

PLANNING PROPOSAL



Amendment to Albury Local Environmental Plan 2010

B4 Mixed Use Zone – Land Use Permissibilities

Schedule 2 Exempt Development – Bracket Signage

Prepared by

AlburyCity Council

September 2010

CONTENTS

PART 1 – OBJECTIVES OR INTENDED OUTCOMES	2
PART 2 – EXPLANATION OF PROVISIONS.....	2
PART 3 – JUSTIFICATION	3
Section A - Need for the planning proposal.	3
Section B - Relationship to strategic planning framework	5
Section C - Environmental, social and economic impact.....	6
Section D - State and Commonwealth interests	7
PART 4 – COMMUNITY CONSULTATION	8
APPENDICES	9
Figure 1 – Current Zoning	9
Table 1 – Consideration of State Environmental Planning Policies	10
Table 2 – Consideration of Section 117(2) Ministerial Directions.....	16
Relevant Council Reports.....	20

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

AlburyCity Council has resolved to prepare a Planning Proposal as per Section 55 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The proposal seeks an amendment to the *Albury Local Environmental Plan 2010* (LEP) so as to amend the land use permissibilities as they apply to the B4 Mixed Use Zone and to amend the wording in Schedule 2 Exempt Development as it relates to Bracket Signage, following the recent gazettal of the LEP on 13 August 2010. This amendment seeks to rectify several errors in the gazetted LEP and does not depart from the intent of the LEP.

PART 2 – EXPLANATION OF PROVISIONS

As per Part 2 - Land Use Table of the LEP, it is proposed to insert the following development types into Section 3 Permitted with consent under the B4 Mixed Use Zone.

Zone B4 Mixed Use Zone

3 Permitted with consent

Attached dwellings, Caravan parks, Dual occupancies, Dwelling houses, Group homes, Hostels, Multi dwelling housing, Residential flat buildings, Secondary dwellings, Semi-detached dwellings

As per Schedule 2 – Exempt Development of the LEP, it is proposed to amend the wording of ‘Signage – Under Awning Signs’ as contained on page 73 of the Plan and replace this with ‘Signage – Bracket Signs’ as previously requested at s.68 stage of the LEP as follows:

Schedule 2 Exempt Development

Signage—bracket signs

- (1) *Maximum number—1 per lot;*
- (2) *Maximum dimensions—0.6m long and 0.3m wide;*
- (3) *Must be at least 2.7m above ground level (existing);*
- (4) *Must be located less than 3m above ground level (existing) or must be below fascia, whichever is the lesser; and*
- (5) *Maximum projection—300mm.*

Please note that the amendment only seeks to change the heading name of this signage type.

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. The amendment is proposed to allow standalone residential development to occur in the B4 Mixed Use Zone and to amend a minor error regarding exempt development Bracket Signage. These were previously incorporated in the s.68 version of the LEP that Council forwarded to the NSW Department of Planning (DoP) for gazettal, that during finalisation was removed and/or altered.

As a consequence of these changes, a large number of residential land uses (including attached dwellings, caravan parks, dual occupancies (attached and detached), dwelling houses, group homes, hostels, multi dwelling housing, residential flat buildings, secondary dwellings and semi-detached dwellings etc) have all been deleted from those land uses listed as permitted with consent in the B4 Mixed Use Zone. As a consequence, these have now become prohibited by virtue of the higher order land use 'residential accommodation' being listed as prohibited.

This requires existing standalone residential developments to rely on the 'Existing Use Rights' provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* and also has significant implications regarding exempt and complying development for those dwelling houses, which are now prohibited and therefore unable to undertake this form of minor development.

Throughout the LEP preparation and consultation phases, the abovementioned stand-alone residential land uses had all been listed as permitted with consent in the B4 Mixed Use Zone. This recognised that the B4 Mixed Use Zone was originally set up as a transition zone that applied to the peripheral locations of the Albury and Lavington CBDs. More recently, the spatial extent of the B4 Mixed Use Zone was expanded in response to a NSW Department of Planning direction that stand-alone Residential Accommodation would not be supported within the B3 Commercial Core Zone. It is the intention of AlburyCity to encourage a permanent residential population in both the Albury and Lavington CBDs, and accordingly, the B4 Mixed Use Zone was expanded into areas previously assigned a B3 Commercial Core Zone so as not to preclude residential land use outcomes.

The abovementioned changes which have occurred as a result of the NSW DoP review prior to gazettal seriously compromise AlburyCity intentions. In addition, it is noted that such changes depart from the NSW DoP LEP Practice Note: *PN 06-002 – Preparing LEPs using the Standard Instrument: Standard Zones* that identify the general purpose of the B4 Mixed Use Zone as:

B4 Mixed Use

This zone is generally intended for use where a wide range of land uses are to be encouraged, including retail, employment, residential, community and other uses.

It is reiterated that standalone residential accommodation was previously permitted under the s.68 version of the LEP, but however was removed prior to the plan being made.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

AlburyCity is of the view that the removal of the abovementioned residential land use permissibilities and grammatical mistake regarding Bracket Signage are obvious errors that qualify as minor amendments under Section 73A of the EP&A Act, thereby eliminating the need to formally prepare a Planning Proposal. This error with respect to land use permissibilities is evidenced by the objective 'to increase the permanent population and encourage the provision of affordable housing within mixed use areas through shop top housing and residential flat building development' being retained amongst the B4 Mixed Use Zone objectives despite the abovementioned deletions. It is also noted that home occupations and home-based child care are permitted without consent, however a home or single dwelling is prohibited. This is further evidence of the inconsistencies created by the omission.

Section 73A of the EP&A Act enables an amending Environmental Planning Instrument to be made, which would amend or repeal a provision of a principal instrument in order to do any one or more of the following:

- (a) correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error,*
- (b) address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature,*
- (c) deal with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.*

Nevertheless at the time of preparing this proposal, AlburyCity was still awaiting a NSW Department of Planning response following referral to Parliamentary Counsel's legal department, as to whether the proposal was a Section 73A or a Planning Proposal. In the interim it has been recommended to Council that a Planning Proposal be prepared (with no public exhibition) should the amendment not be considered minor under Section 73A of the Act to avoid delay. As a consequence of this even though the error regarding Bracket Signage would qualify under Section 73A of the Act as minor, for the purposes of this Planning Proposal it has been incorporated.

