

AlburyCity - Planning & Development Committee Agenda

PDC7. OFFICERS REPORTS FOR CONSIDERATION

PDC7.1. Revised Planning Proposal - Land Rezoning Willowbank Road, East Albury - Status Update - Re-Exhibition

DATE 29 November 2016

CONFIDENTIAL No

FURTHER ENQUIRIES TO Chris Graham
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Purpose of Report

The purpose of this report is to provide an update confirming actions undertaken to progress the *DRAFT Planning Proposal: Willowbank Road, East Albury – Rezoning for industrial purposes* (the Planning Proposal) and seek Council's endorsement to recommence public exhibition and consultation for this proposal.

In response to issues raised during an earlier public exhibition process (January-March 2016) the Planning Proposal has been subject to a number of revisions. Accordingly, in recognition of significant interest, issues raised and document revision, it is considered appropriate to re-exhibit, and in so doing, provide an opportunity for further community consultation and feedback.

It is noted that the original proposal sought to rezone all of the subject site (above the existing licenced levee) to 'IN1 General Industrial'. In contrast, the proposed changes in the revised Planning Proposal seek to reduce the proposed industrial zoning in the east (retain the existing 'RU2 Rural Landscape Zone') and rezone the balance of the subject land (above the existing licenced levee) to Part 'IN1 General Industrial' (west of the Schubach Street intersection) and Part 'IN2 Light Industrial' (east of the Schubach Street intersection).

It will also be necessary to implement consequential changes to the Albury Local Environmental Plan 2010 (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 (LGA) in the 'IN1 General Industrial Zone' and 'IN2 Light Industrial Zone'.

The content of the revised Planning Proposal and outcomes sought will be the subject of further detailed discussion and assessment in latter parts of this report.

Accordingly, this matter is now presented to Council for consideration in advance of any further public exhibition and consultation. A copy of the Planning Proposal (as revised) is provided as Attachment 1 for Councillors information.

Background

This Planning Proposal has been developed over an extended period of time with initial consideration in 2012. The evolution of this proposal has been in response to Council and NSW Department of Planning & Environment requests and more recently community representation.

At its Ordinary Meeting held on 17 December 2012 Council resolved to endorse the Willowbank Road, South Albury rezoning proposal and forward relevant documentation to the Minister for Planning and Environment seeking permission to publicly exhibit.

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Council also resolved, at this time, to formally request that the proponent address issues outlined via an Addendum (attached to Planning Proposal) that sought further detailed investigations be undertaken in relation to traffic/transport matters, reticulated water and sewer provision and groundwater/site contamination.

A copy of the previous Planning and Development Committee Report submitted to Council on 10 December 2012 is provided (Attachment 2) for Councillors information.

In recognition that considerable time had elapsed due to time taken to undertake additional supporting investigations and prepare and submit technical reports a further report was forwarded to Council (for noting) that included additional information, content and subject matter prior to public exhibition commencement. A copy of this previous Planning and Development Committee Report submitted to Council on 14 December 2015 (for noting) is provided (Attachment 3) for Councillors information.

The Planning Proposal was publicly exhibited from Saturday 29 January to Thursday 24 March 2016. This included a Community Information Session held on 1 March 2016. Council received 45 submissions in relation to the Planning Proposal. Among the submissions received, 38 were from the general public and seven (7) were received from Government Agencies.

A summary table of critical issues raised during the public exhibition period is provided as Attachment 4 for Councillors information.

In light of issues received during the public exhibition period, AlburyCity staff elected not to progress the Planning Proposal and instead sought further investigation and response to the critical issues raised from the proponent.

This additional documented investigation and response has recently been received in the form of a revised Planning Proposal. Accordingly, it is now proposed to re-exhibit the revised Planning Proposal to provide an opportunity for further community and agency consultation.

It is also recognised that as the Planning Proposal (previously endorsed by the NSW Department of Planning & Environment for exhibition purposes) has been subject to further revision, AlburyCity will seek the re-issue of a Gateway Determination from the NSW Department of Planning & Environment prior to the commencement of any further re-exhibition.

