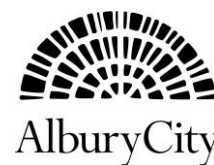


# Development Application

## Assessment Report



**Preliminaries:** (EP&A Reg 2000 cl50(1)(a))

**Responsible Officer:** S M Van Meurs

**Development Application No:** 10.2022.39681.1 **Parcel Number:** 47025

**Street Address:** 482 Kiewa Street ALBURY and 482 Volt Lane ALBURY

**Written Consent (EP&A Reg 50(1)(a):** YES

**Description:** Commercial Development - Four (4) Retail Tenancies

**Public Notification:** seven days standard

**Submission period ending:** 7 October 2022

**Number of submissions received:** Nil

**Date of site visit:** Various, photos on 18/1/2023.

**Number of jobs created with the development:** Determined by individual tenancies.

**Dollar value of the development:** \$1,804,000.00

*See plans and application form for further details.*

### Planning Controls

<b>Land Use Zoning:</b>	B3 - Commercial Core Zone
<b>Heritage Conservation Area:</b>	Not applicable
<b>Heritage Conservation Item:</b>	None applicable
<b>Relevant Local Environmental Plan:</b>	Albury LEP 2010
<b>Relevant SEPPs/REPs:</b>	Biodiversity Conservation SEPP 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021
<b>Relevant DCPs/Policies:</b>	Albury DCP 2010
<b>Comment/Previous DAs:</b>	N/A

### Assessment in Terms of EP&A Act 1979

#### Section 4.15 Assessment

##### Section 4.15(1)(a)(i) – Any EPI

##### Albury LEP 2010

##### State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4, *Remediation of land* requires that, in determining development applications on potentially contaminated sites, Council consider whether previous uses on the site may have resulted in contamination and whether the site is suitable for the development proposed. The property is not listed on AlburyCity's contaminated lands list. There is no evidence that suggests the site has previously been used for any purpose that could have contaminated the site to make it unsuitable for the commercial use and therefore the site is considered to be fit for the proposed development.

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### State Environmental Planning Policy (Transport and Infrastructure) 2021

#### Division 5 Electricity transmission or distribution

#### Subdivision 2 Development likely to affect an electricity transmission or distribution network

#### 2.48 Determination of development applications—other development

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—
- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
  - (b) development carried out—
    - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
- (2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—
- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

**Planning Comment:** The application was referred to Essential Energy who did not oppose to the application subject to comments/conditions which have been included on the Consent.

#### Part 2: Permitted or prohibited development

The subject land is zoned B3 Commercial Core under ALEP 2010.

The proposed development is defined as **retail premises** under ALEP 2010 and is permissible in the zone with consent.

**retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

#### **Note—**

Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

#### Part 3: Exempt or complying development

**Comment:** The development is not defined as Exempt and/or Complying Development.

#### Part 4: Principal development standards

**Comment:** No Principal Development Standards are applicable to the proposed development.

#### Part 5: Miscellaneous provisions

**Comment:** No Miscellaneous Provisions are applicable to the proposed development.

# Development Application

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### Part 6: Urban release areas

**Comment:** The site is not within an urban release area.

### Part 7: Additional local provisions

#### Essential Services

All essential services are available in the area subject new connections being provided which will be required via a condition of consent included in the Draft Determination.

### Section 4.15(1)(a)(ii) – Any proposed instrument

There are no proposed instruments applicable to this development.

### Section 4.15(1)(a)(iii) – Any DCP

#### Albury Development Control Plan 2010

**Part 3: Development Notification Policy** – The development application was publicly notified. To date no submissions have been received.

**Part 4: Developer Contributions Plans** – Council's Infrastructure Contributions Plan 2014 applies to the proposed development and incurs the following contributions:

#### Section 7.12 Contributions:

A cost summary report identifies the cost of development at \$1,804,000.00, which incurs S7.12 contributions at 1% of that cost.

$$= 1 \% \times \$1,804,000.00 = \$18,040.00.$$

A condition of consent is imposed to the value of this amount for Section 7.12 contributions.

#### Section 64 Contributions:

##### S64

As per the Water Directorate Guidelines 2017, the following is applicable:

#### Ground Floor (level 1)

Retail 1 = 262 m<sup>2</sup> (inclusive of WC area)

Retail 2 = 262 m<sup>2</sup> (inclusive of WC area)

Retail 3 = 281m<sup>2</sup> (inclusive of WC area)

Retail 4 = 229m<sup>2</sup> (inclusive of WC area)

Total = **1034 m<sup>2</sup>**

'Single Retail Shop' – standard unit of measure is based on floor area m<sup>2</sup> (Inclusive of WC)

**Water: 0.01 x 1034m<sup>2</sup> = 10.34 ET**

**Sewer: 0.01 x 1034m<sup>2</sup> = 10.34 ET**

*Credit 1ET applicable*

# Development Application

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Section 64 Conditions included in the Draft Determination.

Car parking contributions are discussed under the section which addresses Part 17 of ADCP, 2010.

### **Timing of payments:**

The applicant has provided a written request for contributions associated with the application to be paid prior to the issue of an Occupancy Certificate.

### **S7.12**

3.1 of the *Albury Infrastructure Plan 2014* relates to the timing of payments (S7.12) and states the following:

*- For development not involving subdivision, but where a Construction Certificate is required – prior to the release of the Construction Certificate.*

### **S64**

3.8 of Development Servicing Plan Water & Sewerage states payments of contributions are payable as follows:

*- Development involving building construction – prior to the issue of a Construction Certificate*

In this instance, Planning Officers recommend that all contributions be paid prior to the issue of an Occupancy Certificate. It is noted changes implemented as a result of Covid 19 response measures, Ministerial Direction which deferred payment of contributions to prior to occupancy certificate, however this only applied to large scale development with cost of works greater than \$10 million. Whilst the cost of works for this development is significantly less (\$1.8 million) the site is considered to be an important site within the CBD, and to assist in facilitating development, the deferred payment (prior to Occupancy) is considered acceptable.

Further to the above, discussion with Service Leader, David Christy has confirmed that in this instance, Planning Officers could support this request, however it is acknowledged that this could be subject to change according to the outcome of the Council meeting.

**Part 5: Tree Preservation** – Not applicable as no trees proposed to be removed.

**Part 6: Planning for Hazards** – The subject land is not identified as contaminated, bushfire prone or subject to flooding.

**Part 7: Heritage Conservation** – The subject land is not a heritage item or within a heritage conservation area as defined by ALEP 2010. The site is adjacent from Dean Street Conservation area. No impact envisaged given interface is not directly adjacent to the original heritage buildings, nor will the scale of the building dominate the area.

