

### CM13.2. Albury Environmental Zoned Lands Review

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**CONFIDENTIAL** No

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*Council is currently in a caretaker period (which commences on 5 November 2021 and concludes at 6.00pm on 4 December 2021). However, Council is able to consider the matter contained in this report as consideration of the matter does not contravene Local Government (General) Regulation 2005 – Reg 393B, or because consent of the Minister for Local Government has been obtained under subsection (2) of Regulation 393B.*

#### **Purpose of Report**

The purpose of this report is to seek Council endorsement to publicly exhibit the ‘Planning Proposal: Albury Environmental Zoned Lands Review’ (Planning Proposal).

This Planning Proposal seeks to implement appropriate and necessary environmental zoning amendments to resolve mapping anomalies that primarily include where environmental zoning does not line up with property boundaries, do not reflect environmental attributes on the ground, or requires updating to reflect approved development.

A copy of the Planning Proposal is provided as Attachment 1.

#### **Background**

Environmental zones seek to protect and appropriately manage land that is of environmental value in local government areas across New South Wales through planning instruments and associated provisions.

The Albury Local Environmental Plan 2010 (ALEP 2010) utilises three environmental zones, being E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. The ALEP 2010 has also received biodiversity certification, and consequently relies on the accurate identification and protection of environmental zone lands. This Planning Proposal seeks to review our environmental zone lands (via ecological assessment and analysis) and resolve any mapping anomalies to better align environmental zoning to suitably protect these areas.

AlburyCity completed a preliminary city-wide review of environmental zones to identify any anomalies and areas that may require investigation. To assist with completing this process, Elton Consulting (now known as WSP) and Eco Logical Australia (ELA) were engaged to review and assess preliminary work, undertake additional analysis (where required) and prepare a Planning Proposal and

Environmental Report that seeks to substantiate and implement appropriate environmental zone amendments.

## **Issues**

The preparation of this Planning Proposal supports the Albury 2030 strategic actions under the theme of A Growing Sustainable Economy and An Enhanced Natural Environment including:

### *A Growing Sustainable Economy*

- 1.3 *Plan and cater for increased population growth.*
- 1.3.2 *Support and promote sustainable growth through planning and infrastructure to provide employment opportunities, housing choice and community facilities.*

### *An Enhanced Natural Environment*

- 2.1 *Albury has improved environmental outcomes.*
- 2.1.6 *Promote sustainable development that complements and respects the natural environment.*
- 2.3 *An increased awareness in sustainability and environmental issues.*
- 2.3.3 *Promote and enhance the natural environment.*

## **Discussion**

This section of the report outlines key aspects of the Planning Proposal and its attached Albury Environmental Zoned Lands Review Report (ELA – 28 October 2021) (Environmental Report).

The Planning Proposal provides commentary that details and substantiates the proposed environmental zone amendments against relevant assessment criteria relating to strategic merit, including:

- Need for the Planning Proposal.
- Relationship to the strategic planning framework.
- Assessment of likely environmental, social and economic impacts.
- Documented consideration of relevant government agency issues and interests.

These considerations and responses as contained in the Planning Proposal are outlined below.

### Need for the Planning Proposal

The Planning Proposal supports the amendment of ALEP 2010 as it relates to environmental zones within the Albury LGA. There are three environmental zones identified in the ALEP 2010, being E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living.

The review undertaken for the environmental zones seeks to:

- identify and correct anomalies in the ALEP 2010;

- inform any necessary adjustments (inclusions or exclusions) to the network of environmental zone land; and
- better align with the aims and objectives of Biodiversity Certification (as effected by the ALEP 2010).

As a result of any zone changes, there will be consequential amendments to minimum lot sizes across the Albury LGA. Where the Planning Proposal recommends a change in zoning, a subsequent change to the minimum lot size will apply. Subject to the Gateway Determination, and prior to exhibition, these consequential amendments will be denoted via draft ALEP 2010 mapping.

#### Relationship to the strategic planning framework

The Planning Proposal has strategic merit as it responds to a number of strategic plans undertaken by the NSW Government and AlburyCity.

Outcomes sought by this Planning Proposal support the relevant directions and actions of the Riverina Murray Regional Plan 2036 that seek to maintain and improve the natural environment (including waterways), manage the interface between the urban and natural environments, and increase resilience to natural hazards and climate change.

This Planning Proposal also supports the priorities of the AlburyCity Local Strategic Planning Statement (14 September 2020) (LSPS), including the effective management of development to preserve significant natural areas to help protect threatened species and maintain environmental functions within the LGA. Further, this Planning Proposal also is a direct response to the LSPS action for implementation of the Environmental Zoned Lands Review.

#### Assessment of likely environmental, social and economic impacts

A key outcome derived from this Planning Proposal will be an overall net gain to environmental zone land (419.65ha) as proposed. The recommended environmental zone inclusions (gains) are primarily concentrated on sites with higher ecological value scores, while the exclusions (losses) are primarily concentrated on sites with lower ecological value scores. Consequently, the proposed environmental zone amendments will result in an overall net ecological benefit both in quantum and quality.