Issues

Albury 2030

The preparation of this revised Planning Proposal also supports Albury 2030 strategic actions under the theme of 'A Growing Economy' including:

1.3 Plan and cater for increased population growth

- 1.3.2 Support Albury's population growth: Ensure policies facilitate sustainable growth and housing choice without compromising Albury's values;
- 1.3.3 Review and monitor the Local Environmental Plan and the Development Control Plan: with regard to outcomes within Albury 2030; and
- 1.3a Albury Land Monitor (residential, commercial and industrial sectors): Maintain a diversity of options amongst all sectors and continue to meet demand for opportunities for land development.

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1.5 Promote Albury for industry and business

- 1.5.1 Promote Albury: As a major regional economy and the regional city of choice for lifestyle, career and investment opportunities; and
- 1.5.6 Support and promote business and business opportunities: across all sectors to continue to foster economic diversity.

Amendments to the Original Planning Proposal

Additional investigation, response and consequential revisions to previous Planning Proposal content and subject matter are discussed below.

Key areas of revision include:

- Reconfiguration of the proposed zoning layout to enhance interface/buffer to surrounding land uses, mitigate potential amenity impacts and reduce potential conflicts;
- Audit of infrastructure requirements to confirm works, costs and sequencing for the provision of necessary infrastructure (including reticulated water, sewer, stormwater and road network);
- Revised Traffic Impact Assessment Report (revised TIA) that reviews previous investigations, assumptions and recommendations relating to future land use activities and operating hours, confirms necessary road network improvements and sequencing, and determines capacity of the local and wider road network;
- Audit of aboriginal cultural heritage and impacts on existing vegetation on-site;
- Audit and documented response to existing AlburyCity planning policies including Murray River Experience, Draft Riverina-Murray Regional Plan (formerly known as Draft Murray Regional Strategy) and the Albury Land Use Strategy 2007; and
- Clarification provided in relation to suppositions and assertions previously made on land ownership and zoning history on the subject land.

Zone Reconfiguration

The revised Planning Proposal seeks to reconfigure both the spatial extent and zoning layout for the subject land (from that originally proposed) in a manner outlined as follows:

- The eastern boundary of the proposed rezoning has been contracted westward (to retain the existing 'RU2 Rural Landscape Zone'); and
- On remaining land (above the existing licenced levee), a Part 'IN2 Light Industrial Zone' has been introduced (east of the Schubach Street intersection) and a Part 'IN1 General Industrial Zone' has been retained (west of the Schubach Street intersection);

The benefits associated with this proposed zone reconfiguration include:

- The contraction westward provides approximately 85 metres distance separation between proposed future industrial zoned land (and any subsequent development) and existing residential development (Rainbow Ridge Estate) further east;
- The proposed contraction westward enables the retention of trees surrounding an existing dwelling house and provides an 'RU2 Rural Landscape Zone' buffer between the proposed 'IN2 Light Industrial Zone' and the existing 'RE1 Public Recreation Zone' (Norman's Lagoon);
- The introduction of the 'IN2 Light Industrial Zone' (east of the Schubach Street intersection) provides approximately a 190 metre distance separation between proposed 'IN1 General

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- Industrial Zone' (and any subsequent development) and existing residential development (Rainbow Ridge Estate) further east; and
- The 'IN2 Light Industrial Zone' provides a further transition in land use activities where 'Industries' other than 'Light Industries' are prohibited on the subject land (east of the Schubach Street intersection).

Infrastructure Provision

The revised Planning Proposal incorporates supporting documentation inclusive of a water and sewer feasibility assessment and revised Traffic Impact Assessment (TIA) that confirms that the subject land can be provided with all urban infrastructure necessary (including reticulated sewer, water, stormwater drainage, electricity, gas, telecommunications and road network) to accommodate proposed industrial development outcomes.

Revised Traffic Impact Report Information

A revised TIA has been included amongst Planning Proposal supporting documentation, a summary of revised TIA content and subject matter is outlined and discussed as follows:

- Review previous traffic analysis and assumptions relating to future land use activities and operating hours;
- Consider existing and forecast traffic impacts on the local and wider road network; and
- Confirm road network infrastructure improvement works and sequencing.

Land Use

It is noted that, amongst issues identified during public exhibition (previously undertaken), concerns were raised with respect to the analysis and assumptions of the original Traffic Impact Assessment Report (prepared by SJE Consulting) on the basis that it speculated on prospective land use activities and operating hours.

