sensitive/residential land uses etc.

It is acknowledged that impacts on the supply and affordability of residential and rural-residential land are not significant, and accordingly, this Planning Proposal and outcomes sought are supported.

It is noted that the site adjoins industrial zoned land to the immediate south and west. Whilst current site planning controls (including a 4000m² minimum lot size and 100 metre setback to adjoining industrial zoned land to the immediate west) largely address and mitigate potential future land use conflicts, it is recognised that a change in zoning (as proposed) to facilitate industrial outcomes will remove any potential future land use conflict between development on the site and surrounding or adjoining industrial zoned land altogether.

The site already enjoys a substantial distance separation from the nearest residential zoned land by virtue of a 150-300 metre wide strip of E3 Environmental Management Zone land (to the immediate north). This existing distance separation/buffer provides a notable indication that external amenity impacts associated with any subsequent industrial development of the site will be limited. Notwithstanding this advantageous location/context, it is anticipated that the development application, assessment and determination process will ensure that only an appropriate land use, design, interface and/or other outcomes are achieved on-site to further limit any potential impacts on surrounding land. The residential land to the north has been approved for residential estate and is currently under construction.

This same approach will also ensure that only appropriate outcomes are achieved in relation to surrounding environmental, bushfire, traffic, transport and access planning considerations (where relevant).

Accordingly, following an initial assessment it has been concluded that matters relating to surrounding residential amenity, environment, bushfire, traffic, transport and access are not significant to suggest that such issues cannot be investigated and addressed through an appropriate design response at time of development.

Accordingly, the Planning Proposal and its intended outcomes are supported.

2. 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 desired 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.

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AlburyCity Response

An initial assessment undertaken by AlburyCity confirms that the Planning Proposal largely addresses relevant local, regional and State planning policies and directions.

Specific reference is made to Albury Development Control Plan 2010 (ADCP 2010), particularly the area specific controls relating to the Ettamogah Development Plan, that seek to guide and facilitate the orderly and sustainable development of land either side of Wagga Road (inclusive of the subject site).

It is noted that current locality based controls relating to the site are of a residential nature. It is also recognised that a change in zoning (as proposed) to facilitate industrial development outcomes will render these existing locality based controls null and void.

Consequently, it is recommended that should this Planning Proposal progress to gazettal, a further Amendment (including any other consequential changes) to relevant ADCP 2010 provisions (that will mainly have the effect of excising the site from that land identified as being subject to the Ettamogah Development Plan provisions) be undertaken as a housekeeping Amendment at the next available opportunity (to be reported under separate cover).

It is expected that, as a result of this Planning Proposal and any subsequent Amendment to ADCP 2010 (to be reported under separate cover), any future development of the site will be subject to the existing city-wide industrial zone provisions as contained within ADCP 2010.

Specific reference is made to State Environmental Planning Policy No. 55 (Remediation of Land) that requires a site assessment (to be considered in a zoning or rezoning proposal) of potential land contamination having regard to suitability for which land in that zone is permitted to be used.

The Planning Proposal refers to previous investigations/studies, undertaken prior to a residential zone designation being assigned to the subject site, that concluded there was no visual or anecdotal evidence to suggest that any part of the study area (inclusive of the site) was contaminated through its historical use for agriculture (grazing). Whilst the same investigations/studies have identified areas where infrastructure and/or chemical storage had occurred, and consequently, recommends more detailed investigation and/or remediation (where required) at time of development, these same investigations/studies confirm that the site, the subject of this Planning Proposal, is unaffected in relation to this matter.

Specific reference is also made to Ministerial Direction 1.1 (Business and Industrial Zones) that, amongst other things, seeks to encourage employment growth in suitable locations and ensure that proposed new employment areas are in accordance with an approved strategy.

In response, the Planning Proposal states that outcomes sought in relation to the site will facilitate additional industrial land in Albury, without impacting on the viability of other industrial land releases. Albury Land Use Strategy May 2007 (ALUS) does acknowledge proximity of the site to other industrial lands that are recognised as having industrial development opportunities.

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The Planning Proposal does seek a change in zoning to facilitate industrial outcomes on the site that would assist a consolidation of this industrial precinct (i.e. fill-in the north-east sector of this precinct to make it even more coherent). In addition, the Planning Proposal is considered to be only of minor significance having regard to the relatively small area of land involved.

Specific reference is also made to Ministerial Direction 4.4 (Planning for Bushfire Protection) that, amongst other things, seeks to protect life, property and the environment from bushfire hazards by mandating necessary consultation with the NSW Rural Fire Service (RFS), consideration of the RFS publication 'Planning for Bushfire Protection 2006' and other requirements (including protection measures).

In response, the Planning Proposal confirms that further consultation will be undertaken with the RFS to assist a consideration of and compliance with relevant requirements.

Accordingly, the Planning Proposal and its intended outcomes are supported.