This Planning Proposal may result in some reduction in the economic value and development potential for some locations where land is proposed to change to an environmental zone. Conversely, some locations may result in increased economic value and development potential where land is proposed to change from an environmental zone. These proposed changes may not align with affected landowners' or adjoining landowners' expectations and aspirations for land. This potential concern will be considered during the public exhibition of the Planning Proposal.

Overall, it is anticipated that the Planning Proposal will have a positive social and economic impact as it will help provide for:

*Social*

- the protection of environmental areas for conservation which will contribute to the natural character and setting of the Albury LGA;
- the protection of environmental areas to allow the conservation of critical habitats, threatened species and ecological communities benefitting the Albury LGA, community and its visitors;
- the protection of environmental areas for the long term, benefitting the Albury LGA, community and its visitors; and
- the protection of environmental areas mitigating the negative impacts of climate change.

*Economic*

- the orderly and sustainable development of land across the Albury LGA without adverse impacts on the natural environment;
- environmental protection boosting the sustainability of the local economy in the long term;
- the long term environmental protection without significant use of public funds or investment; and
- the contribution to the natural character and setting of the Albury LGA boosting is tourism offering to visitors.

Documented consideration of relevant government agency issues and interests

The Planning Proposal states that detailed consultation will be carried out with relevant public authorities/agencies as required by the NSW Department of Planning, Industry and Environment. The proposed consultation processes and actions are outlined later in this report.

Environmental Report

The Environmental Report (attached to the Planning Proposal) provides high-level commentary that outlines a documented assessment of Albury's environmental zone lands. It provides an explanation on the key assessment criteria (methodology) used to determine an ecological value (score) that in turn has informed recommendations for environmental zone retention, inclusion or exclusion for 534 sites across the Albury LGA.

Site assessments were based on field survey (where applicable) and/or desktop review using aerial imagery. For each site, the following assessment criteria were considered:

- Dominant vegetation type.
- Vegetation condition (low, medium, high).
- Threatened ecological communities (present or not present).
- Threatened species (present or not present).
- Habitat connectivity.
- Hollow bearing trees (present or not present).

The environmental zone recommendations were derived from a combination of quantitative data (total ecological value score) and qualitative considerations. In general, sites with higher ecological value scores (>3) were considered suitable for environmental zone retention and/or inclusion, and sites with lower ecological value scores (≤3) were considered suitable for non-environmental zones (exclusion).

Maps, in concert with site data and recommendations, are the critical components of the Environmental Report. They provide the spatial context and documented assessment that validates recommendations for environmental zone retention, inclusion or exclusion for each site investigated.

In some cases, qualitative considerations took precedence over the ecological value scores. For example, sites with limited vegetation within 40 metres of a watercourse were recommended for an environmental zone (inclusion), even where ecological value scores were low, because of their (actual or potential) habitat connectivity function. Conversely, some sites with high ecological value scores were recommended for a non-environmental zone (exclusion) because of qualitative planning considerations. For example, some sites with higher ecological value scores were small (<1 ha) and located on private land otherwise zoned for industrial or residential development, or because they were on land over which development consent has previously been granted. The Environmental Report includes documented site data and recommendations (Appendix B) that identifies where qualitative considerations influenced land use zone recommendations.

The Planning Proposal outcomes are largely consistent with, and substantiated by, ecological analysis and assessment undertaken and documented via the Environmental Report. The Planning Proposal also considers other factors such as planning matters, and as such, three locations suggested for potential rezoning from the Environmental report are not included in the Planning Proposal.

These locations are clearly identified and justified in the Planning Proposal. Justification varies for each location, but in general the planning considerations seek to recognise areas that are already developed, resolve any inconsistencies with existing planning policies, and/or retain land use permissibility to support existing zone functions.

Overall, the environmental zone recommendations set out in the Environmental Report (factoring in any adjustments attributed to further planning considerations via the Planning Proposal) will result in a net gain of 419.65 ha of environmental zone land.

## Risk

- **Business Risk** – The inherent business risk is considered low on the basis that the outcomes sought by this Planning Proposal are general minor additions or exclusions in environmental zone land, and consequently, is unlikely to create any additional demand on infrastructure provision and therefore avoid any additional associated capital costs.
- **Corporate Risk** – It is anticipated that there may be some community resistance to the potential environmental zone changes which may not be aligned with affected landowners' and/or adjoining landowners' expectations and aspirations. A public exhibition process, including notification letters to affected and adjoining landowners, is outlined below to help

gather this feedback and consider submissions, and potentially make amendments, prior to finalisation and seeking Council adoption.