### **Part 11: Commercial Zone / Part 12: Industrial Zone**

#### **Part 11 Development in the Commercial Zones:**

##### **11.2 BROAD DEVELOPMENT OBJECTIVES**

*The main objective of the Commercial Zones is to identify land for commercial and commercial compatible uses, whilst the specific objectives of each Commercial Zone are contained within the LEP. This Part of the DCP provides controls for commercial and commercial compatible uses in the Commercial Zones.*

**11.3 SUBDIVISION IN THE COMMERCIAL ZONES** – Not applicable.

**11.4 RESIDENTIAL DEVELOPMENT IN THE COMMERCIAL ZONES** – Not applicable.

**11.5 DEVELOPMENT IN THE B1 NEIGHBOURHOOD CENTRE ZONE** – Not applicable.

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**11.6 DEVELOPMENT IN THE B2 LOCAL CENTRE ZONE** – Not applicable.

**11.7 DEVELOPMENT IN THE B3 COMMERCIAL CORE AND B4 MIXED USE ZONES** – Not applicable.

### **11.7.1 Development in the B3 Commercial Core and B4 Mixed Use Zones**

#### **General objectives**

- To maintain and enhance Albury and Lavington's economic, social and cultural role in the region.
- To reinforce the structure and legibility of Albury and Lavington through a clear street hierarchy and urban form.
- To promote and encourage a high design quality of buildings.
- To ensure that the siting of new developments are appropriate to their setting and use, particularly in regards to overlooking and overshadowing of residential areas.
- To manage the transition in building use and scale within low-scale residential and multi-use areas.
- To provide a high level of pedestrian amenity to create vibrant, safe and easy-to-navigate streets.
- To promote the amalgamation of small sites to deliver better quality development and adequate on-site parking.
- To respect the existing scale and view corridors of heritage streetscapes in regards to new development.
- To improve and promote the use and safety of laneways for both vehicle service access and pedestrian access to building frontages.
- To promote and encourage safer public spaces.
- To promote landmark buildings at gateways and entry points.
- To simplify visual clutter, enhance tree planting and identify areas for public art and new public spaces.
- To create a destination for tourists from which to experience and enjoy Albury.

**Planning Comment:** The proposal is consistent with the above relevant objectives by providing four new retail tenancies in the Albury CBD. The proposal allows for active frontages on three sides of the site and will contribute positively to the streetscape and provide appropriate amenity and for pedestrians and allows for passive surveillance within existing laneways and streets.

#### **ALBURY 11.7.2 Land Use Precincts - Albury**

##### **Objectives**

1. To promote a variety of uses within the CBD and its surrounds that increases its role as a regional retail, commercial and civic centre, while encouraging an active, liveable centre for all ages.
2. To encourage where possible mixed use buildings that operate during the day and night.
3. To consolidate the retail and commercial functions of the Albury CBD.
4. To enhance and augment the cultural and civic uses centred around QEII Square.
5. To protect and maintain the existing heritage streetscape of Dean Street and its surrounds.
6. To create a vibrant, urban living precinct along the Murray River and its associated parklands with some supporting commercial suites.
7. To promote the incremental change of the B4 Mixed Use Zone that surrounds and supports the CBD with complimentary uses, including, small commercial uses, mixed-use buildings and residential uses (townhouses/terraces and apartments).
8. To promote the retention of and sensitive re-use of the Englehardt Street Heritage Conservation Area and the existing residential edge to the CBD in the form of the adaptive re-use of houses, low-scale infill for commercial suites and single office home offices)(SOHO's).
9. To encourage commercial development to the North-East of the Albury CBD for large floor plate commercial buildings that compliment and increase employment opportunities within the CBD.
10. To concentrate showrooms and large format retail uses, outside of the existing shopping centres, along the former Riverina Highway to maximise their visibility and accessibility for motorists.

**Planning Comment:** The proposed development is consistent with the relevant objectives above, by providing four new retail tenancies and will contribute to activation of the CBD.

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### Controls

- i. Land uses are to comply with the Land Use Plan contained in Figure 11.7 and the Land Use Table contained within the LEP. **Figure 11.7 identifies the use of the site as 'Dean Street and Retail Core'. The proposed commercial building (retail) is compliant with the land use plan.**
- ii. Any form of residential development, shall comply with Part 10 of this DCP, which relates to Development in the Residential Zones. **Not applicable.**
- iii. Mixed-use developments shall provide retail and commercial uses at ground floor level and residential uses above this. **Not applicable.**
- iv. In areas characterised by heritage listed detached residential dwellings, land uses shall continue the trend of adapting buildings for commercial use/s such as professional offices or small businesses and single office home office (SoHo). **Not applicable.**

### 11.7.3 Building Heights - Albury

#### Objectives

1. To ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located.
2. To ensure the height of buildings protect the amenity of neighbouring properties in terms of visual bulk, access to sunlight and privacy.
3. To nominate heights that will provide a transition in built form between varying land use intensities.
4. To mediate between existing buildings and new buildings by defining a street wall datum.
5. To ensure buildings do not create obstacles in the transmission of radio signals within and from the B3 Commercial Core and B4 Mixed Use Zones.
6. To ensure buildings do not create obstacles in the operation of the Albury airport and its flight paths.

**Planning Comment:** The proposal is for a single storey retail development. The site is located within an area which has a seven-storey height maximum, and therefore is well under the allowable height limit in the area. The proposal would therefore meet the objectives which seek to ensure building height and bulk, streetscape impact, access to sunlight and privacy is appropriately managed.

#### Controls

- i. Building heights are to comply with the Building Height Plan contained in Figure 11.8. **Complies. The building height map identifies the site as '7 storeys'. The building height map is intended to be a maximum building height map. When reviewing the objectives of this Part, it is clear that the intent is to ensure significant building heights do not impact on surrounding area. The building is single storey and therefore is compliant with Figure 11.8 building height plan.**
- ii. Detached houses should retain a single storey building form to the street with a maximum two storey height permitted to the rear. **Not applicable.**
- iii. Midblock infill site areas shall achieve an overall maximum height of 7 storeys permitted that a minimum site frontage of 24m exists to accommodate parking. **The building is single storey. The Kiewa Street site frontage is approximately 22m and no onsite parking is proposed.**
- iv. Terrace houses should be 2 to 3 storey with a pitched and/or parapet roof. **Not applicable.**
- v. Buildings shall not obstruct radio transmissions between local transmission structures. Albury City Staff may be consulted regarding the location of radio transmission structures and associated height limitations. **The building is single storey and will not impact on radio transmission.**
- vi. All buildings and structures must comply with the Obstacle Limitation Surface Plan as contained within Part 18 of this DCP, which relates to the Albury Airport. This Plan indicates the height that buildings and other structures must not

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exceed to ensure the safe operation of the Albury Airport. **Complies.** The site is located within the inner horizontal surface area (45m height limit). The proposed building is approximately 6m above ground level.

- vii. Overall building heights shall be compliant with the Street Wall Heights and Upper Level Setback requirements contained within Section 11.7.4 below. **Assessed below.**

Notation Clause 4.3 of the LEP stipulates the Height of Buildings requirements and the LEP Height of Buildings Map spatially depicts the designated heights. **Noted and complies with 4.3 of the LEP which has a 35m height limit.**

### 11.7.4 Street Wall Heights and Upper Level Setbacks - Albury

#### Objectives

1. To maintain the scale of streets as incremental change occurs.
2. To protect the scale of Dean Street by requiring deeper upper level setbacks for the overall building heights.