3. Assessment of likely environmental, social and economic impacts and necessary mitigation

Following a further analysis in relation to constraints, context, character and likely benefits associated with the Planning Proposal and intended outcomes, a response is outlined as follows:

- The Planning Proposal will not result in any disturbance of the habitat areas and/or natural features on the basis that the site has been significantly altered over time to support existing farming practices (grazing) and therefore is devoid of habitat and/or natural features; Notwithstanding the site is devoid of habitat, the site does adjoin E3 Environmental Management Zone lands (to the immediate north) that features remnant vegetation. Accordingly, any development of the site will require further consideration to its interface with adjoining lands and measures necessary to mitigate potential adverse impacts;
- Social and economic benefits of the Planning Proposal are considered to be positive insofar as it relates to well located and serviceable urban land (supported by a further infrastructure assessment); facilitation of more employment generating development; and proximity to significant transport infrastructure that will minimise the need to use the local roads for the efficient transport of goods within and outside the region; and
- The industrial development outcomes sought on the site will assist in providing a greater variety and choice in industrial opportunities that should assist in attracting new industrial activities outside of the predominant estate environs, being Airport Industrial Estate (East Albury), Airside North (Thurgoona/East Albury) and Nexus (Ettamogah).

AlburyCity Response

The Planning Proposal and intended outcomes have substantial planning merit when assessed against relevant environmental, social and economic considerations.

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It is reiterated that whilst the site is devoid of habitat and/or natural features, further consideration and an appropriate design response will be required in relation to mitigating potential impacts on adjoining lands that have been identified as possessing environmental attributes.

It is noted that the Planning Proposal has deferred further considerations in relation to adjoining environmental lands, bushfire considerations, traffic, transport and access matters to the development application, assessment and determination process to ensure that only appropriate development outcomes are achieved on-site.

It is agreed that it would be pre-emptive to expect detailed consideration and response to these issues up-front, and accordingly, it is considered appropriate that such issues be deferred to time of development where specific impacts are reasonably known.

It is acknowledged that outcomes sought will provide some diversification in available industrial land that will assist in providing some resilience in attracting new industrial activities through differing industrial land opportunities.

Accordingly, the Planning Proposal and its intended outcomes are supported.

4. Documented consideration of any relevant government agency issues/interests

It is acknowledged that 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.

Notwithstanding, consistent with the NSW Department of Planning publication: 'A guide to preparing planning proposals (October 2012)' and having regard for the circumstances of the subject site, the Planning Proposal does nominate agencies including the NSW Roads and Maritime Services, NSW Rural Fire Service and NSW Department of Lands (Crown Lands Division) for consultation purposes.

AlburyCity Response

AlburyCity raises no objections to the list of agencies nominated for consultation purposes.

Conclusions

Having undertaken an assessment of the Planning Proposal it is concluded that development of the site for industrial purposes has substantial planning merit and is not considered unreasonable.

The relative small scale change in zoning sought, proximity to surrounding industrial zoned lands, supporting roads and utilities infrastructure, adequate distance separation from existing residential zoned lands/ land uses and an absence of environmental values on-site all suggest that the site has industrial development capabilities.

Most importantly, it is strongly considered that progression of this Planning Proposal and outcomes sought will have a positive impact with respect to mitigating potential future land use conflicts.

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It is reiterated that the site is currently in an R2 Low Density Residential Zone that is intended to facilitate rural-residential development outcomes. Whilst current site specific planning controls (discussed earlier) largely seek to address/mitigate likely potential future land use conflicts, it is recognised that a change in zoning to facilitate industrial outcomes (as proposed) will remove any potential for future land use conflict between development on-site and surrounding industrial zoned land altogether.

Whilst further detailed land use considerations (environmental, bushfire etc.) have been deferred to the development application, assessment and determination process, these issues are not considered that significant to suggest that further detailed investigation is required up-front.

Finally, the Planning Proposal represents a logical extension of industrial zoned lands that will assist in consolidating industrial lands/activities in and around the Wagga Road/ Kaitlers Road precinct. In addition, as only positive residential amenity outcomes are likely to result, it is considered both reasonable and appropriate that this Planning Proposal be progressed to both government agency and community consultation.

Recommendation

It is recommended that the Committee recommends to Council that Council:

- a. endorse the 'Planning Proposal: Rezoning for Industrial Development – 423 Wagga Road, Springdale Heights (July 2013)' to the Minister for Planning and Infrastructure that proposes an Amendment to the Albury Local Environmental Plan 2010 that seeks to:
 1. amend the Land Zoning Map for the site from 'R2 Low Density Residential Zone' to 'IN1 General Industrial Zone',
 2. amend the Lot Size Map to remove the '4000m² minimum lot size 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, and
- b. upon receipt of a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979, place the Planning Proposal and the information outlined in the attached 'Addendum' 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.

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- **Attachments**

1. Aerial Photograph of the Site,
2. Planning Proposal: Rezoning for Industrial Development – 423 Wagga Road, Springdale Heights (July 2013) (*to be tabled at the meeting*).