DATE	28 April 2021	FIL REFERENCE	FIL20/01678
CONFIDENTIAL	No		
FURTHER ENQUIF	RIES Steven Millett Assets, Sustainat	PHC pility & Environment	<b>DNE</b> 6023 8111
AUTHOR	Rachel Clancy	,	

## CM14.2. Provisions for Hollow Bearing Trees and Native Vegetation

### Purpose of Report

This report provides an update on the outcomes of the extension of Biodiversity Certification of the Albury Local Environmental Plan (ALEP 2010) and progress on the review of Part 5 Vegetation Protection Controls of the Albury Development Control Plan (ADCP 2010). Additionally, the report provides additional information on current and future management practices with regard to limiting significant vegetation clearing.

## Background

When considering a report on measures that could be implemented to protect hollow bearing trees (HBTs) and significant native vegetation from the impacts of development at its meeting on 11 February 2019, Council resolved that further information be requested, and a subsequent report prepared.

Specifically, further information requested included:

- in the current term of Council, how many HBTs have been cleared for development in Thurgoona Wirlinga on developable land, and whether tree assessment reports supported the removal of each HBT;
- whether any studies have been conducted to confirm the maintain or improve outcome sought by biodiversity certification;
- how AlburyCity is offsetting cleared HBTs and whether approved offsets are being monitored to confirm the maintain or improve outcome of biodiversity certification; and
- what measures other Councils in NSW have taken to protect native vegetation that is considered best practice.

Biodiversity Certification provides a strategic approach to biodiversity protection and management in Albury, where the higher conservation value areas are linked and consolidated into a viable network of habitat, rather than protecting fragmented and isolated habitat in developable areas. Although the majority of native vegetation and large old trees should theoretically be based within Albury's natural areas that are afforded protection by biodiversity certification, some do exist within the developable areas.

Although large old trees in developable areas were deemed to be less significant for biodiversity conservation at a strategic level, consideration of tree protection/retention for values other than

biodiversity remains an option. Part 5 of the ADCP 2010 provides for tree preservation and sets out the mechanism for Tree Preservation Orders (TPOs). This section of the ADCP 2010 seeks to ensure that adequate protection is provided for existing trees, including those trees adjoining land subject to construction and demolition works. Currently, the ADCP 2010 requires that all trees over 4.5 metres in height and 3 metres in spread must not be removed without Council's approval (via Development Consent or TPO). It also states that an application for the Council's approval must be accompanied by an appropriately qualified specialist report. While the existing tree preservation clauses in the ADCP 2010 allow for the protection of trees in developable areas, there are also outdated statements that refer to repealed legislation that need to be updated.

Following commencement of the Biodiversity Conservation Act 2016 (BC Act), Clauses 5.9 and 5.9AA of the Standard Instrument LEP, which provided protection for trees or native vegetation, were repealed. However, the effect of Clause 5.9 and 5.9AA is now covered in the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP). Councils can continue to regulate clearing of native vegetation by identifying vegetation for which a clearing permit or consent is required through their DCP. Therefore, Council still has the ability to implement a TPO system where practical or deemed necessary. The 'Vegetation SEPP – Explanation of Intended Effect (DPE 2014) states that existing DCPs that prescribe vegetation for the purposes of Clause 5.9 will continue to have effect until DCPs are updated to reflect the changes imposed by the Vegetation SEPP. Given the recent changes regarding how vegetation clearance is regulated under NSW planning legislation, AlburyCity has identified the need and opportunity to update the ADCP 2010 to better reflect these changes.

### Issues

In addition to revision of tree protection provisions (e.g. DCP and TPO requirements), Council requested further consideration of the loss of HBTs and development in relation to biodiversity certification.

Previous clearance of HBTs and biodiversity certification maintain or improve outcome

- In the current term of Council, how many HBTs have been cleared for development in Thurgoona Wirlinga on developable land, and whether tree assessment reports supported the removal of each HBT?
- Whether any studies have been conducted to confirm the maintain or improve outcome sought by biodiversity certification?
- How AlburyCity is offsetting cleared HBTs and whether approved offsets are being monitored to confirm the maintain or improve outcome of biodiversity certification?