**Planning Comment:** The proposal is consistent with the above objectives as the building is single storey and is adjacent to a double storey commercial building to the north and single storey commercial building to the south.

#### Controls

- i. Street wall heights shall comply with the Street Wall Height Plan contained within Figure 11.9. **Figure 11.9 requires a street wall height and upper level setback of 5 storeys along the Kiewa Street frontage. The proposal seeks single storey street wall height with a zero setback.**
- ii. Upper level setbacks shall comply with the following:
  - Along Dean Street – minimum 6 metres. **Not applicable.**
  - Along other streets – minimum 3 metres. **Not applicable as no upper levels proposed.**

### 11.7.5 Floor Space Ratio (FSR) - Albury

#### Objectives

1. To ensure that the density, bulk and scale of development is appropriate for a site and integrates with the streetscape and character of the area in which the development is located.
2. To encourage lot consolidation to promote the efficient location of buildings and the minimisation of building bulk.

**Planning Comment:** The proposal is consistent with the above objectives and is compliant with FSR requirements.

#### Controls

- i. Floor Space Ratios shall comply with the FSR Plan contained within Figure 11.10. **Complies. FSR is 3:1. As the building is proposed to be single storey, compliance is achieved with the FSR.**
- ii. Large or consolidated sites are subject to the following maximum FSR's:
  - Maximum of 2:1 for sites between 5000m<sup>2</sup> and 10,000m<sup>2</sup>. **Not applicable.**
  - Maximum of 1.5:1 for sites between 10,000m<sup>2</sup> and 15,000m<sup>2</sup>. **Not applicable.**
  - Maximum of 1:1 for sites greater than 15,000m<sup>2</sup>. **Not applicable.**
- iii. FSR's for the railway precinct have been deferred, and will be subject to special consideration by the Council. **Not applicable.**

Notation: The FSR's shown on the FSR Plan are maximums; however, not all sites within the CBD will be able to achieve this maximum due to site constraints. These sites include:

- Sites with a street frontage under 24m, which will not be able to achieve the maximum FSR due to parking requirements, **Noted. The site has a frontage of approximately 22m, however no onsite parking is proposed. Maximum FSR is not achieved given the development is single storey only.**
- Sites adjacent to heritage buildings or conservation areas due to their potential impacts, and **Appropriate separation is provided.**
- Large or consolidated sites greater than 5,000m<sup>2</sup>. **Not applicable.**

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Clause 4.4 and 4.5 of the LEP stipulates the Floor Space Ratio requirements and the calculation processes used in determining applications, whilst the LEP Floor Space Ratio Map spatially depicts the designated floor space ratio's for particular sites. **Noted.**

### 11.7.6 Building Design - Albury

#### Objectives

1. To improve the built form of new buildings, whilst having regard to items and places of heritage significance and established residential areas.
2. To promote design quality by promoting a loose fit between overall height, carparking, building envelope and floor space.
3. To encourage the use of a combination of materials, articulation, fenestration and landscaping when designing buildings.
4. To encourage energy efficiency, Environmentally Sustainable Development (ESD) and Safer by Design Principles.

**Planning Comment:** The proposal is consistent with the above objectives.

#### Controls

- i. New building facades shall include articulation such as punctuations, openings and repetition of architectural elements that contribute to the streetscape. **Complies. The main feature of the building is in the articulation of the awning which steps up and down and includes sloped portion. The building is further articulated through the use of a variety of building materials such as glazing, timber cladding under the awning and painted finish of precast concrete.**
- ii. Buildings shall comply with the relevant requirements of this Section in regards to setbacks, heights, FSR, landscaping, open space and other like requirements relating to building design. **Complies.**
- iii. Buildings shall create interest and activity along street edges through the use of mixed land uses. **Complies.**
- iv. New buildings edging public open spaces shall incorporate active edges to increase the vibrancy of these spaces and to provide opportunities for passive surveillance. **Complies.**
- v. Buildings on corner sites shall be articulated to address each street frontage and are to define prominent corners as shown in Figure 11.1. **Figure 11.11 requires 'build to boundary' along Kiewa Street. The application proposes a zero-street setback and is compliant.**

### 11.7.7 Building Setbacks - Albury

#### Objectives

1. To protect and enhance the existing streetscape character.
2. To encourage buildings built to the street boundary, which provide better street definition, active frontages and awnings in the Dean Street area.
3. To maintain predominant landscape setbacks on residential streets so as to manage change as it occurs.

**Planning Comment:** The proposal is consistent with the above relevant objective. Landscape setbacks are not prominent in the area.

#### Controls

- i. Street wall setbacks and build to lines are to comply with the Street Setback and Build to Lines Plan as contained within Figure 11.11. **Complies. Build to street boundary is required along Kiewa Street.**
- ii. Street setbacks where appropriate should follow the predominant setback along the street. **Complies. Buildings along Kiewa Street are generally built to the boundary (zero setback).**
- iii. Buildings setback within landscaped settings shall provide associated open space and landscaping. **Not applicable.**
- iv. Where there is not a predominant setback (i.e. large sites or where a significant change in building use/type) is present, a 3 metre street setback should be provided. **Not applicable.**



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- v. Terrace houses should have a 2 metre landscape street setback or ground floor level up to 1 metre above the footpath, with a 2 metre landscaped terrace. **Not applicable.**
- vi. Party wall construction methods should be incorporated for terraces, retail streets and streetwall building types where it is consistent with the adjacent context. **Not applicable.**
- vii. Terrace house party wall lengths should not exceed 12 to 14 metres. **Not applicable.**
- viii. For additions to residential houses, a minimum side setback of 1.2 metres and minimum rear setback of 6 metres shall apply. **Not applicable.**
- ix. For residential apartments and residential components of mixed-use buildings, the following rear setbacks apply:
  - Minimum 6 metres, where building height is 4 storeys or less.
  - Minimum 9 metres, where building height is 5 storeys or greater. **Not applicable.**
- x. For commercial uses with windows facing the front and rear of a lot, a minimum 3 metre side setback applies. **Not applicable as the Commercial tenancies do not extend from the front to the rear of the allotment. Standard conditions requiring compliance with building code requirements are acceptable in this instance.**
- xi. Bulky good premises may be built to one side and to the rear boundary of a lot, where the adjoining property is not a house, mixed use development or commercial office building with facing windows. **Not applicable as no bulky good premises are proposed.**
- xii. Buildings built to the secondary street boundary should cover a minimum distance of 50% of the length of the site. **Not applicable.**

### 11.7.8 Building Depth - Albury

#### Controls

- i. Residential buildings are limited in depth to 18m from glass line to glass line. Narrower buildings are encouraged to improve natural daylight access and energy performance/efficiency. **Not applicable.**
- ii. Building depths for commercial office uses are limited in depth to 30m as this limits the distance from the core to glass and improves energy performance/efficiency. **Complies. Building depths are approximately 22 to 24m.**

