

**CM13.6. Draft Amendment to Albury Development Control Plan 2010 – Part 20:  
Willowbank Road, East Albury – Consider Submissions**

<b>DATE</b>	15 June 2021	<b>FIL REFERENCE</b>	FIL20/01368
<b>CONFIDENTIAL</b>	No		
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**Purpose of Report**

The purpose of this report is for Council to consider submissions received during public exhibition of the draft Amendment to the Albury Development Control Plan 2010 (ADCP 2010), being Part 20 – Willowbank Road, East Albury (draft DCP Amendment).

**Background**

The draft DCP Amendment was reported to Council on Monday, 12 April 2021 (attachment 1) and the following endorsed:

*That Council:*

- a. *Endorses the draft Amendment to the Albury Development Control Plan 2010, being Part 20 – Willowbank Road, East Albury, for public exhibition purposes; and*
- b. *Places the draft Amendment and any supporting material on public exhibition for a minimum period of 28 days in accordance with the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.*

The draft DCP Amendment provides the opportunity for locality-based planning policy (site-specific development control plan) to be prepared, exhibited, and adopted in advance of any development application being received. The intent of the draft DCP Amendment is to establish necessary controls that respond to relevant site circumstances, necessitate further considerations in design and to facilitate appropriate development outcomes.

A copy of the draft DCP Amendment (as exhibited) is provided as attachment 4 for reference and information purposes.

**Issues**

**AlburyCity Strategies and Policy Context**

The draft DCP Amendment seeks to facilitate coordinated light industrial development on the subject land which supports Albury 2030 strategic outcomes under the theme 'A Growing Sustainable Economy' including:

- 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.*
- 1.5 - *promote Albury for industry and business.*  
1.5.5 – *support and promote business and business opportunities across all sectors to continue to foster economic diversity.*

## **Discussion**

In response to the public exhibition of the draft DCP Amendment, AlburyCity received four submissions.

Two submission were from State government agencies:

- NSW Department of Primary Industries – Agriculture, and
- NSW Department of Planning, Industry and Environment – Biodiversity and Conservation.

Two submissions were from the general public:

- Allistair McBurnie; and
- Cameron Shipard.

A copy of submissions received (in full) are provided as attachment 2.

## **Key Matters**

Key matters that were identified in submissions received included:

- remnant native vegetation and application of the Biodiversity Conservation Act 2016;
- planting plan and consistency with other biodiversity-related Council initiatives;
- industrial land supply and consideration of residential land use outcomes;
- heavy vehicle use and safety concerns;
- riverfront land farming ongoing;
- engagement process; and
- environmental concerns.

Many of the above matters are similar to those previously raised during the Planning Proposal process in 2017. These issues have either been previously addressed and/or will be addressed via future Development Assessment processes at the time of Development Application.

Nevertheless, a summary of key issues raised together with a considered response and any recommended actions (where required) for each submission is provided in attachment 3.

## Risk

- **Business Risk** – The draft DCP Amendment considers and addresses much of the inherent business risks associated with capital costs involved with the provision of infrastructure identified as necessary to accommodate the future development of the subject land. This has been achieved with the preparation and inclusion of the Infrastructure Audit Plan (detailing infrastructure works and confirming developer commitments) and stipulation that any development on the subject land must be undertaken generally in accordance with these plans.
- **Corporate Risk** – There was significant public interest from adjoining landowners and the wider community in relation to the earlier Planning Proposal and outcomes sought relating to zoning for industrial land uses. This draft DCP Amendment considers and seeks that any subsequent development addresses a number of key aspects relating to infrastructure requirements, Aboriginal Cultural Heritage, landscaping, urban design, and stormwater management. Public exhibition of this draft DCP Amendment has provided the opportunity for further agency, adjoining/adjacent landowner, and wider community comment in advance of any Development Application(s) being received and determined.
- **WHS & Public Risk** – None identified.
- **Environmental Risk** – The subject land was rezoned from RU2 Rural Landscape Zone to IN2 Light Industrial Zone following the preparation of the Planning Proposal (with amendments) that was endorsed by Council on 27 November 2017 and subsequently gazetted on 15 June 2018. The Planning Proposal included a detailed assessment of environmental impacts, social and economic effects (including visual amenity and infrastructure provision), agency issues and other relevant matters, and in so doing, confirms land capability for light industrial development outcomes (as proposed). The draft DCP Amendment provides for further consideration and assessment consistent with relevant controls at time of development via development application processes.
- **Delivery Program Risk** – No additional demand or risk as any additional and/or augmented infrastructure provision will be provided by the developer. Development Application and subdivision administration processes provide Council with those mechanisms necessary (e.g. Conditions of Consent) to ensure that new required infrastructure is delivered in a timely manner commensurate with current and future demands.