Biodiversity Certification was conferred on the ALEP 2010 under Division 5 of Part 7AA of the former *Threatened Species Conservation Act 1995* (TSC Act) on 25 February 2011. This certification replaced the requirement for site by site, development by development assessment of threatened species with a landscape wide strategic assessment. In general, it removed the need for a proponent seeking to develop on bio-certified land to prepare an Assessment of Significance (7 Part Test), Species Impact Statement (SIS) or obtain the concurrence of the former Chief Executive of the (then) Office of Environment and Heritage (OEH) for development that would otherwise be likely to significantly affect

threatened species, predicated on the basis that biodiversity certification 'improves or maintains' biodiversity outcomes through the provision of offsets elsewhere. The original offset ratios met for the whole biodiversity certification area is 1:16 (in excess of the ratio required for Squirrel Glider habitat). For Albury City Council to maintain the offset ratios for biodiversity certification of the entire LGA, any vegetation (offsets) that was used in the original calculation must not be removed, or if removed, replaced to ensure offset ratios are maintained. In order for the quantum of vegetation within natural areas to offset loss within development areas, that quantum must not be reduced.

Under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), in determining a Development Application, Council is to take into consideration the provisions of any Environmental Planning Instruments (EPIs) and the likely impacts of that development, including environmental impacts on both the natural and built environments. As per the ADCP 2010, Council requires an appropriately qualified specialist report to accompany a Development Application that includes proposed vegetation removal. For example, a Development Application for a major subdivision in a developable area with biodiversity certification (e.g. Thurgoona Wirlinga) is required to submit a tree assessment report/tree removal plan that identifies trees to be removed and trees to be retained in relation to the location of proposed civil works and allotments. Due consideration is then given by Council planning staff to proposed tree removal through Development Application processes.

As biodiversity certification was conferred on the ALEP 2010 on 25 February 2011 for a period of 10 years, the agreement was due to expire on 24 February 2021. An application was made by AlburyCity to the Department of Planning, Industry and Environment - Biodiversity Conservation Division (former Office of Environment and Heritage) to extend the biodiversity conservation of the ALEP 2010 on the basis that the 'improve or maintain' outcomes of biodiversity certification have been achieved.

Although the majority of HBTs should theoretically be based within Albury's natural areas that are afforded protection by biodiversity certification, some HBTs do exist within the developable areas, including Thurgoona Wirlinga. AlburyCity's records system does not currently allow for the extraction of information such as specifically how many HBTs have been cleared for development in Thurgoona Wirlinga on developable land.

In seeking an extension to biodiversity certification, an audit of the existing extant vegetation type and condition (pre-2011) has been undertaken for the Albury LGA and respective zone groupings (including the Natural (Conservation), Development and Other Area Zones) being a comparison between 2019 and pre-2011 datasets.

This audit has enabled AlburyCity to run a comparative analysis of the extant vegetation type and condition data across the Albury LGA and within respective zone groupings (including Natural (Conservation), Development and Other Area Zones). The audit demonstrates that the quantum of extant vegetation have largely been retained (and/or increased), and in so doing, provides evidence that the 'maintain or improve' outcomes sought from the original biodiversity certification have largely been met.

The extant native vegetation in the Natural (Conservation) and Other Area Zone have increased from 5,426ha (pre-2011) to 6,042ha (circa 2019) and 1,438ha (pre-2011) to 1,455ha (circa 2019)

respectively. This continues to provide a generous offset to anticipated losses of extant native vegetation in the Development Area Zone (being 690ha [pre-2011] and calculated as 600ha [circa 2019]).

In addition, most recent analysis (desktop assessment) confirms that of the 218.17ha quantum of extant vegetation type and condition removed from the pre-2011 spatial dataset, only 101.93ha (47% of total quantum removed) can be attributed to land clearing activities whilst the balance has been confirmed as modelling errors in the original analysis.