### 11.7.9 Building Separation - Albury

#### Controls

- i. For commercial buildings with windows to offices, a minimum building separation of:
  - 12 metres is required between buildings facing each other on a site, where the building height is 4 storeys or less.
  - 18 metres is required between buildings facing each other on a site, where the building height is 5 storeys or greater.
  - 9 metres for commercial buildings perpendicular to each other, where the maximum façade of one building does not exceed 20 metres. **Not applicable.**
- ii. Where building separation cannot be met due to existing adjacencies or site configurations the following applies:
  - For free standing residential buildings on narrow sites, side setback controls regulate building separation. In these, instances habitable rooms should be oriented to the front and rear of a lot. **Not applicable.**
  - For terraces, orientate rooms and windows to maximise building separation and utilise other details such as louvered screens, translucent windows, and high-set windows to minimise overlooking and increase privacy. **Not applicable.**

Notation: Building separation requirements will be assessed against State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development for multi-unit residential or mixed use buildings over 4 storeys tall. **Not applicable.**

### 11.7.10 Open Space and Landscaping - Albury

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### Objectives

1. To encourage the maintenance and enhancement of existing and proposed public open spaces within the City Centre and its surrounds.
2. To ensure appropriate access to all public spaces is available and to 'activate' these spaces through passive surveillance.
3. To promote green roofs and their use not only for the better environmental performance of buildings but also as communal open space/s.

**Planning Comment:** The proposal is consistent with the above relevant objectives by providing access and passive surveillance to Volt Lane, AMP Lane and the AlburyCity Council owned allotment to the East of the site.

### Controls

- i. Public open space areas shall be developed in a cohesive and coordinated manner for the benefit of the public. **No change to public open space. Retail entries have been designed to address Kiewa Street and Volt Lane which contains a pedestrian easement over the land.**
  - ii. Development adjoining public open spaces shall address and overlook these areas to encourage use and provide passive surveillance. **Complies. The proposal contains windows/access to Kiewa Street and Volt Lane. Windows also face the AlburyCity Council allotment which adjoins AMP lane and provides passive surveillance.**
  - iii. Communal open spaces for mixed use buildings, commercial offices and residential buildings shall be provided for those occupants of the building. Communal open space areas above ground level (green roofs) are desirable for mixed use residential buildings. **Not applicable as the proposal does not contain residential areas.**
  - iv. Where car parking structures are proposed it is encouraged that communal open space may be located above these on a podium. **No carparking is proposed.**
  - v. Any development or redevelopment of a site shall seek to retain significant existing trees, where possible. **Not applicable as no trees onsite and no street trees adjacent to the site along Kiewa Street.**
  - vi. Landscape plantings shall be provided for large scale developments and incorporated within the front setback, particularly for residential type developments. **Not applicable as a build to boundary setback is required by DCP. Requiring landscaping within the front setback would be contradictory to this requirement.**
- Notation The Albury CBD Masterplan, 2009 and Lavington CBD Masterplan, 2009 provide guidelines for the enhancement of existing public open spaces, as well as, the creation of new public open spaces, which shall be consulted in the development of these areas. **Noted.**

### 11.7.11 Car Parking, Traffic and Access – Albury

#### Objectives

1. To consolidate car parking areas into a series of concentrated central locations as identified in the Albury CBD Masterplan 2009 and the Lavington CBD Masterplan 2009. 2. To locate car parking areas on main transport links and to clearly inform and direct motorists as to the location of car parking facilities.
2. To contribute to the provision of a compact, accessible and connected retail core.
3. To ensure that developments that are known to produce significant parking demands, make sufficient car parking provision on the actual development site.
4. To ensure car parking facilities are both pedestrian and motorist friendly.

**Planning Comment:** The proposal is consistent with the above relevant objectives by providing financial contributions in lieu of onsite carparking (subject to approval) which will be used for public parking upgrades in the Albury area.

#### Controls

- i. Future car parking should be concentrated into consolidated off-street locations and accessed primarily from internal circulation streets. Refer to the Albury CBD Masterplan 2009 and Lavington CBD Masterplan 2009 for guidance

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regarding desired locations and access arrangements. **No onsite car parking proposed. Car parking contribution proposed to be paid in lieu of providing carparking onsite as assessed later in the report.**

- ii. *Future car parking should consist of a combination of spaces provided specifically to service new development with both private spaces and publicly accessible spaces, which maximise shared parking opportunities at different times of the day. **No onsite parking proposed.***
- iii. *Car parking areas shall be landscaped to provide shade. **Not applicable as no parking proposed.***
- iv. *Advertising, signage, landscaping and physical barriers shall be provided for the efficient movement of pedestrians. **Not applicable as no car parking proposed. Pedestrian access is via existing footpaths.***
- v. *On-grade parking shall be provided at the rear of properties and should incorporate stormwater collection and re-use into their design. **Not applicable as no on-grade parking proposed.***
- vi. *On sites with a minimum 24m frontage, parking above ground level or underground may be possible. **No parking proposed.***
- vii. *Terrace buildings shall have garages located along a rear laneway or if viable under the building footprint. **Not applicable.***
- viii. *Developments, which are likely to be significant customer attractors, must provide a minimum of two-thirds of the required parking on-site. The remaining one-third may be provided by a monetary contribution. Developments, which are likely to be specific customer "attractors" are as follows:*
  - a. *Office complexes and shopping centres over 1,500m<sup>2</sup> gross floor area (including malls).*
  - b. *Supermarkets.*
  - c. *Department stores.*
  - d. *Shopping centres containing supermarkets or department stores.*
  - e. *Retail bulky goods, warehouses or like retail premises.*
  - f. *Freestanding take-away food restaurants.*
  - g. *Hotels, motels and clubs.*
  - h. *Reception/conference centres.*
  - i. *Industrial uses.*
  - j. *Places of public worship.*
  - k. *Hospitals and schools.*
  - l. *Similar land uses as determined by the Council.*

**Not applicable as the proposed development is not considered a customer 'attractor'.**
- ix. *Multi-level parking (basement or deck) may be appropriate provided that it:*
  - a. *Supports the objective of keeping the centre compact.*
  - b. *Is attractively designed.*
  - c. *Reinforces continuity of pedestrian activity rather than creating or exacerbating any sense of separation between commercial uses.*

### **Complies.**

- x. *Car parking should be provided in accordance with the standards and rates provided for in Part 17 of this DCP, which relates to Off Street Car Parking for various uses. Council may consider a reduction in the ratio of car parking provision if satisfactory evidence is provided to indicate that one or more of the following circumstances apply:*
  - *The ability to "share" spaces between different land uses at different times.*
  - *It can be demonstrated that the use in question will not generate the numbers required.*
  - *The use proposed is currently not represented in the precinct and is desirable from the point of view of economic activity or community need but to apply the full car parking requirement would make it unviable.*

**The reduction of car parking (two spaces shortfall) and payment of car parking contributions in lieu of providing onsite carparking is assessed in detail under Part 17.**

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### 11.7.12 Streetscape - Albury

#### Objectives

1. To encourage and promote a consistent streetscape in terms of building bulk, height, setbacks, street furniture, signage and building designs.
2. To retain buildings of significance and promote the erection of additional significant buildings.
3. To have regard to established residential streetscapes.