In particular, concerns were that analysis and assumptions relating to land use were not representative of the full spectrum of land use permissibility, and consequently, resulted in future land use(s), operating hours and consequential impacts being understated.

In response, the revised TIA (prepared by PJ Meredith Consulting) clarifies that any subsequent development, associated land use(s) and operations on the subject land will be in accordance with ALEP 2010 and Albury Development Control Plan 2010 (ADCP 2010).

Whilst it is anticipated that future development on the subject land will be consistent with that undertaken in similar industrial estates elsewhere across the Albury LGA, opportunities exist through Development Application processes to undertake and seek more intensive investigation to inform development outcomes where warranted.

It is noted that the spectrum of land uses permissible in the 'IN1 General Industrial Zone' may include types of development that due to their nature or scale may necessitate further specific Traffic Impact Assessment and/or consideration. This would require the preparation and submission of any other documented investigations deemed necessary at the appropriate time.

Impacts on the local and wider road network

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The revised TIA includes an analysis that confirms existing and forecast traffic impacts on the local and wider road network (with and without development of the subject land).

Analysis undertaken on local and wider road network includes Schubach Street (midblock between East Street and Doctors Point Road), Willowbank Road/Doctors Point Road/Schubach Street intersection, East Street/Schubach Street roundabout and the East Street/Hume Highway Interchange.

This assessment has been undertaken selectively using data sourced from a combination of manual traffic counts, camera traffic surveys, automated traffic classifiers and the use of analytical traffic evaluation (modelling) software (SIDRA). Traffic generation rates have been forecast assuming 25% of the developable site area is consistent with rates observed in other recently developed industrial areas in the region and using generation rates as suggested in the *NSW Roads and Maritime Service (RMS) Guide to Traffic Generating Developments TDT 2013/04a – Updated Traffic Surveys Section 3.10.1 Factories*.

The outcomes of this analysis confirms that, with the exception of the East Street/Hume Highway Interchange, the local and wider road network operates well within capacity with good operating conditions and few delays under both existing and forecast (up to year 2037) traffic conditions.

In relation to the Schubach Street/East Street Roundabout it was observed that whilst west bound traffic in East Street queued into the roundabout on eight occasions during the morning survey period, this traffic cleared on all occasions. It was also observed that the traffic queue was the result of traffic being held up by the short south-bound left turn lane at the traffic signals at the eastern approach of the East Street/Hume Highway Interchange.

In relation to the East Street/Hume Highway Interchange, analysis confirms that whilst under existing traffic conditions that overall operations are satisfactory, it was also observed that a number of traffic movements are either at or close to capacity.

These traffic movements are outlined and discussed below:

- East AM, LOS F Northern approach Hume Freeway off-ramp right-turn;
- East PM, LOS E East Street approach right-turn; and
- West PM, LOS F East Street approach right-turn.

The resultant West PM, LOS F East Street approach right-turn indicates the existing short north-bound right-turn lane length between East Street and Atkins Street causes traffic to queue past holding lines and does not allow the progress of arriving traffic. Similarly, the resultant East AM, LOS F Northern approach Hume Freeway off-ramp right-turn also indicates the existing short north-bound right-turn lane length between East Street and Atkins Street causes traffic to queue past holding lines and does not allow the progress of arriving traffic.

Notwithstanding capacity issues are presently being experienced at the East Street/Hume Highway Interchange, the SIDRA analysis also confirms that additional traffic generated from any subsequent development of the subject land would have no effect on forecast peak hour operations. This statement is made on the basis that the volume of traffic generated from any subsequent development of the subject land represents only 6% of the overall traffic volume at the East Street/Hume Highway Interchange.

This analysis demonstrates that existing and forecast capacity issues at the East Street/Hume Highway Interchange are caused by an overall growth in traffic volumes (instead of primarily as a

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result of development of the subject land), and accordingly, these capacity issues and ongoing management remain the responsibility of both AlburyCity and the NSW RMS (and not the proponent and/or developer).

Whilst investigation and implementation of remedial measures relating to existing and forecast capacity issues has been deferred to AlburyCity and the NSW RMS, it is noted that the revised TIA has suggested potential treatments to assist in resolving these issues and assist a continuation of the overall satisfactory performance of the East Street/Hume Highway Interchange.