This most recent analysis undertaken confirms that offsets (for anticipated losses) have largely been maintained and also demonstrates that AlburyCity planning policy, projects and/or actions undertaken have in fact facilitated increases in native vegetation extent and condition which further substantiates claims that 'maintain or improve' outcomes have largely been achieved.

Key outcomes of AlburyCity's Biodiversity Certification include:

- 6,042ha of extant native vegetation, representing 74% of all extant native vegetation (8,098ha), are retained in the Natural Areas (zoned E2, E3 and including the Murray River Buffer Zone), where the protection and management of the environment are key objectives of ALEP 2010. This represents a 616 hectare increase from that previously calculated pre-2011 prior to original biodiversity certification being conferred;
- a further 1,455ha (being 18% of all extant native vegetation) is to be retained in the Other Areas which are primarily not proposed for development, this represents a 17 hectare increase from that previously calculated pre-2011 prior to original biodiversity certification being conferred;
- within the Development Area, there are 600ha (or 7% of all extant native vegetation), of this, 302ha are considered to be of low conservation value this represents a 90 hectare decrease from that previously calculated (pre-2011) prior to original biodiversity certification being conferred;
- offsets for all losses of extant native vegetation and habitat in Development Areas are achieved completely within the Natural Areas of the ALEP 2010; and
- high conservation value vegetation and habitat is linked and consolidated into a viable network of reserves and other natural areas where protection of the environment is a key objective of the ALEP 2010 zoning.

Following submission of this review and analysis, AlburyCity's application to extend biodiversity certification of the Albury LEP was approved for a period of up to five years, expiring on 24 February 2026. AlburyCity agreed, as part of its application for extension of the certification, to carry out several measures as outlined below.

Agreed measures include:

1. The Albury Development Control Plan be amended by 24 February 2022 to include provisions to protect native vegetation that:

- a. limit the clearing of native vegetation ancillary to proposals permitted without consent on land regulated by the *State Environmental Planning Policy* (Vegetation in non-Rural areas) 2017.
- b. refer to current legislation, including:
  - i. the State Environmental Planning Policy (Vegetation in non-Rural Areas) 2017 and the provisions established by Division 6 of the Local Land Services Act 2013.
  - ii. the *Biodiversity Conservation Act 2016*, in particular the Biodiversity Offset Scheme entry thresholds and the Biodiversity Assessment Method as the basis for quantifying biodiversity values.
  - iii. Part 5A of the Local Land Services Act 2013.
- c. identify land zoned E2 E4 and RU5 that is not predominately used for agriculture on which clearing is not authorised under clause 27 of the State Environmental Planning Policy Vegetation in Non-Rural Areas) 2017.
- d. reinforce the penalties for causing harm to biodiversity under the *Biodiversity Conservation Act 2016* and other legislation including the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999.*
- 2. Ensure that Part 5.1 infrastructure activities in E-zones comply with the requirements of the *Biodiversity Conservation Act 2016* including evaluating the likelihood of significantly impacting candidate serious and irreversible impact entities, in accordance with s.5.5 of the *Environmental Planning and Assessment Act 1979*.

Albury City Council was also directed to review the ALEP 2010 in response to the new listings of threatened species and populations not previously known in the area by 24 February 2022. In addition, the extension of biodiversity certification was also predicated on transitioning biodiversity certification to certification under Part 8 of the BC Act prior to its expiry. This transition to a more contemporary arrangement will utilise the Biodiversity Assessment Methodology (BAM) under the current Biodiversity Offsets Scheme (BOS). This will allow for a more robust baseline data collation and rigorous analysis/monitoring moving forward.

## Offsetting and best practice in NSW

 What measures other Councils in NSW have taken to protect native vegetation that is considered best practice.

Since the development of biodiversity certification there has been a shift in focus of biodiversity conservation. There is now more recognition for the importance of considering biodiversity at a community level rather than at a species level. Offset targets can now be calculated from benchmark data for the plant community type (PCT) that is to be removed. It is proposed that landholders intending to remove native vegetation in the natural areas will be required to revegetate a cleared area or supplementary plant within an area of native vegetation as an offset.