**Planning Comment:** The proposal is consistent with the above relevant objectives. The proposed height, scale and setback of the building is consistent with building form along Kiewa Street.

#### Controls

- i. New buildings shall avoid extensive blank walls to street frontages by incorporating display windows and landscaped street setbacks for mixed use and commercial developments. **Complies. Windows are provided along Kiewa Street and Volt Lane. Windows also face the AlburyCity Council allotment located to the East of the site.**
- ii. Continuous box awnings are to be provided at the same height and depth as adjoining buildings in commercial areas, if applicable. **Awning proposed over Kiewa Street frontage and Volt Lane frontage and extends the length of the property along Kiewa Street and Volt Lane. It is noted that there is a break in the awning on the adjacent building to the south (Target Department Store). Should the adjacent building be redeveloped, opportunity exists for a continuous awning to be extended from the subject site.**
- iii. Active frontages are to be located on the primary street frontage and for a minimum of 50% of the secondary street frontage. **Complies. Active frontages provided along the North, East and West sides of the site.**
- iv. Building height, bulk and setbacks shall be consistent with the surrounding structures. **Complies.**
- v. Ground level retail and commercial uses shall be maintained through vertical articulation. **Complies.**
- vi. For detached residential dwellings, developments should maintain the pattern of front setbacks, porches and verandahs typically located on the street facade. **Not applicable.**
- vii. New development should retain the use of face brick, timber details, doors and windows. **Complies. The façade of the building predominately consists of window glazing. Under the awning the timber cladding is proposed. Small sections of concrete panelling is proposed, however is considered appropriate given the small extent of panelling proposed.**

### 11.7.13 Urban Design and Pedestrian Circulation – Albury

#### Objectives

1. To provide a consistent and high visual quality public domain that provides excellent amenity and encourages extended patronage.
2. To reinforce a clear framework of pedestrian routes which are highly “legible” - understandable and direct, which provide easy connections.
3. To encourage street blocks to be more permeable and promote through site links for pedestrian access at the time of redevelopment.
4. To promote new site links in the form of new streets, laneways, open air pedestrian links or arcades that follow Safer by Design Principles.
5. To incorporate active edges or building entries off new links to minimise the impact of service access on pedestrians.
6. To encourage outdoor dining and interaction between pedestrians.
7. To provide for bicycle racks within the CBD, particularly in proximity to open space areas.

**Planning Comment:** The proposal is consistent with the above relevant objectives.

#### Controls

# Development Application

## Assessment Report

- i. Any breaks in the continuity of active shop fronts and services, including those created by car parks or activities with low public interaction, shall be avoided. **Complies. No breaks proposed.**
- ii. All public and pedestrian areas shall be designed in a manner that maximises view lines between destinations and is embellished with highly attractive and consistent paving, lighting and planting (including shade-providing trees in unsheltered areas). **No change proposed to the pavement in Kiewa Street or Volt Lane. Existing street lighting in AMP Lane will be impacted. The applicant has proposed under awning lighting which will ensure appropriate surveillance in the area. A condition on the Draft Determination will be included to require a lighting plan to be submitted and approved by Council to ensure adequate lighting is proposed.**

### 11.7.14 Outdoor Advertising – Albury

**Planning comment:** Not applicable as no signage is proposed as part of this development application.

### 11.7.15 Key Sites - Albury

**Planning Comment:** Not applicable as the site is not identified as a 'key site'.

### 11.7.16 Opportunity Sites - Albury

Like the 'Key Sites' identified in Section 11.7.15, 'Opportunity Sites' have also been identified within the Albury CBD Masterplan 2009 as areas that may be subject to possible redevelopment. The difference between 'Key Sites' and 'Opportunity Sites' is that there has been no detailed investigations undertaken regarding the site constraints and possible use and/or building forms should the site become redeveloped. Nevertheless, 'Opportunity Sites' are sites where the existing development or on-grade parking areas could be redeveloped or adapted over time to improve their relationship to the streetscape, pedestrian environment and function of the public realm. As such the following sites have been identified as Opportunity Sites (see Figure 11.12):

- Albury Centro,
- Gasworks,
- Volt Lane Precinct,
- SS&A Club,
- Myer City Centre,
- IGA Carpark.

Care should be taken when developing any of these sites due to their significance and the impacts that any likely future redevelopment may have on the wider Albury CBD area. It is encouraged that contact be made with relevant AlburyCity staff with regard to the redevelopment of these sites. **The site is identified as an 'Opportunity site' – Volt lane precinct. The development of the existing carpark for retail tenancies will improve the relationship to the streetscape given the design provides for activation on three sides. The inclusion of awnings will enhance key pedestrian links within the CBD by providing amenity to the public.**

### 11.7.17 Masterplan Requirement - Albury

**Planning Comment:** Not applicable as this applies to sites over 10,000sqm in area..

### 11.7.18 Future Character Areas - Albury

Albury is comprised of many different 'character' areas. The zoning for the CBD of Albury and its surrounds allows for a variety of uses from residential to commercial. Character areas that contribute to Albury's identity are a result of:

- Consistent street setbacks either built to the street or landscape setbacks.
- Consistent elements such as roof forms and pitch, or the use of parapets and awnings.
- Consistent scale and form, resulting from building envelopes; height, width, depth floor to floor heights.
- Consistent building expression such as any vertical or horizontal articulation, materials and colours.

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The intent of the Future Character Areas are to:

- Protect the intact streetscapes that contribute to the identity of Albury, such as Heritage Conservation Areas and Dean Street.
- Improve streetscapes under transition such as the fringe of the CBD.
- Create new streetscapes where opportunities exist, such as the railway land along Young Street.

As change occurs over time, the infill strategy will manage the contribution of new buildings to existing streetscapes. Refer to Figure 11.13 for Future Character Areas. **The site is located in 'Dean Street and Retail Core Character area'. The proposal seeks consent for four retail premises and is consistent with the retail core character. The design is considered appropriate for the site with regards to scale setback articulation and inclusion of active frontages on three sides of the site.**

### 11.7.19 Heritage – Albury

**Planning Comment:** The site is not identified as a Heritage Item or within a Heritage Conservation Area. The site is located adjacent to the Dean Street Conservation Area. No impact envisaged given interface is not directly adjacent to the original heritage buildings, nor will the scale of the building dominate the area.

### 11.7.20 Awnings, Verandahs and Balconies – Albury

#### Objectives

1. To increase pedestrian amenity by the provision of weather protection.
2. To increase activity in roadside areas.
3. To enhance the appearance of buildings and developments lining Dean Street to create a more vibrant urban environment.
4. To outline the processes and procedures for the management and use of Council Land.