## Community Engagement

In recognition of the previous significant public interest relating to the Planning Proposal process, notification letters were distributed more extensively than that which would typically be undertaken for a DCP Amendment.

Engagement activities have included:

- notification letters distributed to nearby landowners and other interested parties (including previous submitters to the Planning Proposal process) consistent with that previously undertaken for the Planning Proposal;
- notification letters and associated documentation distributed to relevant Government Agencies consistent with that previously undertaken for the Planning Proposal;
- public notice published in the Border Mail;

- public exhibition period for a minimum of 28 days;
- exhibition material detailing the proposed changes being made available on the AlburyCity website including the ability to make an electronic submission also being made available on the AlburyCity website;
- hard copy exhibition material detailing the proposed changes being made available for viewing purposes at the AlburyCity Administration Building, LibraryMuseum and Lavington Library; and
- Strategic Planning staff available (on demand or by appointment) to assist with any inquiries relating to the proposed amendment.

### **Options**

Council has the following options in relation to this report:

1. Endorse the draft DCP Amendment, being the addition of Part 20 – Willowbank Road, East Albury with an amendment (as noted in attachment 3), and take those actions necessary to commence these provisions, or
2. Endorse the draft DCP Amendment, being the addition of Part 20 – Willowbank Road, East Albury as exhibited, and take those actions necessary to commence these provisions, or
3. Take no further action with regards to the draft DCP Amendment; however, this would have the effect of preventing further development on the basis that development consent cannot be issued for the subject land unless a site-specific development control plan has been prepared that provides for matters specified.

In this instance, it is recommended that Council proceed with Option 1 as outlined above.

### **Conclusion**

The public exhibition of this draft DCP Amendment has provided an opportunity for further landowner, community, agency, and other stakeholder engagement prior to the draft DCP Amendment being finalised and incorporated into the AlburyCity planning policy framework.

Amongst submissions received, many of the issues raised have primarily been the same as those raised, considered, and responded to at the time the Planning Proposal was reported to and endorsed by Council in late 2017. Nevertheless, each of the key issues raised has been considered and addressed in attachment 3.

The DCP Amendment (site-specific specific development control plan) provides locality-based planning policy to be prepared, exhibited, and adopted in advance of any development application being received. The intent of the site-specific development control plan is to establish necessary controls that respond to specified matters (including provision of necessary infrastructure, consideration of Aboriginal cultural heritage resources, interface landscape treatments, urban design, stormwater and groundwater management measures) and site circumstances to guide land use and development on the subject land so that appropriate outcomes are achieved.

Accordingly, having received and considered all submissions, it is recommended that Council formally adopt this draft DCP Amendment as amended. This will enable AlburyCity officers to proceed with

those actions necessary to facilitate the making of the amendment to the Albury Development Controls Plan 2010, being Part 20 – Willowbank Road, East Albury.

### **Recommendation**

That Council:

- a. Receives and notes the submissions;
- b. Adopts the draft Development Control Plan Amendment being the addition of Part 20 – Willowbank Road, East Albury with the following amendment (as noted in attachment 3)
  - i. amend the draft DCP, specifically Section 20.9: Landscape Strategy – Willowbank Road – Indicative Planting Plan to remove and replace the following two species from the indicative planting list (schedule) with suitable local native species:
    - *Acacia podalyriifolia*;
    - *Rhaphiolepis indica* 'Oriental Pearl'; and
- c. Undertakes those actions required under the Environmental Planning and Assessment Act 1979 and *Environmental Planning and Assessment Regulation 2000* to have the draft Development Control Plan Amendment being the addition of Part 20 – Willowbank Road, East Albury provisions commenced.

### **Attachments**

1. Council Report – CM13.2 – Agenda Monday 12 April 2021 – Draft Amendment to Albury Development Control Plan 2010 – Willowbank Road – East Albury (DOC21/82379).
2. Copies of all correspondence and submissions received (DOC21/130836).
3. Summary of submissions received and issues raised (DOC21/133756).
4. Draft Amendment to the Albury Development Control Plan 2010 – being Part 20 – Willowbank Road, East Albury (DOC21/72428).