For those plantings to qualify as offsets/native vegetation gain, they will be required to meet minimum standards that are outlined in the updated ADCP 2010. The minimum standards will include details regarding species selection, density targets and PCT condition/cover benchmarks for the PCTs present in the Albury LGA. The standards outlined in the ADCP 2010 are based on the original

1:10 biodiversity certification offset but will be expanded to include recent benchmark data for PCTs and accepted current revegetation practices. Offset requirements would be calculated on a site-by-site basis to ensure that any revegetation undertaken has strategic value.

Due to the complexity of vegetation communities and ecological interactions, the effectiveness of compensatory plantings will need to be assessed and calculated on an individual basis. Offsets should be based on quantitative assessment of the loss in biodiversity from the clearing or other development and the gain in biodiversity from the offset. The methodology must be based on the best available science, be reliable, and used for calculating both the loss from the development and the gain from the offset. The methodology should include:

- the area of impact;
- the types of ecological communities and habitat or species affected;
- connectivity with other areas of habitat or corridors;
- the condition of habitat;
- the conservation status and/or scarcity or rarity of ecological communities;
- management actions; and
- level of security afforded to the offset site.

Compensatory plantings must be targeted and offset impacts on the basis of like-for-like or better conservation outcomes. Offsets should be targeted according to biodiversity priorities in the area, based on the conservation status of the ecological community, the presence of threatened species or their habitat, connectivity, and the potential to enhance condition by management actions and the removal of threats (OEH 2018). To achieve this, offsets will need to be calculated on a site-by-site basis.

In reviewing the vegetation protection controls in Part 5 of the ADCP 2010, several other NSW Councils were consulted on approaches to managing significant native vegetation. These Councils included Coffs Harbour City Council, Eurobodalla Shire, Lake Macquarie Council, City of Wagga Wagga, Northern Beaches Council and Byron Shire Council. Several of these Councils included specific clauses in their DCPs to strengthen their capacity to protect significant native vegetation including old growth, HBTs, significant corridors and ecological linkages. Importantly, these DCPs also provide specific requirements for compensatory planting for the removal of high value vegetation.

There have also been trials for relocating HBTs following their removal from development sites in NSW (e.g. Central Coast Council, 2016) and AlburyCity has considered this as a potential offset activity. Trials have shown that some fauna species show a preference for natural hollows, however the process of relocation can be timely and expensive (in excess of \$25,000) per tree and therefore may not be a viable option for most developments in Albury. Another important inclusion in the Part 5 ADCP 2010 review is provision for compensation or augmentation of lost nesting opportunities. For example, it is proposed that AlburyCity will take a similar approach to Coffs Harbour City Council by including compensatory replacement rates for the removal of hollows.

Conditions of Consent such as "All HBTs approved for removal/pruning must be inspected by a suitably qualified and experienced ecologist prior to pruning/removal to establish whether native

nesting fauna are present", "augment any nesting habitat through the provision of a number of nest boxes in nearby habitat" and "relocate any woody debris containing hollows to nearby areas of retained habitat" are currently, and will continue to be, included in Development Consents.

Many Councils in both NSW and interstate have developed significant tree registers which typically list and/or map trees with botanical, historical, visual, cultural or commemorative significance. The registers identify and recognise the importance of significant trees and are used to guide their management and ensure future protection. AlburyCity has established a significant tree register which includes a mapping overlay on Weave. This layer includes the 523 HBTs that were identified and mapped across the Thurgoona Wirlinga area as part of the Albury Conservation Company's Hollow Bearing Tree mapping project. The register and mapping layer also includes previous records of 135 HBTs that were mapped at Charles Sturt University and Thurgoona Country Club Resort in 2012 and 2013. In addition to this there is a layer containing the locations of all nest boxes installed in trees on AlburyCity managed land. This layer is utilised to determine locations for the installation of future nest boxes and document our monitoring of the boxes and utilisation by local fauna species.