3. Is there a net community benefit?

Upon gazettal of the LEP standalone residential development became prohibited within the B4 Mixed Use Zone. The consequences of this are significant and it is reiterated that the extensive number of existing standalone residential developments, including dwelling houses must now rely on 'existing use rights' as they are now prohibited within this zone.

It is noted that the abovementioned changes to land use permissibilities have been made without any consultation with AlburyCity and without any explanation. These changes have already severely inhibited potential development in the Albury LGA insofar as potential developers of three development sites in proximity to both the Albury and Lavington CBDs where stand-alone residential development outcomes have been sought have been advised that AlburyCity does not have the capacity to approve stand-alone residential accommodation in the B4 Mixed Use Zone as a result of the amendments made by the NSW Department of Planning.

The proposal seeks to rectify this error and in doing so provide a greater community benefit by permitting standalone residential development to occur within a mixed use zone located on the peripheral of the Albury and Lavington CBD's.

By amending the LEP, Council seeks to restore the land use permissibilities of the B4 Mixed Use Zone (as exhibited), thereby returning the LEP to the status quo. Likewise by amending the LEP to resolve the obvious error contained within Schedule 2 of the LEP regarding Bracket Signage, this will eliminate and resolve any potential confusion that may arise from having two separate controls applicable to the same signage type.

Section B - Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The draft *Murray Regional Strategy* (yet to be adopted) is Council's relevant Regional Strategy as set out by the Department of Planning. The strategy identifies a need to cater for an extra 8000 people and 13,900 new dwellings across the region over the period to 2036. The subject land is currently zoned B4 Mixed Use, which as previously outlined in NSW DoP LEP Practice Note: *PN 06-002* seeks to encourage a wide range of land uses, including residential.

The Planning Proposal is consistent with the draft Murray Regional Strategy, particularly with the following:

- *Limit the spread of urban development across rural land and minimise damage to the environmental value or productive capacity of rural land; and*
- *Provide adequate Greenfield and infill development opportunities where services are available.*

Similarly, the proposed amendment to Schedule 2 regarding Bracket Signage is not inconsistent with the objectives and actions contained within the abovementioned regional strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The *Albury 2030 Community Strategic Plan* is Council's local strategic planning document. The Albury 2030 Plan includes as one of its Strategic Actions:

Support and encourage a diversity of residential and commercial development in the Albury and Lavington CBDs to activate and enliven the city.

The proposed amendment will allow for a diversity of land uses, including standalone residential development in close proximity to the Albury and Lavington CBDs, which is consistent with this action. Likewise, the proposed amendment to Schedule 2 regarding Bracket Signage is not inconsistent with the council's Community Strategic Plan.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with State Environmental Planning Policies (**Table 1**).

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with Section 117 Directions (**Table 2**).

Section C - Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The land is currently zoned B4 Mixed Use and is therefore urban in nature. Accordingly, no threatened species, populations or ecological communities or their habitats will be adversely affected by the proposal, as well as, the proposed amendment to Schedule 2.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proposal seeks to permit residential development within a mixed use zone and amend the wording of an exempt development type listed in Schedule 2 of the LEP, which will therefore not have any adverse environmental effects. Nevertheless any future development which did occur will require a development application, which will require more detailed investigation and assessment.

10. How has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have a positive social and economic impact as it seeks to permit standalone residential development within a mixed use zone.

It is reiterated that the abovementioned changes to land use permissibilities have been made without any consultation with AlburyCity and without any explanation. These changes have severely inhibited development in the Albury LGA and will have a significant social and economic effect. It should be noted that no submissions were received from the public against standalone residential development being permitted within the B4 Mixed Use Zone during public exhibition of the LEP.

By amending the LEP, Council seeks to restore the land use permissibilities of the B4 Mixed Use Zone (as exhibited), thereby returning the LEP to the status quo.

Likewise by amending the LEP to resolve the obvious error contained within Schedule 2 of the LEP regarding Bracket Signage, this will eliminate and resolve any potential confusion that may arise from having two separate controls applicable to the same signage type.

Section D - State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal is seeking to permit standalone residential accommodation in an urban zone, which is currently already serviced by adequate roads, sewer and water, whilst the issue of amending the wording in Schedule 2 does have any public infrastructure impacts.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Following a post-gazettal meeting between AlburyCity staff and relevant Department of Planning staff held on 18 August 2010, it was accepted that the prohibition of standalone residential development and the incorrect wording in Schedule 2 were most likely ill informed decisions made by Parliamentary Counsel during the check and vetting processes undertaken prior to gazettal.

The most recent advice received from the Department of Planning, recommended to Council that a Planning Proposal be prepared (with no public exhibition) should the amendment not be considered minor under Section 73A of the Act to avoid delay.

Consequently no consultation has been carried out at this stage with any State and Commonwealth Public Authorities; however, any required consultation will occur in accordance with the gateway determination, if considered necessary.

PART 4 – COMMUNITY CONSULTATION

Council proposes that the Planning Proposal be exhibited (if deemed necessary) in accordance with the requirements of section 57 of the *Environmental Planning & Assessment Act 1979* and *A guide to preparing local environmental plans* (July 2009).

If deemed necessary, it is proposed that the Planning Proposal be placed on public exhibition for a minimum of 14 days as it relates to a low impact Planning Proposal. Written notification of the community consultation will be provided in a local newspaper and on Councils' website. In addition affected landowners will be notified in writing. The written notice will contain:

- A brief description of the intended outcomes of the Planning Proposal;
- An indication of the land which is affected by the proposal;
- Information on where and when the Planning Proposal can be inspected;
- The name and address of Council for the receipt of submissions; and
- The closing date for submissions.

During the public exhibition period the following documents will be placed on public exhibition:

- The Planning Proposal;
- The Gateway determination;
- Relevant council reports;
- Any additional studies.