These treatments are outlined as follows:

- Ban the north-bound right turn onto the Freeway from East Street. This would require north bound motorists to access the Hume Freeway by proceeding to the western roundabout at East Street/ Atkins Street and completing a U-turn around the roundabout and left-turn onto the north bound on-ramp. This would provide two through-lanes west bound at the Interchange. This in turn will have a positive effect on the south approach off-ramp right and left-turns because more green phase time can be added to these movements because the right-turn phase will be removed; and
- Increase the length (by 50m) of the south bound left-turn lane on the East Street eastern approach to the Hume Freeway Interchange. The increase length will allow increased queuing in both the through and left-turn lanes reduce queuing into the East Street/Schubach Street roundabout.

Consideration of the amended information and revised TIA by AlburyCity Transport and Traffic Section confirms that any proposed development of the subject land (by way of forecast traffic generation) will not significantly impact capacity on the East Street/Hume Highway Interchange above and beyond overall general growth in traffic volumes.

AlburyCity and NSW RMS are currently in the process of undertaking a city-wide transport study, that amongst other things, seeks to resolve existing and anticipated capacity issues on the Albury LGA road network overall (including Hume Highway Interchanges).

Whilst treatments suggested by the proponent are noted, AlburyCity and NSW RMS will await and rely on those outcomes and recommendations of the pending city-wide transport study to prioritise and address any identified capacity issues arising from growth in the general and wider community.

Road network improvements

The revised TIA confirms the following road network improvements:

1. Roundabout be constructed at the Schubach Street/Doctors Point Road/Willowbank Road intersection. It is anticipated that roundabout provision will occur at the same time as the commencement of stage two industrial subdivision works (that would coincide with the construction of a new cul-de-sac connecting to Willowbank Road).

The provision of an appropriately designed roundabout at the Schubach Street/Doctors Point Road/Willowbank Road intersection will help to ensure safety and provide improved traffic flows at the intersection.

2. The provision of street lighting and roundabout warning signs, give-way signs, keep left signs and hazard direction signs will alert motorists of the give-way requirements of the intersection and also ensure safety particularly during night time operations.

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It noted that in addition to revised TIA recommendations, the revised Planning Proposal states that the proponent is prepared to provide a roundabout of appropriate design.

AlburyCity has a number of options at its disposal to ensure that nominated road network improvements are undertaken by the proponent, landowner and/or developer at an appropriate time.

These options include:

1. Voluntary Planning Agreement (VPA) - A VPA is a planning tool which allows planning authorities and developers to work together to deliver required infrastructure outcomes alongside development proposals; or
2. Key Site Provisions - A planning instrument provision stipulating that development cannot occur on identified land in the absence of a development control plan being prepared that provides for matters specified. In this case, matters specified, would include roundabout provision; or
3. Section 94 Plan - A site specific plan that authorises the levying of developer contributions for identified and costed infrastructure works (including road network improvements).

In relation to above options available, AlburyCity staff recommend option 2 as that preferred on the basis that this option provides an opportunity to recognise and respond to critical issues raised (including the provision of necessary road network infrastructure) post public exhibition. Option 2 also provides a check point whereby any subsequent development of the subject land must address relevant specified matters through site specific development control plan provisions that will be subject to further community and agency consultation.

Aboriginal Cultural Heritage Audit and Vegetation

The revised Planning Proposal provides a consideration and response to the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales 2010* prepared by the former NSW Department of Environment, Climate Change and Water.

This preliminary assessment (including a search of the Aboriginal Heritage Information Management System database which confirms that there are no known recorded archaeological sites on the subject land) is considered to be an adequate level of investigation for revised Planning Proposal purposes.

The revised Planning Proposal states, and AlburyCity acknowledges, that intensive agricultural practices (horticulture) have been undertaken on the subject land over the last 50 years which renders this land extensively disturbed and in a highly modified state. Consequently, the revised Planning Proposal further states, and AlburyCity acknowledges, that there are no landscape features that would indicate the presence of Aboriginal objects.

Notwithstanding occurrence is considered unlikely, any subsequent development will be subject to Development Application assessment processes that will ensure that should any archaeological relics be uncovered during the course of any work, then works in that area are to immediately cease and the NSW Heritage Office contacted immediately to determine a future course of action (which may include assessment, excavation permits etc.) before any further work can be considered in that area of the site.

