

AlburyCity – Planning & Development Committee

AGENDA

6B Albury Local Environmental Plan 2010 – Planning Proposal: Proposed Land Use Zone Transfer – Fairway Gardens Estate, Thurgoona (DOC13/49878)

DATE 25 June 2013

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

MEETING DATE Monday 8 July 2013

FURTHER ENQUIRIES TO Chris Graham PHONE 6023 8148
Planning & Environment

Introduction

This report seeks Council's endorsement of '*Planning Proposal: Proposed Land Use Zone Swap, Fairway Gardens Estate, Thurgoona*' that proposes to amend the *Albury Local Environmental Plan 2010* (ALEP 2010) as it relates to land in Fairway Gardens Estate, Thurgoona (the site).

The Planning Proposal seeks to rezone land to provide a more sustainable and efficient development site and protect environmental qualities and outcomes.

An aerial photograph of the site and figure that shows spatial outcomes resulting from the intended land use zone transfer is provided (*Attachment 1*) for Councillor's information and reference. In addition, a copy of the Planning Proposal will be tabled at the meeting and is available for Councillor's upon request.

The site consists of two areas that are currently zoned part 'R1 General Residential' and part 'E3 Environmental Management' under the ALEP 2010. The Planning Proposal seeks to facilitate a transfer in land use zoning to change the zoning of one area (currently zoned E3 Environmental Management) to R1 General Residential, whilst at the same time, change the zoning of another area (currently zoned R1 General Residential) to E3 Environmental Management.

Notwithstanding the proposed changes are primarily to facilitate a transfer in land use zoning, 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 sites are consistent with that applying in similar zones elsewhere throughout the Albury Local Government Area.

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 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.

Note: Reference to that land subject to the Planning Proposal, contained within documentation received, describes the subject land as Part Lot 499 DP 1142134. However, since preparation of the Planning Proposal, the recent registration of a plan of subdivision has changed the description of the subject land to Part Lot 754 DP 1186094. A revision of Planning Proposal documentation to reflect

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current land description is not considered necessary at this time, however, such revision(s) will occur prior to public exhibition.

Discussion

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

1. A comprehensive analysis of site constraints/opportunities (with a specific focus on biodiversity values), context, character, likely benefits, environmental, social and economic impacts;
2. Consideration against relevant local, regional and State planning policies/directions;
3. Any other likely environmental effects and how are they proposed to be managed; and
4. Documentation and consideration of any relevant government agency issues/interests.

The justification provided for the proposed land use zoning transfer, documented considerations and an AlburyCity position following an initial assessment is discussed below.

1. Site analysis investigations in relation to constraints/opportunities, context, character, likely benefits, environmental, social and economic impacts

The site has been subject to a detailed site analysis and associated investigations through a Biodiversity Values Assessment (BVA) (refer to Appendix B of the tabled Planning Proposal documentation) that has compared and documented the ecological values (including flora, fauna and habitat) of those areas subject to the transfer in land use zoning. These investigations have generally concluded that the proposed land use zoning transfer is not likely to significantly affect any threatened species, population or ecological community or its habitat on the basis that a satisfactory alternative has been provided elsewhere to offset any potential loss in biodiversity values.

In addition, the BVA recognises that existing habitat within both the Thurgoona Golf Course and the Retained Habitat Network (to the immediate east), being a 35ha area consisting of Forward Tree Planting containing scattered remnant trees that is known habitat, is likely to encourage fauna movement between both areas.

In recognition that healthy, diverse and functioning ecological systems require connections, the BVA has audited available connectivity options. This audit has generally concluded that whilst other connection routes with established vegetation may currently provide the greatest opportunity for movement between the Thurgoona Golf Course and the Retained Habitat Network (to the immediate east) including those that would be removed under the Planning Proposal, these options are fast becoming redundant in lieu of existing and ongoing development that has and will continue to result in edge impacts including earth stockpiling, slashing (diminishes understorey) and the removal of Forward Tree Plantings in the immediate vicinity (depletes vegetation structure).

Consequently, in recognition of the limitations applying to other connection options, the BVA has recommended the use of a Council drainage reserve (being Lot 31 DP 1104943) to facilitate a more direct east-west connection between the Thurgoona Golf Course and the Retained Habitat Network (to the immediate east). The BVA however notes that this connection, in its current form, does not provide for the safe passage of any species other than large mobile species such as Kangaroos given that it is

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currently devoid of vegetation. Accordingly, future use of this corridor would be contingent on it being designed and revegetated (refer to Appendix B of the tabled Planning Proposal documentation) to fulfil the structural requirements of an effective corridor without posing a fire risk.

AlburyCity Response

AlburyCity notes that whilst an area of E3 Environmental Management Zone is proposed to be removed and developed for urban residential purposes under this Planning Proposal, the proximity of this area to existing and future residential estate development is likely to result in exposure to increasing pressure and edge impacts that will most likely diminish ecological values in the long term.

The Planning Proposal identifies and seeks to provide an offset to the immediate east where a change in zoning is proposed from R1 General Residential to E3 Environmental Management Zone. Whilst this offset area does not possess examples of very large remnant species, a more concentrated vegetation stock, closer proximity to the Retained Habitat Network (adjoining to the immediate south) and comparable ecological values (flora, fauna and habitat range) render this area suitable as an offset that will facilitate a neutral (most likely better) outcome from an environmental perspective.

Consequently, following an initial assessment, AlburyCity supports Planning Proposal conclusions that the proposed land use zoning transfer is not likely to significantly affect any threatened species, population or ecological community or its habitat on the basis that a satisfactory alternative has been provided elsewhere to offset any potential loss in biodiversity values.