APPENDICES

Figure 1 – Current Zoning

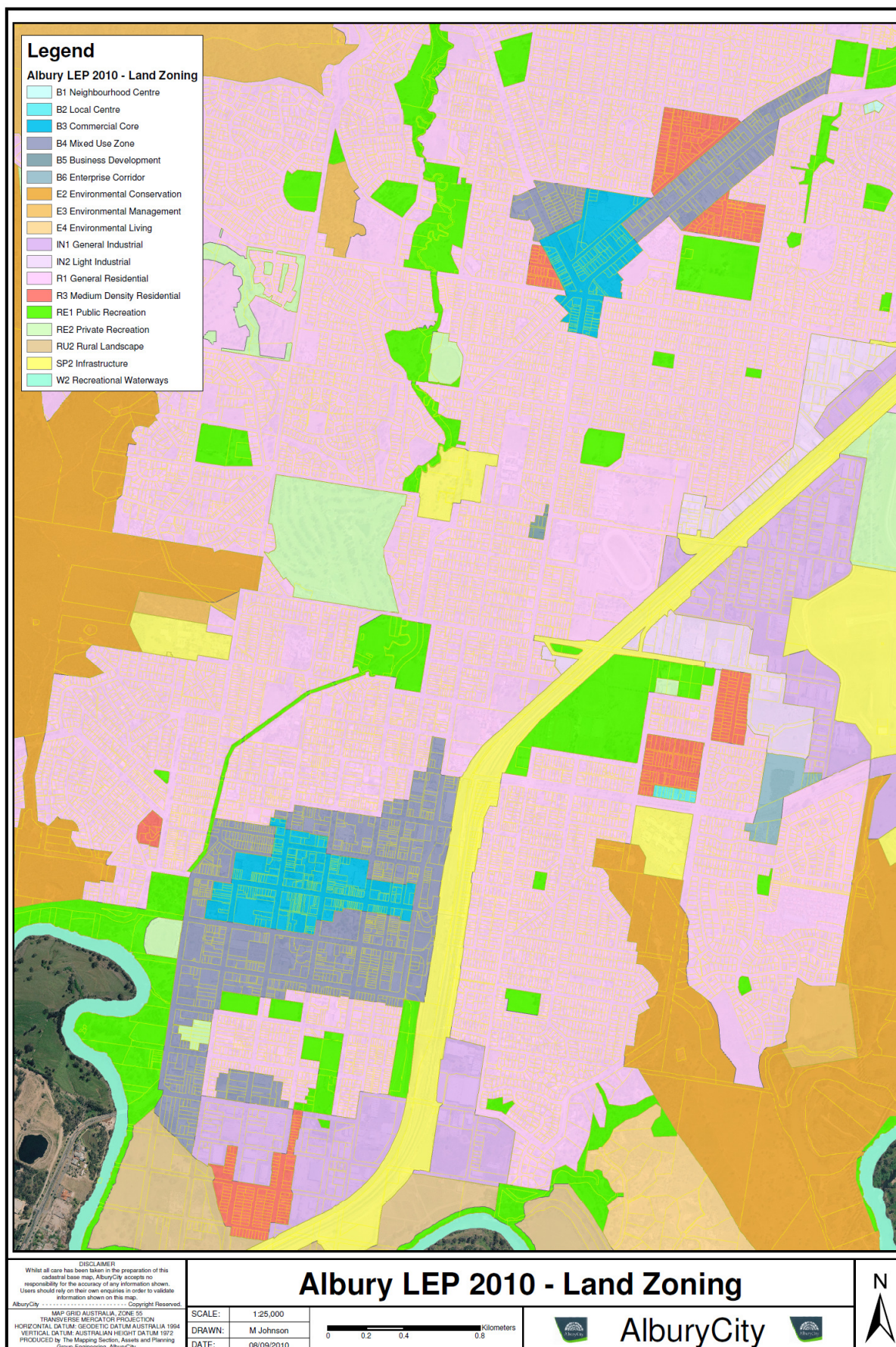


Table 1 – Consideration of State Environmental Planning Policies

No.	SEPP Title	Applicable to Planning Proposal	Consistency
1	State Environmental Planning Policy – Development Standards	No, does not apply to land in the Albury LGA since gazettal of the LEP	N/A
4	State Environmental Planning Policy – Development without consent & Miscellaneous Exempt & Complying Development	No, does not apply to land in the Albury LGA since gazettal of the LEP	N/A
6	State Environmental Planning Policy – Number of Storeys in a Building	Not applicable	N/A
14	State Environmental Planning Policy – Coastal Wetlands	Not applicable	N/A
15	State Environmental Planning Policy – Rural Landsharing Communities	Not applicable	N/A
19	State Environmental Planning Policy – Bushland in Urban Areas	Not applicable	N/A
21	State Environmental Planning Policy – Caravan Parks	Yes, because the Planning Proposal seeks to permit Caravan Parks within an urban zone	Consistent as the Planning Proposal does not derogate from the aims, objectives and development consent requirements of this SEPP as the amendment seeks to permit Caravan Parks within an urban zone of Albury. By reinstating Caravan Parks as a permitted use, this will also eliminate the need for a number of existing Caravan Parks to rely on 'existing use rights'
22	State Environmental Planning Policy – Shops & Commercial Premises	Not applicable	N/A
26	State Environmental Planning Policy – Littoral Rainforests	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
29	State Environmental Planning Policy – Western Sydney Recreation Area	Not applicable	N/A
30	State Environmental Planning Policy – Intensive Agriculture	Not applicable	N/A
32	State Environmental Planning Policy – Urban Consolidation (Redevelopment of Urban Land)	Yes, because the Planning Proposal seeks to permit standalone residential development within an urban zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit standalone residential development in an urban zone that is within close proximity to employment, leisure and community facilities and which is currently serviced by existing public infrastructure.
33	State Environmental Planning Policy – Hazardous & Offensive Industry	Not applicable	N/A
36	State Environmental Planning Policy – Manufactured Home Estate	Yes, because the Planning Proposal seeks to permit standalone residential development within an urban zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit standalone residential development within an urban zone. This will promote affordable housing, is within close proximity to community facilities and is located on land that is currently serviced by existing public infrastructure.
39	State Environmental Planning Policy – Spit Island Bird Habitat	Not applicable	N/A
41	State Environmental Planning Policy – Casino Entertainment Complex	Not applicable	N/A
44	State Environmental Planning Policy – Koala Habitat Protection	Not applicable	N/A
47	State Environmental Planning Policy – Moore Park Showground	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
50	State Environmental Planning Policy – Canal Estate Development	Not applicable	N/A
52	State Environmental Planning Policy – Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable	N/A
53	State Environmental Planning Policy – Metropolitan Residential Development	Not applicable	N/A
55	State Environmental Planning Policy – Remediation of Land	Not applicable	N/A
59	State Environmental Planning Policy – Central Western Sydney Regional Open Space and Residential	Not applicable	N/A
60	State Environmental Planning Policy – Exempt & Complying Development	Not applicable – does not apply to land in the Albury LGA since gazettal of the LEP	N/A
62	State Environmental Planning Policy – Sustainable Aquaculture	Not applicable	N/A
64	State Environmental Planning Policy – Advertising & Signage	Yes, as the Planning Proposal seeks to amend signage requirements listed as permitted without consent in an LEP	Consistent as the Planning Proposal does not derogate from the aims, objectives and development consent requirements of this SEPP as the amendment seeks to rectify a minor error (bracket sign has inadvertently been listed as an under awning sign) in Schedule 2 of the LEP that has resulted during the legal vetting and check processes required prior to gazettal