AlburyCity Planning Policy Audit

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The revised Planning Proposal provides a documented audit of existing AlburyCity planning policies (previously not addressed) as a demonstration that relevant provisions, recommendations and outcomes have been considered.

This audit now includes discussion on how the Planning Proposal relates and responds to relevant policy document, including:

1. Murray River Experience;
2. Draft Riverina-Murray Regional Plan (formerly known as Draft Murray Regional Strategy) that has only recently been released for consultation purposes; and
3. Albury Land Use Strategy 2007.

Murray River Experience

The revised Planning Proposal provides a documented consideration and response to relevant objectives and actions contained within the Murray River Experience (MRE).

The MRE is a strategic plan for various parcels of open space in Albury having an interface with the Murray River. The MRE was undertaken by Council in 2006 and stated as 'a challenging investigation of opportunities for AlburyCity's open space areas (existing and future) which converge on the Murray River and the foreshores of Lake Hume'.

The objectives of the MRE include:

1. Strengthen the relationship between the community and the Murray River.
2. Provide greater access to the Murray River;
3. Provide quality amenities in all open spaces;
4. Promote and develop a diversity of experiences; and
5. Significantly improve the health and well-being of the Murray River.

Amongst particular actions, the MRE proposes the embellishment of a small park adjoining the subject land on the eastern side. This is public land and not part of the subject land.

Within the context of the revised Planning Proposal the retraction of the eastern boundary of the proposed rezoning provides a buffer to the reserve and provides additional separation of land use conflicts at the interface of the reserve and the subject land.

MRE also identifies the potential for walking and cycling tracks along the bank of the Murray River that ultimately would link the Wonga Wetlands in the west to Lake Hume in the east. This path is to be located to the south of the subject land and consequently unaffected by the revised Planning Proposal.

Riverina-Murray Regional Plan

The revised Planning Proposal provides a documented consideration and response to main strategic directions expressed in the Draft Riverina-Murray Regional Plan (DRMRP).

DRMRP seeks to provide a strategic planning framework to guide decision making and development in the Riverina-Murray region for the next 20 years.

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Notable matters addressed relate to a documented discussion and response to *Strategic Direction 3.1 – Grow the regional cities of Albury, Wagga Wagga and Griffith* stating that additional industrial lands accessible to the Hume Highway will assist in enhancing Albury's role as a major centre in the Riverina-Murray Region.

This response is reinforced with reference to the Albury Development Monitor that demonstrates a demand for industrial land and documented consideration of DRMRP draft principles for industrial land identification as a demonstration of the suitability of the subject land to accommodate industrial development outcomes.

Other notable matters addressed relate to a documented discussion and response to *Strategic Direction 4.1 – Protect the nationally significant Murray River* and *Strategic Direction 4.2 – Protect the region's environmental assets and biodiversity values* that defers to existing/proposed buffers between development lands and the Murray River, an existing licensed flood levee providing Murray River flood protection, land proposed for industrial outcomes already being highly modified and therefore not considered to be an environmental asset.

Albury Land Use Strategy

The revised Planning Proposal provides a documented consideration and response to the Albury Land Use Strategy (ALUS) as follows.

ALUS provides strategic guidance for the short, medium and long term growth and development through to 2030 and beyond. The ALUS provides a link between strategic land use directions and statutory planning controls including ALEP 2010 and ADCP 2010.

In response, the revised Planning Proposal acknowledges that the ALUS focussed on the larger development fronts of Albury in terms of future land use and took the 'existing conditions' approach to land use designations for existing areas closer to central Albury.

For this reason the subject land is depicted as 'agriculture' on the ALUS Plan as that is what it was being used for at the time.

Notwithstanding an identified inconsistency between ALUS land use directions and that proposed in this instance, the revised Planning Proposal relies on other supporting rationale (including documented discussion and response to DRMRP Strategic Directions, audit and response to relevant State Environmental Planning Policies and Ministerial Directions) in support of the industrial development outcomes proposed (Attachment 1).

Ownership and Zoning History

In response to conjecture relating to the zoning of the subject land at time of purchase, the revised Planning Proposal provides a background audit confirming that at the time the Riccardi family purchased the subject land in the mid-1960s, the applicable zoning was 'Non Urban A (Rural)'.