The significant tree mapping overlay is available to planning staff when assessing Development Applications and to other staff in planning for infrastructure (e.g. new road construction) and related works. Some consultants working on behalf of developers also have access to this data.

## Part 5 DCP Review progress

Large hollow bearing trees are particularly significant in urban and agricultural landscapes. They have survived in the landscape over many years and may have outstanding aesthetic appeal due to their massive size and structural complexity. In ecological terms, they are keystone structures providing roosting and foraging habitat (including hollows, fissures, flowers, foliage, seeds, insects, decorticating bark, roots) for a wide diversity of birds, bats, gliders, possums, reptiles and native bees. Large trees provide important environmental services by slowing stormwater flows, regulating microclimate, increasing soil nutrients, preventing erosion and providing shade. For example, mature trees provide 75% more environmental benefits than smaller individuals. Shade cast by mature trees may cover 100m<sup>2</sup> compared to 3m<sup>2</sup> for immature trees. Older larger trees grow more rapidly and therefore absorb more carbon dioxide. It is important to maintain large old trees wherever possible as we will never be able to replace them in our lifetimes. Large old trees have significant environmental value but also significant amenity value as they are very strong place-making features. The visual impact of large trees is considerable and together with other benefits such as cooling the local area through shade and attracting birds and other wildlife, the improved amenity benefit of retaining large old trees in urban settings should not be underestimated.

The Part 5 ADCP 2010 review aims to enhance controls by refining the description of requirements regarding retention of large old trees (for purposes other than biodiversity) within subdivisions. This would result in the use of the tree preservation controls in the ADCP 2010 for both developments in developable areas (for non-biodiversity values), as well as for vegetation clearance under the Vegetation SEPP. The aims of the Part 5 review include:

- update references to repealed legislation and ensure consistency with the legislative changes;
- undertake a best practice review against other NSW Council DCPs;

- clarify and improve existing vegetation protection controls; and
- ensure vegetation protection requirements are more widely acknowledged, understood and implemented.

The updated vegetation protection controls in Part 5 will aim to achieve best practice vegetation management practices, that is to:

- retain/protect existing trees/vegetation;
- avoid vegetation removal wherever possible;
- minimise vegetation removal and disturbance;
- mitigate the impacts of vegetation removal where it cannot be avoided; and
- offset vegetation removal with compensatory plantings.

A paper outlining the revised/proposed vegetation controls was prepared and circulated to targeted stakeholders during February/March 2021 for comment including:

- The AlburyCity Sustainability Advisory Committee;
- The Albury Wodonga development community (i.e. planning consultants, developers, builders, surveyors, etc) by way of an EDM;
- Local Arborists;
- Local Landcare Groups;
- Albury Local Aboriginal Land Council;
- AlburyCity Youth Council;
- Thurgoona Community Action Group;
- Albury Conservation Company; and
- Relevant NSW regulatory/government agencies (e.g. DPIE-BCD, Murray Local Land Services).

Eight submissions were received in response to the proposed controls. These included:

- three submissions from local planning consultants/developers;
- two responses from members of the Sustainability Advisory Committee;
- one response from the AlburyCity Youth Council;
- two submissions from NSW regulatory/government agencies; and
- feedback from staff across multiple AlburyCity business units.

Feedback from the targeted consultation was largely supportive with no submissions noting any specific objections to proposed controls. Several submissions sought clarification regarding terminology, definitions and approval pathways. The paper outlining the review of Part 5 Vegetation Protection Controls of the ADCP 2010, as well as the submissions received, is provided in attachment 1. This feedback will be used to further develop and refine the updated vegetation protection controls.

The next steps for the Part 5 review and proposed timeline includes:

• working with AlburyCity's Strategic Planners to write the proposed controls and integrate into the ADCP 2010 (August 2021);

- further stakeholder consultation Draft Part 5 controls and explanatory note presented to Sustainability Advisory Committee (SAC) and other stakeholders for comment (September/October 2021);
- presentation to Council seeking public exhibition (November 2021);
- public exhibition (December 2021/ January 2022); and
- final Part 5 presented to SAC and then Council for endorsement (February 2022).