No.	SEPP Title	Applicable to Planning Proposal	Consistency
65	State Environmental Planning Policy – Design Quality of Residential Flat Development	Yes, because the Planning Proposal seeks to permit standalone Residential Flat Buildings within an urban zone	Consistent as the Planning Proposal does not derogate from the aims, objectives and development consent requirements of this SEPP and only relates to the land use permissibilities of standalone Residential Flat Buildings and not design quality requirements
70	State Environmental Planning Policy – Affordable Housing (Revised Schemes)	Not applicable	N/A
71	State Environmental Planning Policy – Coastal Protection	Not applicable	N/A
	State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes, because the Planning Proposal seeks to permit standalone Residential development within an urban zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit standalone residential development within an urban zone. This will promote affordable housing, will support local business by providing affordable housing for workers close to places of work and will facilitate the development of housing for the homeless and other disadvantaged people, including group homes
	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not applicable	N/A
	State Environmental Planning Policy (Exempt & Complying Development Codes) 2008	Yes, because the Planning Proposal seeks to allow a wider application of exempt and complying development	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit standalone residential development within an urban zone, thereby removing the need for a significant number of existing dwellings to rely on 'existing use rights'. This will allow a much wider application of exempt and complying development as the uses will no longer be prohibited

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (Housing for Seniors & People with a Disability) 2004	Yes, because the Planning Proposal seeks to permit standalone Residential development (including hostels) within an urban zone	Consistent as the Planning Proposal does not derogate from the aims and objectives of this SEPP, as it seeks to permit standalone residential development, including hostels within an urban zone. This will provide for a diversity of residences that meet the needs of seniors or people with a disability and makes efficient use of existing infrastructure and services
	State Environmental Planning Policy (Infrastructure) 2007	Not applicable	N/A
	State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007	Not applicable	N/A
	State Environmental Planning Policy (Major Development) 2005	Not applicable	N/A
	State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007	Not applicable	N/A
	State Environmental Planning Policy (Rural Lands) 2008	Not applicable	N/A
	State Environmental Planning Policy (Sydney Region Growth Centres) 2006	Not applicable	N/A
	State Environmental Planning Policy (Temporary Structures) 2007	Not applicable	N/A
	State Environmental Planning Policy (Western Sydney Employment Area) 2009	Not applicable	N/A

No.	SEPP Title	Applicable to Planning Proposal	Consistency
	State Environmental Planning Policy (Western Sydney Parklands) 2009	Not applicable	N/A
	Regional Environmental Plan (deemed State Environmental Planning Policy) Murray REP No. 2 – Riverine Land	Yes applies to the Albury LGA	The Planning Proposal does not derogate from the aims, objectives, development consent, general and specific planning principles and consultation requirements as provided in the REP.

Table 2 – Consideration of Section 117(2) Ministerial Directions

No.	Direction Title	Applicable to Planning Proposal	Consistency
1. Employment and Resources			
1.1	Business & Industrial Zones	Yes, as the planning proposal will affect land within a business or industrial zone (B4 Mixed Use)	Consistent as the Planning Proposal relates to land already extensively developed for mixed use and standalone residential purposes including dwelling houses, multi dwelling housing and dual occupancies. This is consistent with the NSW DoP LEP Practice Note: <i>PN 06-002 – Preparing LEPs using the Standard Instrument: Standard Zones</i> that identifies the general purpose of the B4 Mixed Use Zone as: <i>This zone is generally intended for use where a wide range of land uses are to be encouraged, including retail, employment, residential, community and other uses.</i> As a consequence, the Planning Proposal seeks to permit standalone residential development within close proximity to commercial areas, community facilities and public transport that supports the general purpose of the B4 Mixed Use Zone.
1.2	Rural Zones	Not applicable	N/A
1.3	Mining, Petroleum Production & Extractive Industries	Not applicable	N/A
1.4	Oyster Aquaculture	Not applicable	N/A
1.5	Rural Lands	Not applicable	N/A
2. Environment and Heritage			
2.1	Environmental Protection Zones	Not applicable	N/A
2.2	Coastal Protection	Not applicable	N/A
2.3	Heritage Conservation	Not applicable	N/A
2.4	Recreation Vehicle Areas	Not applicable	N/A

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
3. Housing, Infrastructure and Urban Development			
3.1	Residential Zones	Yes, as the Planning Proposal will affect a zone in which significant residential development is permitted or proposed to be permitted.	Consistent as the Planning Proposal relates to land currently used for residential and commercial purposes within close proximity to the Albury and Lavington CBDs, which are serviced by employment and public transport. This will encourage a variety and choice of housing types and provide for existing and future housing needs that also makes more efficient use of existing infrastructure and services. By amending the LEP this will also ensure consistency between the land use permissibilities and objectives of the B4 Mixed Use zone, namely: <i>To integrate suitable, business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; and</i> <i>To increase the permanent population and encourage the provision of affordable housing within mixed use areas through shop top housing and residential flat building development; and</i> <i>To encourage the provision of affordable housing</i> This amendment is further supported by the fact that home occupations and home-based child care are currently both permitted without consent; however a home or single dwelling is prohibited. By permitting standalone residential development within the B4 Mixed Use Zone this will ensure consistency and remove the current anomaly.