- **WHS and Public Risk** – As environmental zones seek to protect and appropriately manage land that is of environmental value, it is anticipated that any net gain in the quantum of environmental zoning will result in a commensurate net gain in vegetation that may be designated as bush fire prone land. This risk ongoing will be managed by existing bush fire prone land mapping processes and associated controls.
- **Environmental Risk** – Environmental risk is considered low on the basis that the outcomes sought by this Planning Proposal will result in a net gain in environmental zone lands (in both quantity and quality), and consequently, is likely to enhance environmental outcomes.
- **Delivery Program Risk** – Any delay in securing a Council resolution to proceed to public exhibition will likely delay project progression by a minimum of three months due to the upcoming Council elections and Christmas period.

### **Community Engagement**

This Planning Proposal will be exhibited in accordance with the Stakeholder Engagement Plan (Attachment 2), relevant requirements of the Environmental Planning & Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, AlburyCity's Community Participation Plan, the NSW Department of Planning & Environment publications: A guide to preparing local environmental plans (December 2018) and A guide to preparing Planning Proposals (December 2018), and any conditions of the Gateway Determination (to be issued).

In addition, the formal public exhibition process will be similar to other previously exhibited Planning Proposals, and proposed to include:

- Notification letters dispatched to affected and adjoining landowners, key stakeholders and other interested parties prior to exhibition commencement.
- Notification letters and associated documentation dispatched to relevant Government Agencies for comment and review.
- Public notice published in the Border Mail.
- Exhibition material for viewing purposes in the foyer of the Council Administration Building, Library Museum and Lavington Library.
- Exhibition material being made available on the Albury City website, including the ability to lodge submissions online (or also by email or post).
- Albury City website information will include an Interactive Map that will enable community and stakeholders to view the spatial information and underlying data (including area, address, ecological value score, recommended zoning and justification).
- Community Information Session(s) (including online option) to be held during the public exhibition period providing opportunity to seek further information and/or provide any feedback.
- Strategic Planning officers available via phone, email or meeting (by appointment) to assist with any inquiries relating to the Planning Proposal.

The minimum exhibition period will be 28 days. The period between 20 December and 10 January (inclusive) is also excluded from the calculation of a period of public exhibition (as per Schedule 1 of the EP&A Act).

### **Options**

Council has the following options in relation to this report:

1. Endorse the recommendation and forward this Planning Proposal to the NSW Department of Planning, Infrastructure & Environment seeking a Gateway Determination; or
2. Seek amendments to the Planning Proposal; or
3. Take no further action with regards to the Planning Proposal and the proposed amendments.

In this instance, it is recommended that Council proceed with Option 1 for the reasons outlined earlier in this report.

### **Conclusion**

Environmental zones seek to protect and appropriately manage land that is of environmental value. The Albury Local Environmental Plan 2010 (ALEP 2010) utilised three environmental zones, being E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living.

This report seeks Council endorsement to publicly exhibit the 'Planning Proposal: Albury Environmental Zoned Lands Review' (Planning Proposal). This Planning Proposal recommends environmental zoning amendments that primarily resolve mapping anomalies for numerous sites across the Albury LGA based on ecological assessment and planning considerations.

Overall, the environmental zone recommendations proposed will result in a net gain of 419.65 ha of environmental zone land. Environmental zone inclusions (gains) are concentrated on sites with higher ecological value scores, and exclusions (losses) are primarily on sites with lower ecological value scores. Consequently, the proposed Environmental zone amendments will also result in increased environmental qualities as well as quantity.

The proposed land use zoning changes and consequential minimum lot size amendments as recommended by this Planning Proposal will impact land use permissibility and development potential for some sites and to varying degrees. Accordingly, public exhibition of this Planning Proposal will provide an opportunity for affected and adjoining landowners, the wider community, agency and other stakeholder engagement to provide feedback for consideration and amendment (where necessary) and prior to any changes to the ALEP 2010 being finalised.

## **Recommendation**

That Council:

- a. Endorses the Planning Proposal and forwards it to the Minister for Planning seeking an Amendment to the Albury Local Environmental Plan 2010 and requests that a Gateway Determination be issued, including the delegation of Plan making powers, so as to enable the public exhibition of the Planning Proposal pursuant to the *Environmental Planning & Assessment Act 1979*;
- b. Endorses the Stakeholder Engagement Plan;
- c. Upon receipt of a Gateway Determination under Section 3.34 of the *Environmental Planning & Assessment Act 1979*, places the Planning Proposal and any supporting material on public exhibition pursuant to any requirements of the Gateway Determination and Schedule 1, Clauses 4 and 5 of the *Environmental Planning & Assessment Act 1979*; and
- d. Should no objections be received, furnishes a copy of this report and any other relevant information (including the Planning Proposal) to the NSW Department of Planning, Industry and Environment and/or NSW Parliamentary Counsels Office, in accordance with the *Environmental Planning & Assessment Act 1979*, and requests the Minister for Planning (or a delegate on their behalf) undertakes the appropriate actions to secure the making of the Amendment to the Albury Local Environmental Plan 2010.

## **Attachments**

1. Planning Proposal: Albury Environmental Zoned Lands Review (9 November 2021) (DOC21/244520).
2. Stakeholder Engagement Plan – Albury Environmental Zoned Lands Review (DOC21/246766).