#### Controls

##### Encroachment of Structures on Council Land

- i. Any building or structure that encroaches on Council's Land shall comply with Council's Encroachment on Council Land Policy.  
**Noted and conditions included on the Draft Determination.**

##### Building Line

- i. Upon redevelopment of buildings along Dean Street, any proposed awnings, verandahs or balconies must be constructed to the building lines shown in the Awnings, Verandahs and Balconies Map (refer to Figure 11.6 consisting of Sheets 01-06) of this Part. **Not applicable as the building is not located along Dean Street.**
- ii. The building line must conform to the Awnings, Verandahs and Balconies Map (refer to Figures 11.6 – consisting of Sheets 01-06) of this Part. Corner sites, special sites A and B and Dean Street pedestrian crossings will be treated on their merit. **Not applicable as Figure 11.6 not contained within the DCP document.**
- iii. Awnings, verandahs and balconies may extend into the road reserve in other locations within the Albury B3 Commercial Core and B4 Mixed Use Zones, at the discretion of Council and in conjunction with the other requirements of this Section. **Awning proposed along Kiewa Street and Volt Lane and is acceptable.**

##### Notation

Dean Street is the only precinct where required building lines for awnings, verandahs and balconies are outlined in building line maps. Notwithstanding the above, Section 11.7.20 applies to similar structures elsewhere in the B3 Commercial Core and B4 Mixed Use Zones.

##### Footpath Clearance

- iv. Awnings, verandahs and balcony structures shall have a minimum clearance height of 3 metres measured from the finished footpath surface level. **Complies.**

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- v. Support columns are to be no more than 440mm in diameter. **Not applicable as no support columns proposed.**
- vi. Support columns shall be located a minimum of 600mm from the back of the existing kerb line. **Not applicable.**
- vii. The overhead structure should match adjoining structures in height (at floor level if a balcony) or otherwise match the average height of the awning, verandah, roof of the nearest like structure on either side of the proposed structure. **Complies.**  
**The awning height is similar to the awning height of the adjacent buildings.**
- viii. Support columns must not obstruct Dean Street pedestrian crossings or laneway access. **Not applicable.**

Balcony Enclosure - **Not applicable as no balconies are proposed.**

Signage – **Not applicable as no signage is proposed.**

### Design

- ix. Awnings, verandahs and balconies must be architecturally complementary to the buildings to which they are attached. Design elements should complement period architecture. **Complies.**
- x. Columns, balustrades and roof designs should be in character with the building. Where necessary, historical photographs or drawings will be used for reference purposes. **Awning is simple design. The awning is proposed at different heights providing interest and articulation along the building façade.**

### Use of Council Land

- xi. The use of any balcony under this DCP is limited to "outdoor" dining, bar seating, commercial activities or the like. The balcony area however is not to be used for entertainment (i.e. locating bands or performers) and storage purposes. **Not applicable as no balcony is proposed.**
- xii. Music or other noise from within the premises must not be intentionally or unduly emitted to the street from the balcony area. **Not applicable as no balcony proposed.**
- xiii. The use of Council Land for commercial activities will require separate approval under Council's Street and Outdoor Activities Policy and an annual rental fee will be indexed in accordance with the AlburyCity Council Annual Fees and Charges Booklet. **Noted. No on street activities proposed as part of the application.**

### Annual Licence

- xiv. The applicant will be required to take out an annual licence with Council under the Roads Act, 1993 for any structure that encroaches over Council's Land. The rental fee will be indexed on an annual basis in accordance with Council's Licence Agreement – Encroaching Structures. Public Liability Insurance. **Noted and included as a condition on the Draft Determination.**
- xv. Applicants will be required to hold \$20 million public liability insurance for any balcony or structure that encroaches on Council's Land and must provide a copy of the Certificate of Currency prior to an annual licence being granted by Council. **Included as a condition on Draft Determination.**

**LAVINGTON 11.7.21 – 11.7.35** – Not applicable.

**11.8 DEVELOPMENT IN THE B5 BUSINESS DEVELOPMENT ZONE** – Not applicable.

**11.9 DEVELOPMENT IN THE B6 ENTERPRISE CORRIDOR ZONE** – Not applicable.

**11.10 DEVELOPMENT IN THE B7 BUSINESS PARK ZONE** – Not applicable.

**Part 16: Advertising Signage** – Not applicable as no advertising signage proposed as part of the application.

**Part 17: Off-street car parking**

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### 17.2 Parking provision by land use

The car parking rate set out in Table 17.1 for a Retail land use 1 per 40sqm GFA.

The SEE states the carparking requirement is based on 998sqm. It is noted this calculation does not include toilet facilities or the bin storage area (not within a basement) which is not specifically excluded in the GFA definition. If this was to be included the GFA would be 1049sqm equating to 27 car parks (rounded up from 26.23 spaces).

As the bin storage area and toilets will not generate any addition patrons/staff, it is considered that these areas can be removed from the calculation in this instance. Therefore, the car parking rate is based on 998sqm of retail space, equating to 25 car spaces (rounded up from 24.95) is considered acceptable.

The applicant has stated they intend to provide a financial contribution in lieu of onsite parking as discussed under 17.3.6 below.

**17.3.1 Car Parking Design** – Not applicable as no carpark proposed.

**17.3.2 Disabled Persons Parking** - Not applicable as no parking is provided on site. Accessible parking is provided in Council carparks located in the vicinity of the development.

### 17.3.3 Bicycle Racks and Motorcycle Parking Spaces

#### Objective

1. To allocate adequate bicycle and motorcycle standing areas.

#### Controls

i. Car parks with 30 or more spaces are to provide 1 bicycle rack space for each 10 spaces. **Not applicable as less than 30 spaces are required by the development.**

ii. Car parks with 30 or more spaces are to provide 1 motorcycle space per 30 car parks or part thereof.

**Not applicable as less than 30 spaces are required by the development.**

### 17.3.4 Off Street Loading Facilities

Given the proposed use and location of the development, no off-street loading is proposed. The loading and unloading will occur similarly to other retail sites within the CBD where designated on-street loading areas will be utilised and may include the laneway to the rear in AMP Lane, (North of Volt lane) which is currently open to vehicular traffic from 6:00pm to 10:00 am.

The SEE states the following in relation to loading and unloading:

*'Loading and unloading for the development will utilise nearby on-street CBD loading zones, replicating the existing standard practices of many adjoining/neighbouring retail & commercial tenancies. A 15m length kerbside loading zone is located along Kiewa Street, may be used for deliveries and loading for the proposed development (as nominated in Council's preliminary assessment of the site's previous DA refer attachment A), however other loading zones within the CBD core are also available for use.'*

It is noted that Council's Traffic Engineers did not object to the proposal.

### 17.3.5 Pedestrian Movements

Not applicable as the control relates to pedestrian movements within the car park area and no carparking is proposed. Safe pedestrian access is available via existing street network and pedestrian easement.