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
3.2	Caravan Parks & Manufactured Home Estates	Yes, as the Planning Proposal seeks to provide opportunities for caravan parks and manufactured home estates	Consistent, as the Planning Proposal seeks to reinstate provisions that permit development for the purposes of a caravan park in the B4 Mixed Use Zone. By amending the LEP this will also remove the need for existing Caravan Parks located within the B4 Mixed Use Zone from relying on 'existing use right' provisions
3.3	Home Occupations	Not applicable	N/A
3.4	Integrating Land Use and Transport	Yes as the Planning Proposal seeks to alter a provision relating to urban land, including land zoned for residential purposes.	Consistent, as the Planning Proposal has regard for the two DUAP documents referenced in this Direction and is zoned for urban purposes, which is already serviced by an existing transport network.
3.5	Development Near Licensed Aerodromes	Not applicable	N/A
4. Hazard and Risk			
4.1	Acid Sulphate Soils	Not applicable	N/A
4.2	Mine Subsidence & Unstable Land	Not applicable	N/A
4.3	Flood Prone Land	Yes as the Planning Proposal seeks to alter a provision that affects flood prone land	Consistent, as the Planning Proposal seeks to permit standalone residential accommodation within an urban zone, already characterised by this form of development. Amending the LEP to permit standalone residential development within the B4 Mixed Use Zone will not increased the risk or occurrence of flooding as the land is already used for urban purposes. Similarly Clause 7.4 of the LEP, which relates to Flood Planning, controls the development of land subject to the 1:100 ARI.
4.4	Planning for Bushfire Protection	Not applicable	N/A

AlburyCity
AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

No.	Direction Title	Applicable to Planning Proposal	Consistency
5. Regional Planning			
5.1	Implementation of Regional Strategies	Not applicable	N/A
5.2	Sydney Drinking Water Catchment	Not applicable	N/A
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	Not applicable	N/A
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	N/A
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)	Not applicable	N/A
5.6	Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable	N/A
5.7	Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Not applicable	N/A
5.8	Second Sydney Airport: Badgerys Creek	Not applicable	N/A
6. Local Plan Making			
6.1	Approval and Referral Requirements	Yes	Consistent, as the Planning Proposal does not propose to add any provisions which require referral of development applications to the Minister.
6.2	Reserving Land for Public Purposes	Not applicable	N/A
6.3	Site Specific Provisions	Not applicable	N/A
7. Metropolitan Planning			
7.1	Implementation of Metropolitan Strategy	Not applicable	N/A

Relevant Council Reports

PLANNING & DEVELOPMENT COMMITTEE REPORT

B4 MIXED USE ZONE – LAND USE PERMISSIBILITIES & SCHEDULE 2 EXEMPT DEVELOPMENT – BRACKET SIGNAGE (FIL09/02080-02)

DATE 6 September 2010

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

MEETING DATE Monday 13 September 2010

FURTHER ENQUIRIES TO Matt Johnson **PHONE** 6023 8285
Planning & Environment

Introduction

The purpose of this report is to obtain Council resolution to proceed to prepare a Planning Proposal that seeks to amend the *Albury Local Environmental Plan 2010* so as to amend the land use permissibilities as they apply to the B4 Mixed Use Zone and to amend the wording in Schedule 2 Exempt Development as it relates to Bracket Signage.

Background

An outline of the Progress/Status of new Albury Planning Controls was previously reported to the Council Meeting held on Monday 23 August, 2010 (*Attachment 1*).

This report outlined the processes behind the making and gazettal of ALEP 2010 and as previously reported, outlined that the ALEP 2010 content and subject matter remained largely unchanged as a result of the NSW Department of Planning legal vetting and check processes required prior to gazettal. However, there were several revisions made to ALEP 2010 content and subject matter (different from those changes requested by AlburyCity and previously endorsed by Council). Following a review of these changes, most were considered minor in nature; however the issue of land use permissibilities in the B4 Mixed Use Zone and the wording in Schedule 2 Exempt Development as it relates to Bracket Signage still remains outstanding.

B4 Mixed Use Zone – Land Use Permissibilities

Upon gazettal of ALEP 2010 it was noted that a number of residential land uses (including attached dwellings, caravan parks, dual occupancies (attached and detached), dwelling houses, group homes, hostels, multi dwelling housing, residential flat buildings, secondary dwellings and semi-detached dwellings etc) have all been deleted from those land uses listed as permitted with consent in the B4 Mixed Use Zone. As a consequence, these have become prohibited by virtue of the higher order land use 'residential accommodation' being listed as prohibited.

This in turn will require existing residential developments to rely on 'Existing Use Rights' provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000 and will subsequently have significant implications regarding exempt and complying development (being minor or ancillary development) for numerous single and multi dwellings which are now prohibited and therefore unable to undertake exempt or complying development.

Throughout ALEP 2010 preparation and consultation phases, the abovementioned stand-alone residential land uses had all been listed as permitted with consent in the B4 Mixed Use Zone. This recognised that the B4 Mixed Use Zone was originally set up as a transition zone that applied to the peripheral locations of the Albury and Lavington CBDs, and consequently, business, office, and residential land uses have always been permitted as a mixed and/or standalone development.

More recently, the spatial extent of the B4 Mixed Use Zone was expanded in response to a NSW Department of Planning direction that stand-alone Residential Accommodation would not be supported within the B3 Commercial Core Zone. It is the intention of AlburyCity to encourage a permanent residential population in both the Albury and Lavington CBDs, and accordingly, the B4 Mixed Use Zone was expanded into areas previously assigned a B3 Commercial Core Zone so as not to preclude residential land use outcomes. No submissions were received from the public against standalone residential development being permitted within the B4 Mixed Use Zone during public exhibition of the ALEP. A review of other recently gazetted LEPs (including Wagga Wagga, Young and Wingecarribee) noted they all permit standalone residential development in the B4 Mixed Use Zone.

The abovementioned change which occurred as a result of the NSW Department of Planning review prior to gazettal will seriously compromise AlburyCity intentions. In addition, it is noted that such changes depart from previously published NSW Department of Planning LEP Practice Notes that identify the general purpose of the B4 Mixed Use Zone as being for use where a wide range of land uses are to be encouraged, including residential.

The abovementioned changes to land use permissibilities have been made without any consultation with AlburyCity and without any explanation. These changes have already severely inhibited potential development in the Albury LGA insofar as potential developers of three development sites in proximity to both the Albury and Lavington CBDs where stand-alone residential development outcomes have been sought have been advised that AlburyCity does not have the capacity to approve stand-alone residential accommodation in the B4 Mixed Use Zone as a result of the amendments made by the NSW Department of Planning.

Following a post-gazettal meeting between AlburyCity staff and relevant Department of Planning staff held on 18 August 2010, it was accepted that this was most likely an ill informed decision made by Parliamentary Counsel during the check and vetting processes undertaken prior to gazettal. AlburyCity was of the firm view that the removal of the abovementioned residential land use permissibilities is an obvious error that qualifies as a minor amendment under Section 73A of the Act, thereby eliminating the need to formally prepare an amendment to ALEP 2010.