The same audit provides a comprehensive historical account of applicable land use zoning from purchase date through to present date.

It is noted that information provided in the revised Planning Proposal relating to the past and present zoning repeatedly states that the subject land was 'back zoned' by Council in 1995 from 'industrial' to 'environment protection' without the land owners knowledge or consent.

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AlburyCity acknowledges that a change of zoning from 'industrial' to 'environment protection' was effected with the gazettal of the Albury Local Environmental Plan 1995 (ALEP 1995), and consequently, a like and/or equivalent zoning has continued to apply to present day. It is further noted that preparation, public exhibition and eventual gazettal of the ALEP 1995 was undertaken in accordance with all legislative requirements (including notification requirements).

Notwithstanding the rationale that supported the change of zoning on the subject land at that time has not been attained, any reinstatement of the previous 'industrial' zoning remains pending further investigation being undertaken (in the form of this Planning Proposal), exhibited, assessed and determined by Council.

Other Issues

The proponent has been required to investigate and address a number of issues raised during public exhibition that have been the subject of discussion earlier in this report.

It also is noted that, in regards to other issues raised, further information has not been requested from the proponent on the basis that such issues have either already been adequately addressed and/or are considered to be outside the scope of this proposal.

To assist with Council's consideration of this matter further consideration and discussion on these issues is provided in the following sections of this report. It should be noted that the following discussion is not conclusive and does not purport to cover all issues raised by the public exhibition (previously undertaken).

Further discussion and consideration of significant issues will be provided in a future report on this Planning Proposal should Council consider it appropriate to place this document on exhibition.

- Environmental issues:
 - Impacts on groundwater and receiving waters from industrial development;
 - Impacts associated with proximity of the development site to the Murray River;
 - Potential dumping of rubbish from future industrial activities;
 - Impacts upon native flora, fauna and fish habitats.

AlburyCity response:

The revised Planning Proposal defers to existing/proposed buffers between development lands and the Murray River, an existing licensed flood levee providing Murray River flood protection, land proposed for industrial outcomes as being measures that will largely address concerns relating to impacts on groundwater, receiving waters, proximity to the Murray River and other environmental values.

AlburyCity is of the firm view that issues relating to the dumping of rubbish is a compliance issue (post development) that is outside the scope of this revised Planning Proposal, and accordingly, further information in relation to this matter has not been sought.

Impacts on native flora and fauna have largely been addressed through land proposed to be rezoned being confined to areas that have already been extensively cleared and highly modified (above the existing licensed levee). In addition, the proposed eastern contraction of

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the proposed zoning has had the effect of protecting remaining vegetation (much of which has been identified as exotic species that offer a landscape benefit but not habitat for native fauna) and creating an additional buffer between the proposed industrial areas and adjoining open space zoning (Norman's Lagoon).

Whilst existing and proposed buffers to Norman's Lagoon and the Murray River have provided added protection to flora, fauna and fish habitats, it is anticipated that the Development Application assessment process will ensure that appropriate consideration is given to potential impacts and to ensure that necessary conditions are administered to mitigate potential impacts at the time of development.

- Noise/Amenity issues:
 - Impacts associated with end land use hours of operation, signage, lighting, odour and compliance with conditions of consent.

AlburyCity response:

Amongst concerns raised during public exhibition (previously undertaken), particular concern was directed at the limited attempt to measure or predict the noise levels likely to affect residents as a result of any proposed rezoning, either as a result of increased traffic flows or industrial land use activities.

AlburyCity acknowledges that in the absence of a definitive end land use being known for the subject land, any attempt to model and/or predict cumulative impacts associated with noise are considered speculative.

It is acknowledged that the revised Planning Proposal has contracted the eastern extent of the proposing zoning and applied the more restrictive 'IN2 Light Industrial Zone' to that part of the subject land east of the Schubach Street intersection. It is anticipated that this contraction in proposed zoning and introduction of a proposed transition zone will assist in reducing the risk of any noise impacts on residences east of the subject land.

Consequently, AlburyCity is of the view that issues relating to hours of operation, loading/unloading traffic movements, signage, lighting, odour etc. are best deferred to time of development and relevant Development Application assessment processes.

Any assessment will need to be satisfied that any subsequent development will not have a detrimental impact on the amenity of nearby residents.