# <u>Albury 2030</u>

Albury is in a unique position where urban areas interface with environmental and bushland areas of high biodiversity conservation value. Many of these sites contain trees and native vegetation that provide important environmental services by slowing stormwater flows, regulating microclimate, increasing soil nutrients, preventing erosion, and providing shade and habitat.

This interface highlights that biodiversity supports the economic, social and aesthetic values that are vital to the long-term health and prosperity of Albury and the region. Through *Albury 2030 – our community strategic plan* under the key theme of "An Enhanced Natural Environment" the community has identified outcomes that are relevant:

- Outcome 2.1 Albury has improved environmental outcomes, and its strategic action to promote sustainable development that complements and respects the natural environment;
- Outcome 2.2 Albury is prepared for changing environmental conditions, and its strategic action to protect and enhance bushland areas and ensure connection between corridors; and
- Outcome 2.3 An increased awareness in sustainability and environmental issues, and its strategic action to promote and enhance the natural environment.

## Two Cities One Community: Regional Natural Environment Strategy

'The Environment' is one of four priorities in the *Two Cities One Community Strategic Plan*, which sets out long-term goals and actions to guide the collaboration of Albury City Council and City of Wodonga. The protection of trees and native vegetation aligns with the 2C1C Action Plan including:

- Goal 2.1: We have a high level of awareness of sustainability and environmental issues;
- Goal 2.2: We preserve and experience the beautiful and unique area we live in;
- Goal 2.3: We are a leader in natural resource management; and
- Goal 2.4: We are acting to ensure the sustainability of our environment.

Under Goal 2.3 and 2.4, a joint Regional Natural Environment Strategy was prepared with City of Wodonga to inform holistic decision making for the further protection and enhancement of the natural environment across Albury and Wodonga. The Regional Strategy recognises the protection of native vegetation as a key community issue, particularly in the growth areas of Thurgoona-Wirlinga.

### Risk

- **Business Risk** The biodiversity legislation reforms and subsequent amendments to AlburyCity's Biodiversity Certification Order has created some confusion and uncertainty, particularly in the development community regarding removal of trees and native vegetation. This presents an increased risk of legislative breaches and is most discernible in Thurgoona Wirlinga which is experiencing high growth and development. Proposed amendments to the ADCP 2010 reflecting recent biodiversity reforms supported by dissemination of the provision and promotion of information on the new controls to the community will provide more certainty regarding what vegetation clearing is permissible and provide additional protection for significant native vegetation such as HBTs.
- Corporate Risk Community perception may be that Council is not protecting native vegetation including HBTs, thereby not meeting the objectives of the Regional Natural Environment Strategy or delivering on Albury 2030. Improved implementation of the existing tree protection controls and providing updated/improved information to the community will improve the capacity of AlburyCity to regulate the clearing of native vegetation and greater understanding of overall objectives and outcomes, thereby minimising the public perception risk.
- WHS and Public Risk None identified.
- Environmental Risk The natural environment is a key asset of Albury and protection of this key asset is important and can be improved. Although there are a number of existing tree protection controls already in place, not acting to strengthen these or improve their implementation will allow for further degradation of the natural environment. To continue with the status quo will result in a lack of adequate consideration to the retention of native vegetation and large old trees for their values in providing benefits such as micro-climatic influence, stormwater management, oxygen production, pollution filtration, carbon sequestration, public amenity, and aesthetic character.
- Delivery Program Risk AlburyCity's Biodiversity Certification was recently extended by a period of up to five years on the provision that Part 5 Vegetation Protection Controls of the ADCP 2010 is amended to include additional provisions that protect native vegetation by 24 February 2022. Albury City Council was also directed to review the ALEP 2010 in response to the new listings of species and populations not previously known in the area. In addition, the extension of biodiversity certification was also predicated on transitioning biodiversity certification to certification under Part 8 of the Biodiversity Conservation Act 2016 prior to its expiry. Given the statutory requirements and timeframes associated with these actions, there is a risk that these will not be finalised by the required dates. This risk will be managed through adequate allocation of resources and drawing from other external Council's learnings in this process.