This error with respect to land use permissibilities is evidenced by the objective 'to increase the permanent population and encourage the provision of affordable housing within mixed use areas through shop top housing and residential flat building development' being retained amongst the B4 Mixed Use Zone objectives despite abovementioned deletions. It is also noted that home occupations and home-based child care are permitted without consent however a home or single dwelling is prohibited. This is further evidence of the inconsistencies created by the omission.

At the time of reporting, AlburyCity was still awaiting a response from the NSW Department of Planning following referral to the Parliamentary Counsel's legal department.

In the interim it has been recommended to Council that a Planning Proposal be prepared (with no public exhibition) should the amendment not be considered minor under Section 73A of the Act so as to minimise delay.

Schedule 2 Exempt Development – Bracket Signage

Upon gazettal of ALEP 2010 it was noticed that within Schedule 2 Exempt Development, 'Signage – Under Awning signs' was listed twice on both pages 73 and 74. A closer inspection of these signage types revealed that the controls applicable for both were in fact different. A copy of these signage types are listed below:

Signage—under awning signs

- (1) *Maximum number—1 per lot;*
- (2) *Maximum dimensions—0.6m long and 0.3m wide;*
- (3) *Must be at least 2.7m above ground level (existing);*
- (4) *Must be located less than 3m above ground level (existing) or must be below fascia, whichever is the lesser; and*
- (5) *Maximum projection—300mm.*

Signage—under awning signs

- (1) *Must not project beyond awning edge;*
- (2) *Must be at least 2.7m above ground level (existing); and*
- (3) *Maximum number—1 per lot.*

A review of the previous version of the LEP that was forwarded to the NSW Department of Planning revealed that the first 'Under Awning' signage type is in fact meant to be a 'Bracket Sign' as previously requested by Council. This would also explain why the list of signage types contained within Schedule 2 of ALEP 2010 is in alphabetical order, except for the abovementioned signage type.

Whilst this error is minor in nature it is considered appropriate to include the proposed amendment within the Planning Proposal for the B4 Mixed Use Zone regarding land use permissibilities to resolve the issue and to eliminate any potential confusion that may arise from having two separate controls applicable to the same signage type.

The relevant process required to amend an LEP is listed as follows:

Environmental Planning & Assessment Act 1979

The *Environmental Planning & Assessment Act 1979* is the principle legislation concerned with the processes of amending an LEP. The EP&A Act in concert with the *Environmental Planning and Assessment Regulations 2000* specifies the process by which amendments to LEP's should be prepared, notified, exhibited and reported.

In July 2009, the NSW Government changed the way that LEPs are made and approved due to an amendment to Part 3 of the EP&A Act. This system is known as the 'Gateway' plan-making process and now requires the preparation of a 'Planning Proposal' for any requested amendments to LEPs.

Conclusions

ALEP 2010 is now active following its gazettal on Friday, 13 August 2010.

The NSW Department of Planning has overwritten a specific request to permit stand-alone residential development in the B4 Mixed Use Zone put forward by Council that will have serious implications for a significant number of landowners in this zone. This decision was undertaken with no consultation and is inconsistent with the approval and content of other recently gazetted LEPs. As a consequence of this, it is now the intention of AlburyCity to prepare a Planning Proposal that seeks to restore the land use permissibilities of the B4 Mixed Use Zone (as exhibited), thereby returning it to the status quo. This Planning Proposal will also seek to amend a minor error contained within Schedule 2 Exempt Development as it relates to Bracket Signage.

Recommendation

That the Committee recommends to Council that Council:

- a. prepare a Planning Proposal to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 that seeks to amend the land use permissibilities of the B4 Mixed Use Zone to permit stand-alone residential accommodation (as permitted during the public exhibition of the *draft* ALEP 2010) and to amend the wording contained within Schedule 2 Exempt Development as it relates to Bracket Signage, and request that a Gateway Determination be made, pursuant to the Environmental Planning and Assessment Act 1979, as amended; and
- b. Council furnish a copy of this report and other relevant information to the NSW Department of Planning, in accordance with the Environmental Planning and Assessment Act 1979 and request the Minister for Planning undertake the 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 B4 Mixed Use Zone and the wording contained within Schedule 2 Exempt Development.

- **Attachments**

1. CM Report – Progress/Status – New Albury Planning Controls dated 23 August 2010
2. Planning Proposal – B4 Mixed Use Zone Land Use Permissibilities and Schedule 2 Exempt Development Bracket Signage (to be tabled)

AlburyCity

AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

Progress/Status: New Albury Planning Controls (FIL09/01950)

DATE 17 July 2010

CONFIDENTIAL YES ☐

NO ☒

If yes please tick one of the following reasons

Personnel Matters ☐

Commercial ☐

Legal ☐

Security ☐

Personal Hardship ☐

ITEM FOR DECISION ☐

Meeting Date Monday 23 August 2010

ITEM FOR NOTING ☐

Meeting Date

FURTHER ENQUIRIES TO

Chris Graham
Planning & Environment

PHONE

6023 8148

Introduction

Council has over the last 18 months given consideration to Albury's local planning controls on numerous occasions. This included endorsement of the final versions of:

- i) Albury Local Environmental Plan 2010 (ALEP 2010);
- ii) Albury Development Control Plan 2010 (ADCP 2010);
- iii) Draft Amendment 17 to Albury Local Environmental Plan 2000 (Amendment 17); and
- iv) Proposed Biodiversity Certification for the ALEP 2010 (biocertification).

The purpose of this report is to inform Council of the progress/status of the ALEP 2010, ADCP 2010, Amendment 17, biocertification and due to the significant changes involved, outline a communications strategy intended to notify, disseminate and promote understanding of the new Albury planning controls following gazettal/commencement.

Progress/Status

ALEP 2010

At the Ordinary Meeting of Council on 27 April 2010, following public exhibition and having regard to the public submissions received, Council resolved to endorse the draft Albury Local Environmental Plan 2009 (to be renamed Albury Local Environmental Plan 2010 on commencement), as amended, and refer the ALEP 2010 to the NSW Department of Planning and request the Minister for Planning make the ALEP 2010.

On the 11 May 2010 AlburyCity formally submitted the ALEP 2010 and relevant supporting documentation to the NSW Department of Planning with a request that appropriate action be undertaken to secure the making of the ALEP 2010.

On the 13 August 2010 NSW Department of Planning notified AlburyCity that the Minister for Planning had made ALEP 2010 under section 70 of the Environmental Planning and Assessment Act 1979 and that the ALEP 2010 will take effect when notified on the NSW Legislation website.