### 17.3.6 Contributions in Lieu of Physical Provision of Car Parking

#### Objective

1. To permit the payment of monetary contributions in the Albury and Lavington CBD areas for car parking spaces not provided on a development site.



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### Controls

i. In cases of development where, off street car parking does not meet the requirements of this DCP (shortfall), or where in the opinion of the Council, the provision of off-street parking is not physically possible, and where the Council has established or proposes to establish car parking facilities in the vicinity, the Council will give consideration to the acceptance of a cash contribution in satisfaction of part, or all, of the requirements under this DCP. Where the Council agrees to accept a cash contribution under these circumstances, the amount of such contribution shall be as set by the Council in its Developer Contributions Plans.

**Planning Comment:** The applicant is proposing a financial contribution to Council using the statutory Planning Agreement process under section 7.4 of the EP&A Act in lieu of providing any onsite carparking.

### Offer of VPA

The applicant has noted in the SEE submitted that they intend to enter into a Planning Agreement for the shortfall in car parking. The SEE states the following:

*The proposal generates 25 space requirement based on the Car Parking provisions by Land Use table, which are all proposed to be provided through existing or proposed public car parking through a financial contribution to Council using the statutory Planning Agreement process under section 7.4 of the EP&A Act. This financial contribution will be made prior to the issue of the occupation certificate for the development.*

The condition requiring a Draft Planning Agreement is proposed to require the Developer to financially contribute to Council the sum of \$375,000, in recognition of a shortfall in the provision of 25 on-site car parking spaces (\$15,000 per space). The contribution is considered necessary to offset the impacts that a development of this size and intensity will have on the surrounding area. It is the intention of Council to utilise the contribution to provide additional public parking/upgrades to existing parking in the area.

Planning Agreement = **\$375,000.00**

### **Section 4.15(1)(a)(iiia) – Any Planning Agreement**

The adopted *Albury Infrastructure Contributions Plan 2014* does not provide for contributions toward car parking shortfalls as part of development proposed within Albury. Consequently, in the event that car parking fails to meet Council's required standards under Part 17 of the *Albury DCP 2010*, and Council is not prepared to accept that shortfall without some form of payment or provision, an applicant must seek Council's agreement to enter into a Planning Agreement either prior to lodging the development application or via a condition of consent.

Council adopted the *Albury Planning Agreements Policy* on 30 January 2012 to enable the use of such agreements under the provisions of Section 7.4 of the EP&A Act 1979. As outlined in Section 2.5 of the *AlburyCity Council Policy on Planning Agreements*, Council may consider negotiating a Planning Agreement with a developer to:

- a. Meet the demands created by the development for new public infrastructure, amenities and services,
- b. Compensate for the loss of, or damage to, a public amenity, service, resource or asset caused by the development through its replacement, substitution, repair or regeneration,
- c. Address a deficiency in the existing provision of public facilities in the Council's area,
- d. Achieve recurrent funding in respect of public facilities,
- e. Prescribe inclusions in the development that meet specific planning objectives of the Council,
- f. Monitor the planning impacts of development, or
- g. Securing planning benefits for the wider community so that the development delivers a net community benefit.

The applicant has sought to enter into a Planning Agreement with Council to make a contribution toward the provision of car parking in the CBD, in lieu of providing the car parking on-site.

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A condition is proposed to require the preparation of a Planning Agreement by Council's legal representatives in accordance with the template adopted by Council for such agreements. The Draft Planning Agreement will be required to be reviewed and will also require notification to ensure the Agreement satisfies the requirements of Section 7.4 of the *EP&A Act 1979*. The preparation and execution of the Planning Agreement will be required to be undertaken prior to the issue of a Construction Certificate.

Council has considered Planning Agreements for car parking in relation to previous Development Applications, where the Council adopted contribution per parking space has consistently been \$15,000. This contribution was to be directed toward the cost of future multi deck car parks at a number of locations around the CBD. This rate per space is proposed condition on the draft Determination. Council staff consider this rate appropriate and relevant for the proposed development.

The condition to require a Planning Agreement is consistent with the strategic objectives of *AlburyCity Council Policy on Planning Agreements*.

Should Council resolve to issue the consent with the Planning Agreement condition as recommended, the Draft Agreement will be required to be submitted to Council and notified with the to the public enable the community to be informed of the proposed contribution toward parking owing to a shortfall of parking provided as part of the development.

The assessment of the application throughout the report has been undertaken objectively, with the principles of Part 2.2 of the *AlburyCity Council Policy on Planning Agreements* requiring that the decision to enter into a Draft Planning Agreement should not influence the planning assessment and consideration of the application under the relevant planning instruments.

The Planning Agreement becomes a legally binding Agreement and must be actioned by the applicant to enable them to undertake the development as proposed. The Planning Agreement will require the payment of the contribution prior to the release of the Occupancy Certificate for the proposed development. This is consistent with the timing recommendation (as requested by the applicant) for payment of Section 7.12 and Section 64 contributions for this application. The Draft Planning Agreement is required to specifically reference the subject site and the proposed development and is related only to this development which will be required to be outlined in the Draft Planning Agreement.

It is considered that the development is located in an area which would benefit from any public car park provided by Council as part of its Capital Works Program. It is located within the CBD of Albury and a nexus between the site and proposed public car parks in the CBD can be established. Public car parking is available to the east of the site (Volt lane public car park).

By proposing to enter into the Planning Agreement process as part of the Development application, Council considered whether the contribution would assist in offsetting the impacts of the shortfall of parking on this site and considered that it would be appropriate to include a condition requiring the preparation of a Draft Planning Agreement. Final acceptance of the Planning Agreement is required by Council to enable this legal agreement to be effective and for the Development Consent to be complied with. An appropriate recommendation to adopt the condition requiring the preparation of a Draft Planning Agreement with the agreement being executed prior to the issue of a Construction Certificate is included in the draft determination.

**Part 18: Albury Airport** – The site is not located within the take-off or approach Obstacle Limitation Surface area, is not located within an ANEF area, within a lighting restriction or crane notification area. The building is proposed to be single storey and no impact is envisaged as a result of the application.

**Part 19: Urban Release Areas** – Not applicable as the site is not located within an Urban Release Area.

### Section 4.15(1)(a)(iia) – Any Planning Agreement

No planning agreement relates to the site or to the proposed development.

### Section 4.15(1)(a)(iv) – The Regulations

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There are no matters prescribed by the Regulations applicable to this development.