### **Community Engagement**

Stakeholder engagement for the Part 5 ADCP 2010 review seeks to provide opportunities for key internal and external stakeholders and the community to be informed and provide meaningful input and feedback into the review. Internal input was incorporated into the first draft and recent feedback

from the targeted engagement with developers and planning and building consultants will also be incorporated. Further stakeholder and community engagement will involve the following:

- discussions with AlburyCity's Strategic Planners and Development Control Unit;
- following integration of proposed controls into DCP format, further targeted stakeholder engagement;
- presentation to Thurgoona Community Action Group;
- final review by the SAC;
- presentation to Council for endorsement and public exhibition; and
- incorporation of community feedback into final DCP chapter.

## Conclusion

Biodiversity certification was conferred on the Albury Local Environmental Plan 2010 on 25 February 2011 for a period of 10 years, the agreement was due to expire on 24 February 2021. In February 2021 AlburyCity was granted an extension to biodiversity certification for a period of up to five years, expiring on 24 February 2026.

Whilst AlburyCity's records system does not specifically allow for the extraction of information such as how many hollow bearing trees have been cleared by development in Thurgoona Wirlinga, the application to extend certification was made by AlburyCity to DPIE-BCD on the basis that the maintain or improve outcomes of biodiversity certification have been achieved.

Analysis undertaken for the extension of biodiversity certification revealed a 616 hectare increase of extant native vegetation in natural areas from that previously calculated pre-2011 prior to original biodiversity certification. It also revealed a 17 hectare increase in other areas and a loss of 90 hectares from the development areas. This most recent analysis undertaken confirms that offsets (for anticipated losses) have largely been maintained and also demonstrates that AlburyCity planning policy, projects and/or actions undertaken have in fact facilitated increases in native vegetation extent which further substantiates claims that maintain or improve outcomes have largely been achieved.

AlburyCity agreed as part of its application for extension of the certification to carry out a number of measures including updating the vegetation protection controls in the Albury Development Control Plan 2010 and transitioning to biodiversity certification methodology under the Biodiversity Conservation Act 2016. Transitioning to a more contemporary methodology under the NSW Biodiversity Offset Scheme will allow for a more robust baseline data collation and rigorous analysis/monitoring moving forward.

In recognition of the conditions of the biodiversity certification extension, a review is currently being undertaken of Part 5 of the Albury Development Control Plan 2010 – Vegetation Protection Controls. In reviewing the vegetation protection controls in Part 5, several other NSW Councils were consulted on approaches to managing significant native vegetation. A paper outlining the revised/proposed vegetation controls as well as updated requirements for offsets and compensatory planting was prepared and circulated to targeted stakeholders for comment. Eight submissions were received in response to the proposed controls. Feedback on the paper was largely supportive. The paper outlining

the review of Part 5 Vegetation Protection Controls of the ADCP 2010 is presented in attachment 1 along with the submissions received. The Part 5 review will continue with feedback from the targeted engagement to be incorporated into draft Development Control Plan controls. Following this, further stakeholder engagement will be undertaken with the Development Control Plan chapter and an explanatory note presented to stakeholders for comment prior to being presented to the Sustainability Advisory Committee and Council for endorsement in February 2022. This ongoing consultation with our community will ensure the security of our local biodiversity into the future.

### Recommendation

That Council receives and notes this update on the outcomes of the extension of Biodiversity Certification of the Albury Local Environmental Plan (ALEP 2010) and progress on the review of Part 5 Vegetation Protection Controls of the Albury Development Control Plan (ADCP 2010).

## Attachments

1. Part 5 Vegetation Protection Controls review, and submissions received\_redacted (DOC21/96709).