It is noted that ALEP 2010 content and subject matter remains largely unchanged as a result of the NSW Department of Planning legal vetting and check processes required prior to gazettal. However, those revisions to ALEP 2010 content and subject matter (different from those changes requested by AlburyCity and previously endorsed by Council) are outlined below for information purposes.

Text Changes

A number of changes have been made to the ALEP 2010 text document objectives, permissibilities and clauses to ensure consistency with the Standard Instrument LEP, or certain model clauses.

NSW Department of Planning has advised that most of these changes have not changed the document intent. AlburyCity agrees that most changes to the Albury LEP 2010 text document are minor and to this extent do not depart from the document intent. However, notable changes from the ALEP 2010 text and map document that was previously endorsed by Council, are outlined as follows:

B4 Mixed Use Zone – Land Use Permissibility:

It is noted that a number of residential land uses (including attached dwellings, dual occupancies, dwelling houses, multi-dwelling housing, residential flat buildings etc.) have been deleted from those land uses listed as permitted with consent in the B4 Mixed Use Zone.

Throughout ALEP 2010 preparation and consultation phases, abovementioned stand-alone residential land uses have been listed as permitted with consent in the B4 Mixed Use Zone. This recognised that the B4 Mixed Use Zone was originally set up as a transition zone that applied to the peripheral locations of the Albury and Lavington CBDs. More recently, the spatial extent of the B4 Mixed Use Zone has expanded in response to a NSW Department of Planning direction that stand-alone Residential Accommodation will not be supported within the B3 Commercial Core Zone. It is the intention of AlburyCity to encourage a permanent residential population in both the Albury and Lavington CBDs, and accordingly, the B4 Mixed Use Zone was expanded into areas previously assigned a B3 Commercial Core Zone so as not to preclude residential land use outcomes.

The abovementioned changes which have occurred as a result of the NSW Department of Planning review prior to gazettal will seriously compromise AlburyCity intentions. In addition, it is noted that such changes depart from previously published NSW Department of Planning LEP Practice Notes that identify the general purpose of the B4 Mixed Use Zone as being for use where a wide range of land uses are to be encouraged, including residential.

Clause 7.4 'Flood Planning':

This clause sets out prescribed requirement(s) for development. It is noted that the description of land affected by this clause has changed from a general reference to 'land subject to discharge of a 1:100 ARI (average recurrent interval) flood event' to 'land shown as a Flood planning area on the Flood Planning Map'.

This change has implications given that AlburyCity presently does not have an Albury Local Environmental Plan 2010 Flood Planning Map as stated, and consequently, would be required to prepare such map in the absence of any further changes being made to this clause.

It should be noted that Albury Development Control Plan 2010 does reference and contain a Flood Referral Map and associated controls that seeks to identify and manage land use activities on land affected and/or potentially affected by flood conditions.

Clause 6.3 'Development control plan':

This clause requires the preparation of a site specific development control plan for land identified as an Urban Release Area. This clause also requires that certain specified matters be addressed in the site specific development control plan.

It is noted that the requirement for *'investigation, identification and mitigation measures to be incorporated into development design to minimise any potential impacts associated with ongoing operations undertaken on adjoining and/or adjacent Australian Defence Force sites in Ettamogah and Wirlinga'* has been deleted.

It is noted that this requirement was originally incorporated into ALEP 2010 in response to submissions received from the Department of Defence raising concerns in relation to the compatibility of future residential development in proximity to the Defence Force Facility in Wirlinga and potential impacts on existing operations for military training purposes undertaken on-site that includes 24 hour exercises and the use of explosives.

Notwithstanding this requirement has been removed from ALEP 2010, it is noted that such investigations are required as part of the District and Local Structure Plan(s) for Thurgoona/Wirlinga to be undertaken over the next 12-18 months to facilitate and guide development activities. It is anticipated that upon adoption, the District and Local Structure Plan(s) for Thurgoona/Wirlinga will be incorporated into the regime of planning controls for the Albury LGA and will be considered with respect to any development proposal.

Clause 7.9 'Development in areas subject to airport noise':

This clause has been changed so as to remove reference to a 20 ANEF Noise Contour for the purposes of land use siting and building design requirements to mitigate noise associated with existing airport operations.

It is noted that previous reference to a 20 ANEF contour was a point of contention given that airport noise mapping for the Albury LGA does not contain a 20 ANEF contour. This issue is now resolved.

Schedule 2 'Exempt development':

A number of exempt development types previously listed in Schedule 2 have been deleted which will now result in an increased reliance on the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 which specifies exempt development under that Policy.

Mapping Changes

The zoning and minimum lot size for land north of Perryman Lane and Table Top Road has been retained as RU1 Primary Production, with a minimum lot size of 100 hectares despite Council's post exhibition proposal to rezone this land to RU4 Rural Small Holdings Zone and lower the minimum lot size to 40 hectares. The zoning and minimum lot size changes proposed are considered to be of such significance that they should be the subject of an individual Planning Proposal that addresses among other issues, the regional significance of these lands as a transition between the rural zones in both the Albury and Greater Hume LGAs as well as the consistency of the proposed changes with the rural lands with relevant State Environmental Planning Policies and Section 117 Directions.

An area of land east of the city and south of the Riverina Highway (Star land) has been deferred to allow the preparation of detailed studies into its residential development potential. It is further noted that the NSW Department of Planning urges Council to ensure that extensive consultation occur with State Agencies in relation to the development capabilities of the subject land. The NSW Department of Planning also advises that this would best be progressed as a separate Planning Proposal.

Abovementioned content and subject matter changes will be the subject of more detailed review, discussion and clarification between AlburyCity and NSW Department of Planning representatives. It should be noted that at time of writing this report a meeting has been scheduled with the NSW Department of Planning to discuss abovementioned changes.

ADCP 2010

At the Ordinary Meeting of Council on 24 May 2010, Council resolved to adopt the draft Albury Development Control Plan 2009 (to be renamed Albury Development Control Plan 2010 on commencement), as amended, to become effective upon gazettal of the ALEP 2010.

Apart from some minor amendments including Albury Industrial Hub, CSU Albury Campus Masterplan and Disabled Parking Provisions (which have been reported under separate cover), ADCP 2010 has been held in abeyance, awaiting gazettal of the Albury LEP 2010.