AlburyCity notes that the Planning Proposal seeks to use an existing Council drainage reserve to facilitate east west movement between the Thurgoona Golf Course and the Retained Habitat Network (to the immediate east), however, use of this drainage reserve is contingent on it being designed and revegetated (refer to Appendix B of the tabled Planning Proposal documentation) to fulfil the structural requirements for an effective corridor without posing a fire risk.

An initial assessment has concluded that the use of the Council drainage reserve for habitat connection purposes is both acceptable and supported on the basis that long term ecological outcomes for the community are positive and that these outcomes will be protected through ongoing ownership and management by AlburyCity.

The Planning Proposal, however, does not elaborate on the process to be undertaken to facilitate the execution of necessary works to the Council drainage reserve. For the purposes of providing transparency and certainty to surrounding land owners and the wider community relating to the means by which such improvements will occur, an Addendum to the Planning Proposal (Attachment 3) identifies and commits the proponent to undertake further works to the Council drainage reserve to assist and facilitate Planning Proposal commitments in relation to habitat corridor outcomes and/or alternatively requires payment (total monetary amount to be determined in consultation with AlburyCity) to AlburyCity for equivalent works.

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The execution of any design, revegetation and/or any other structural requirements as identified by the Planning Proposal will be subject to further discussion, and should Council support and endorse the progression of this Planning Proposal post public exhibition, this will trigger the commencement of necessary discussions between both the proponent and AlburyCity to facilitate the implementation of Planning Proposal commitments in relation to drainage reserve improvements for connectivity purposes.

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 site outcomes sought are consistent with the relevant planning policy framework.

AlburyCity Response

An initial assessment of the Planning Proposal content and subject matter has confirmed that the detailed audit undertaken of relevant local, regional and State planning policies and directions adequately demonstrates that site outcomes sought are consistent with the relevant planning policy framework.

3. Any other likely environmental effects and how are they proposed to be managed

The Planning Proposal defers to existing planning policy (including Section 79C of the Environmental Planning and Assessment Act 1979) and those processes undertaken when submitting, assessing and determining a development application for residential subdivision purposes as being the most appropriate mechanism to identify, address and respond to any other likely issues.

AlburyCity Response

An initial assessment of the Planning Proposal content and subject matter has concluded that it is reasonable to defer to existing planning policy to ensure that all other likely potential externalities are identified, considered and addressed by the development application process.

4. Documentation and consideration of any relevant government agency issues/interests

The Planning Proposal states that relevant public authorities (to be consulted) will be identified and confirmed through the issue of a Gateway Determination.

In addition, consistent with the NSW Department of Planning publication: 'A guide to preparing planning proposals (October 2012)', the Planning Proposal does nominate agencies including the Albury and District Local Aboriginal Land Council, NSW Murray Catchment Management Authority and NSW Office of Environment and Heritage (OEH) for consultation purposes.

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The Planning Proposal has already documented pre-lodgement consultation undertaken to date with OEH (refer to Appendix G of the tabled Planning Proposal documentation). This consultation has confirmed both a requirement and the scope of works for a biodiversity values and connectivity assessment for both those areas subject to the proposed land use zoning transfer.

A BVA has been prepared consistent with OEH advice (refer to Appendix B of the tabled Planning Proposal documentation).

AlburyCity Response

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

AlburyCity acknowledges the BVA and whilst an initial assessment would suggest that investigations undertaken, documented and response provided are reasonable, it is also acknowledged that the Planning Proposal (and component BVA) will be forwarded to OEH for further consideration as part of those consultation processes required to ascertain State interests and feedback..

Conclusion

This Planning Proposal through a transfer in land use zoning will result in a net benefit to both existing and ongoing ecological values and habitat connections for the subject and surrounding land, whilst at the same time, will assist the pursuit of more practical development outcomes.

It is reiterated that the offset area has a more concentrated vegetation stock, benefits from a closer proximity to the consolidated Retained Habitat Network (adjoining to the immediate south) and is comparable in size and ecological values (flora, fauna and habitat range) to that area of environmental zoned land that has been proposed to be removed and replaced with a residential zoning.

The effectiveness of existing connection corridors (including land currently zoned environmental) between both the Thurgoona Golf Course and the Retained Habitat Network has diminished in recent times which may be attributed to the edge impacts (discussed earlier) associated with the close proximity of urban development. This trend is likely to be exacerbated into the future as urban development of surrounding residential zoned land continues. The Planning Proposal will however assist in mitigating edge impacts with the provision of an offset area benefitting from distance separation, a limited interface with proposed development areas and will result in a more direct east west connection between both the Thurgoona Golf Course land and the Retained Habitat Network via the existing Council drainage reserve (subject to further embellishments being implemented consistent with BVA recommendations).

In summary, an initial assessment concludes that the Planning Proposal will facilitate appropriate environmental and development outcomes, and accordingly, warrants the further support of Council.

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Recommendation

That the Committee recommends to Council that Council:

- a. endorse the 'Planning Proposal: Proposed land use zone swap: Fairway Gardens Estate, Thurgoona' 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 part Lot 757 DP 1186094 from 'E3 Environmental Management Zone' to 'R1 General Residential Zone',
2. amend the Land Zoning Map for part Lot 757 DP 1186094 from 'R1 General Residential Zone' to 'E3 Environmental Management Zone',
3. amend the Lot Size Map for part Lot 757 DP 1186094 from '100ha' to '450m²', and
4. amend the Lot Size Map for part Lot 757 DP 1186094 from '450m²' to 100ha,

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, 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; and
- 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 and 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 (*Figure 3 extract of the Planning Proposal*) and Proposed Land Use Planning Analysis (*Figure 4 extract of the Planning Proposal*);
2. Planning Proposal: Proposed Land Use Zone Swap – Fairway Gardens Estate, Thurgoona (*to be tabled at the meeting*).
3. Addendum to Planning Proposal.