### Section 4.15(1)(b) – Any likely impacts of that development

	Satisfactory	Not Satisfactory	Not Relevant	Comment
Context & Setting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The building is adjacent is located within the CDB of Albury and is
Streetscape	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The building presents to Kiewa Street, Volt Lane and AMP lane having frontages/glazing on all three sides. Awnings are proposed and will provide public amenity for pedestrians along Kiewa Street and Vole Lane.
Traffic, access and parking	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No carparking is proposed as part of the application. A payment contribution in lieu of parking is proposed. The existing crossover will be required to be removed, with kerb and channel. Pedestrian access to the building will be via Volt Lane (pedestrian easement) and Kiewa Street and is considered acceptable.
Public Domain	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposal includes an awning encroaching over Kiewa Street. A licence agreement in accordance with Council's <i>Encroachment on Council Land Policy 2016</i> will be required.
Utilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All utilities are existing in the area and can be connected to the site.
Heritage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The site is not identified as a Heritage Item or within a Heritage Conservation Area. The site is located adjacent to the Dean Street Conservation Area. No significant impact envisaged as a result of the proposal.
Other land Resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No other land resources identified.
Water Quality & Stormwater	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standard conditions imposed on draft determination.
Soils, soil erosion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standard conditions imposed.
Air and microclimate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impact on air or microclimate as a result of the application.
Flora and Fauna Trees	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact as the site is currently a carpark and does not contain any flora and fauna.
Waste	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standard conditions recommended for construction waste. A waste storage area is proposed as part of the application in the north-east corner of the building and can be accessed via Volt Lane. The waste area contains an airlock space to reduce odour impacts on the streetscape. The waste area shows stacked rubbish bins, with access to the rear bins not available unless bins were pulled out on the street and re-configured. A condition of consent is recommended requiring an operational waste management plan to demonstrate how waste management will occur on site.
Energy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant impact on Energy.
Noise & vibration	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standard construction conditions imposed.
Hours of operation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The applicant has not specified operational hours stating 'Tenant will lodge individual DA for operating hours'.

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				In accordance with Part 2, Division 1, Subdivision 23 of SEPP (Exempt and Complying Development Code) 2008, allowable hours of operation of a premises in the B3 Zone are from 6am to 10pm. Conditions of consent will reflect these allowable times.
Natural hazards - Flooding - Bushfire Prone Area Map	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The site is not in an identified area of flooding or identified on the bushfire prone area map.
Technological Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No technological hazards identified.
Safety, security and crime prevention	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The SEE states the following: <i>'The development will employ security measures such as cameras and electronic systems. The site will also incorporate lighting during non-operational hours to deter potential crime related activities.'</i> NSW police have included conditions regarding security cameras. Conditions of consent will also ensure security lighting is installed.
Social impact in locality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The additional retail tenancies will contribute positively to the Social impact of the CBD by providing activation of an existing site (previously used as a carpark and currently vacant). The proposal will also provide an awning along Kiewa Street which will provide undercover access in a main pedestrian thoroughfare within Albury CBD.
Economic Impact in Locality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The application will create short term construction employment and ongoing employment in the retail sector.
Site design and internal design	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Satisfactory as per the assessment in accordance with ADCP, 2010.  The design will have an impact on the adjacent Council owned parcel of land to the East of the site which is vacant due to fire safety separation requirements and windows being proposed along the common boundary. Council has provided adjacent land owners consent in relation to lodging the application and are aware of the potential restriction relating to future development of the site is likely to ensure compliance with the Building Code.  The site adjoins a privately owned allotment (Lot 1 DP1070397) to the north of the site. This allotment is currently within the same ownership as the subject land and contains an easement for services, a 6.095m wide footway and a three metre (3m) wide Country Energy Easement for the purposes of underground powerlines. As the Application proposes an awning over the adjacent land and access to the tenancies from the adjacent land, including access to the rubbish storage room, a recommended condition on the Draft Determination is proposed to address access. The recommended condition requires either: <ul style="list-style-type: none"><li>• consolidation of the allotments; or</li><li>• a restriction/instrument on Lot 1 DP1070397 in favour of Lot 1 DP1113160 which allows for access over the land to the building, construction/maintenance of the awning, deliveries, rubbish collection and any other relevant item, providing it can be demonstrated to satisfactorily address the matters.</li></ul>
Overlooking - overshadowing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact.
Landscaping	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No landscaping required.
Construction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standard construction conditions imposed.
Private open space	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable.

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Cumulative Impacts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No negative cumulative impacts envisaged.
Disabled access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	All tenancies will be accessible and contain accessible toilet facilities.
Signage	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No signage proposed as part of the development.
Setbacks, Building Envelopes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Complies.

### Section 4.15(1)(c) – The suitability of the site for the development

The subject land is considered suitable for the proposed development having regard to the site attributes and generally being in accordance with Council's policies.

### Section 4.15(1)(d) – Any submissions made in accordance with the Act or the Regulations:

No submissions have been received to date.

### Section 4.15(1)(e) – The public interest

The public interest is a broad consideration relating to many issues and is not limited to the demand upon public services and infrastructure. Taking into account the full range of matters for consideration under Section 4.15C of the Environmental Planning and Assessment 1979 (as discussed within this report) it is considered that approval of the application is consistent with the public interest.

### Section 4.15(2) and (3) - Non-discretionary development standards

Not applicable.

### Section 4.15(3A) - Development Control Plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- may consider those provisions only in connection with the assessment of that development application.

### Comments:

Proposed variations to ADCP are as follows:

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- Part 4 Developer Contributions Plan - Variation to the timing of the payment of contributions (prior to Occupancy Certificate rather than prior to Construction Certificate).
- Part 17.2 Parking provisions by land use - Variation to the number of carparks listed in Table 17.2 required as a result of the development.
- Part 17.3.4 Off Street Loading Facilities – Variation as no off-street loading provided.

The proposed variations are considered acceptable as discussed in the body of the report.

### Further Information Received on: various dates

**2/11/2022:** Revised SEE, Site Plan, Floor Plan and Elevations removing first floor of the development and altering ground floor layout.

**12/12/2022:** Revised cost summary report.

### Referrals

#### Internal

**Building Surveyor:** Conditions recommended. Noting site adjoins AlburyCity Council allotment to East which is currently a developable lot and windows proposed would not meet fire separation requirements of Building Code. Owners Consent by AlburyCity provided consenting to the application which would result in a restriction in being able to develop the allotment and ensure fire separation requirements can be met.

**Plumbing Inspector:** Conditions recommended.

**Engineer:** Conditions recommended.

**Environment Health Officer:** Conditions recommended. Verbally confirmed acoustic report, food preparation conditions not required due to childcare centre removed.

**Traffic Engineer:** No parking to be re-instated on Kiewa Street. Plans to be marked accordingly.

**Contribution Planner:** Conditions recommended.

**Water/waste water:** Conditions recommended.

**Resource recovery:** Comments/Conditions.

#### External

**NSW Police:** Conditions provided, conditions related to childcare component of the building have been removed.

**Essential Energy:** Conditions

### Land and Environment Court Planning Principles

None applicable

(Reference: [www.lawlink.nsw.gov.au/lawlink/lec/ll\\_lec.nsf/pages/LEC\\_planningprinciples](http://www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/pages/LEC_planningprinciples))

### Conclusion

# Development Application

## Assessment Report

This assessment was undertaken in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 and has determined that the development is appropriate on this site.

### Recommendation

- Approval with conditions as stated in the DA consent

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