In response to ALEP 2010 revisions, any changes to the ADCP 2010 content and subject matter have largely been confined to referencing and/or notations that are necessary to maintain and improve interaction between both ADCP 2010 and ALEP 2010 documents. These changes are considered only minor in that they do not substantially affect the intent of the ADCP 2010 and do not require further detail or discussion.

AMENDMENT 17

At the Ordinary Meeting of Council on 27 April 2010, following public exhibition and having regard to the public submissions received, Council resolved to proceed with Amendment 17 and prepare and forward a report to the NSW Department of Planning and request the Minister for Planning make the draft Amendment 17.

On the 11 May 2010 AlburyCity formally submitted the Amendment 17 and relevant supporting documentation to the NSW Department of Planning with a request that appropriate action be undertaken to secure the making of Amendment 17 to Albury Local Environmental Plan 2000.

Most recent advice from the NSW Department of Planning confirms that in response to departmental priorities, ALEP 2010 has progressed at the expense of Amendment No 17. Consequently, Amendment 17 has been allowed to lapse. It should be noted that as a contingency to this likely occurrence, consistent with NSW Department of Planning instruction, ALEP 2010 incorporates both the zoning and classification changes to four parcels of Council owned land, consistent with that proposed by Amendment 17. Accordingly, despite Amendment 17 not proceeding, zoning and classification changes proposed by Amendment 17 will be effected anyway and are superseded with the gazettal of ALEP 2010.

BIOCERTIFICATION

In the early phases of the ALEP 2010 preparation, Council was approached by the Department of Environment, Climate Change and Water (DECCW) to be the pilot Council for 'biodiversity certification'.

The primary effect of conferring biodiversity certification on ALEP 2010 is that any development requiring consent (or any activity under Part 5 of the Environmental Planning and Assessment Act 1979 (EP&A Act) not requiring consent) is taken to be development that is not likely to significantly affect threatened species. This removes the need to address the Assessment of Significance for threatened species (s. 5A of the EP&A Act), prepare species impact statements or meet concurrence/consultation requirements involving the Director General of the NSW Department of Environment, Climate Change and Water (DECCW) or Minister for Climate Change and the Environment.

The biodiversity certification is predicated on ALEP 2010, in addition to other relevant measures, leading to an overall improvement or maintenance of biodiversity values, including threatened species.

Biodiversity certification has many practical advantages, it recognises up-front strategic assessment of conservation values and protection measures amongst relevant controls, it will assist in reducing potential for land-use conflict and it creates greater certainty of planning outcomes for development projects in areas zoned for development. Most significantly, it offers opportunities to put in place planning strategies that will assist in reversing any long-term decline in biodiversity so that biodiversity values may be improved or maintained.

DECCW recently informed AlburyCity that the status of the proposed biodiversity certification of ALEP 2010 remains outstanding pending a review/reassessment of the bio-certification proposal against the gazetted version of the ALEP 2010.

In addition, DECCW has requested that ADCP 2010 be further amended to incorporate 2 changes.

The changes are:

1. 'Part 10: Development in the Residential Zones' to include a control that stipulates that Asset Protection Zones must not be co-located in either E2 Environmental Conservation Zone and E3 Environmental Management Zone; and

2. Cat controls for residential areas in Thurgoona/Wirlinga.

AlburyCity is presently investigating the implications of complying with these requests on the community before agreeing to prepare and publicly exhibit any further amendments to ADCP 2010.

In the absence of biodiversity certification of the ALEP 2010, all development will continue to be required to address the Assessment of Significance for threatened species (s. 5A of the EP&A Act), prepare species impact statements or meet concurrence/consultation requirements involving the Director General of DECCW (status quo).

DECCW has also recently informed AlburyCity that biodiversity certification is not likely to occur prior to the finalisation of a proposed Plan of Land Management for the network of Albury Wodonga Corporation environmental land that has been or is in the process of being transferred to the NSW Land and Property Management Authority. Initial inquiries indicate that the finalisation of the plan could be at least 6 months and this provides ample opportunity for AlburyCity to undertake necessary investigations before agreeing to any further amendments to ADCP 2010.

The progress and process of biocertification has been extremely disappointing and constantly changing since it was first proposed. The closer we appear to meeting targets and complying with processes, the harder it becomes or new elements are introduced. This is part of being involved in the initial stages of a complex and significant policy. There has been a great deal of debate and discussion between levels of government (federal and state) as well as state government agencies. AlburyCity is at the mercy of their deliberations and will continue to seek an appropriate outcome.

COMMUNICATIONS STRATEGY

AlburyCity has in the past made every effort to publicise the new Albury planning controls prior to and during the consultation phases of development and exhibition. It is important that similar efforts be undertaken following gazettal/commencement of the new Albury planning controls to provide appropriate notification, assist in disseminating information and promote understanding amongst the general public of the new Albury planning controls content and subject matter.

Accordingly, a communications strategy has been prepared and will involve the following actions:

- a media release that will assist in notifying the community of the gazettal/commencement of new planning controls (to be posted either prior to or on the day of gazettal);
- an update of the AlburyCity web site to include the new Albury planning controls content and subject matter and other relevant planning information (e.g. factsheets) following gazettal/commencement to assist with the dissemination of relevant information (web site updates to be inserted within 1 week of the day of gazettal);
- provide a document service where both hard copies and electronic copies of new Albury planning controls are made available on request for a scheduled fee (electronic copies to be available within 1 week of gazettal and hard copies to be available within 1-2 weeks of gazettal);

- a minimum of two Information Sessions be held for professional/interest groups (including designers, builders, estate agents, surveyors, solicitors, valuers, planning consultants, building certifiers etc.) that provide document overviews and explanations to assist the understanding of relevant information (to be held within 2-4 weeks of gazettal);
- a meeting with landowners affected by the NSW Department of Planning's rejection and overriding decision to maintain the land North of Perryman Lane as 'RU1 Primary Production Zone' therein maintaining a 100 hectare minimum lot size.

Conclusions

The Albury LEP 2010 and DCP 2010, are now active following gazettal of the ALEP 2010 on Friday, 13 August 2010. A communications strategy has been developed to notify, disseminate and promote understanding of the new Albury planning controls following gazettal/commencement.

The NSW Department of Planning has overwritten specific requests and provisions put forward by Council that will have implications for some landowners in the City. These decisions were undertaken with little or no consultation and based on a bureaucratic state-wide policy response rather than an understanding of local context and circumstances. Further investigation and preparation will now be undertaken to pursue Council's intended outcomes and this will include liaison with affected landowners.

Recommendation

That Council receive and note the contents of this report.