- Health issues:
 - Investigation of health concerns associated with exposure to diesel particulates from trucks and industrial operations;
 - Assessment that confirms the veracity of land contamination and site capability assessments.

AlburyCity response:

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Amongst concerns raised during public exhibition (previously undertaken), particular concern was directed at there being no attempt to quantify the health risks of this proposal on the nearby residents of East Albury. Reference was made to evidence that suggests there are adverse health impacts (leukaemia and lung cancer) associated with increased exposure to diesel particulates from any subsequent industrial development.

The additional exposure to diesel particulates, over and above existing levels, are likely to be marginal, and accordingly, any requirement to investigate and quantify impacts associated with additional exposure to diesel particulates are considered onerous and have not been sought from the proponent at this time.

Notwithstanding the above stated position, AlburyCity will assess and condition any subsequent development proposal on the subject land in the interests of mitigating potential adverse impacts.

In addition, amongst concerns raised during public exhibition (previously undertaken), particular concern was directed at the veracity of land contamination and site capability assessments. AlburyCity has elected not to seek any additional information from the proponent on the basis that the revised Planning Proposal has complied with all relevant protocols and procedures relating to an initial evaluation and preliminary investigation into potential land contamination. These investigations have determined that land contamination is not an issue that would preclude future use of the site for industrial purposes.

- Tourism and Recreation issues:
 - Impacts on river and recreational tourism. Including impacts upon the Hume and Hovell walking tracks.

AlburyCity response:

Revised Planning Proposal document demonstrates that impacts on river and walking track tourism pursuits will be limited.

Reference is made to earlier discussion in this report, particularly the revised Planning Proposal response to AlburyCity planning policies including the MRE, as a demonstration that riverfront activation, access and tourism pursuits remain unaffected.

Within the context of the revised Planning Proposal the retraction of the eastern boundary of the proposed rezoning assists in providing an enhanced buffer to Normans Lagoon and in so doing assist in removing the risk of any land use conflicts.

Further reference is made to earlier discussion in this report, particularly revised TIA content and subject matter that confirms that the local and wider road network will operate largely well within capacity with good operating conditions and few delays under both existing and forecast (up to year 2037) traffic conditions.

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The outcomes of this analysis would also suggest that, as the road network is not at capacity, other transport modes including cyclists and pedestrians and associated tourism/recreation pursuits should remain relatively unaffected.

- Impacts associated with the loss of Agricultural land.

AlburyCity response:

Revised Planning Proposal documented assessment against the SEPP Rural Lands 2008 principles confirm that in recognition of encroaching urban land uses, limited capacity to expand and diversify production, ample provision of productive agricultural land elsewhere across the Albury LGA all render the subject land as being marginal insofar as its productive value.

- Investigations to demonstrate a need for additional industrial land.

AlburyCity response:

Amongst concerns raised during public exhibition (previously undertaken), a particular concern was directed at there being no demonstrated need for additional industrial land. This concern was predicated on the anecdotal observation that ample vacant industrial land exists elsewhere in the Albury LGA in properly designated locations.

The revised Planning Proposal through the Albury Development Monitor (ADM) confirms that there are approximately 100 vacant industrial lots across the Albury LGA as at 30 June 2016 of which 87 are located north of the Riverina Highway. In proximity to the subject land, the ADM records just three existing vacant lots in the Schubach Street precinct and 10 on the opposite side of the Hume Highway in South Albury.

Based on the location of vacant industrial lots, the creation of additional industrial land in the southern part of East Albury is not considered to be creating an over-supply in this location.

- Lack of existing Council policy and inadequate provision relating to distance separation and buffer.

AlburyCity response:

It is acknowledged that existing AlburyCity planning policy does not stipulate an arbitrary minimum distance separation between industrial zoned land and more sensitive land uses (predominantly residential). Instead, AlburyCity relies on relevant planning legislation, ALEP 2010 and ADCP 2010 to provide a regime of provisions from which impacts on surrounding amenity can be considered and addressed at time of development.

It is noted that residential land to the east of the subject land, being Rainbow Ridge Estate, was registered with the Land Titles Office on 10 September 1997. It is further noted that adjoining land located to the immediate west of Rainbow Ridge Estate, being 284 Schubach

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Street, was zoned 'Employment Area' (Industrial) at this time and continues to be zoned 'IN1 General Industrial'.

Industrial designations across the Albury LGA generally seek to achieve an appropriate distance separation, however, where industrial designations are adjacent to residential land uses (as in parts of North Albury, Lavington and Thurgoona) the introduction of an 'IN2 Light Industrial Zone' has been used to provide a transition thus ensuring that industrial land use activities are responsive to the amenity considerations of sensitive land uses.

The revised Planning Proposal through an eastern contraction in proposed zoning and introduction of an 'IN2 Light Industrial Zone' to serve as a buffer/transition zone will assist in reducing amenity impacts on residences east of the subject land.

Community Engagement

The formal public re-exhibition process will be undertaken consistent with any Gateway Determination (to be re-issued) conditions, outlined as follows:

- Notification letters dispatched to key stakeholders, adjoining/adjacent land owners, interested parties and previous submitters prior to re-exhibition commencement (minimum re-exhibition duration 28 days);
- To supplement notification letters, engagement will also be undertaken via e-mail communications using an existing database of interested person(s);
- Whilst the minimum consultation period is 28 days, AlburyCity will extend the actual consultation period up to 42 days (six weeks) in recognition of the significant interest generated when previously exhibited;
- Notification letters and associated documentation dispatched to relevant Government Agency representatives (at least 21 days provided for the relevant Agencies to comment on the revised Planning Proposal);
- Public notice published in the Border Mail;
- Community Information Session to be held in the first two weeks of the public re-exhibition commencement to enable revised Planning Proposal information to be conveyed and provide an opportunity for the community to identify any issues and concerns;
- A meeting with key stakeholders will be held in the first three weeks of the public re-exhibition to enable focussed discussion in relation to any areas of particular interest amongst Planning Proposal content and subject matter;
- Static displays containing all exhibition material for viewing purposes in the foyer of the Council Administration Building, LibraryMuseum and Lavington Library;
- All exhibition material being made available on the AlburyCity website including the ability to make an electronic submission also being made available on the AlburyCity website;
- Strategic Planning staff available (on demand or by appointment) to assist with any inquiries relating to the Planning Proposal.

It is noted that considerable public interest was shown following the previous public exhibition.

In recognition of previous public interest and proximity to the Christmas/New Year holiday period, and in the interests of maintaining a transparent public notification process it is proposed that public exhibition of this Planning Proposal is held over for commencement in early February 2017.

Conclusion

AlburyCity - Planning & Development Committee Agenda

The revised Planning Proposal has been developed to an appropriate preliminary level of investigation that demonstrates the capacity of the site to accommodate industrial development outcomes.

Having previously undertaken an assessment of this Planning Proposal and in lieu of additional investigations that have been undertaken and documented in response to issues raised, particularly provision of additional buffer and introduction of an 'IN2 Light Industrial Zone', it is recommended that the revised Planning Proposal be re-exhibited publicly for purposes of providing an opportunity for further consultation with and feedback from the community and relevant agencies exhibition.

Recommendation

That the Committee recommends to Council that Council:

1. Endorse the revised Planning Proposal and forward it to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 and request that a Gateway Determination be issued, including the delegation of Plan making powers, so as to enable the public exhibition of the revised Planning Proposal pursuant to the Environmental Planning & Assessment Act 1979; and
2. Upon receipt of a Gateway Determination under Section 56 of the Environmental Planning & Assessment Act 1979, Council place the revised Planning Proposal and any supporting material on public exhibition pursuant to any requirements of the Gateway Determination and Section 57 of the Environmental Planning & Assessment Act 1979.

- **Attachments**

1. Planning Proposal (revised) – Rezoning for industrial purposes – Willowbank Road, East Albury (November 2016)
2. Planning & Development Committee Report – Item 6B – Albury Local Environmental Plan 2010 – Planning Proposal: Rezoning to Industrial – Willowbank Road, South Albury – 10 December 2012 (DOC12/112712)
3. Planning & Development Committee Report – Item 8A – Albury Local Environmental Plan 2010 – Planning Proposal: Rezoning to Industrial – Willowbank Road, South Albury – 14 December 2015 (DOC15/113024)
4. Planning Proposal: Willowbank Road, East Albury – Summary – Submissions Received and Critical Issues Raised (DOC16/259226)