

Relevant Council Reports

Council Meeting AGENDA



Members Crs P Gould (Chairperson), R Angus, D Betteridge, A Duncan-Strelec, A Glachan, N Hull, P Sawyer, H van de Ven and P Wareham

Staff General Manager

Guests

Please be advised that the next Meeting of Council will be held in the **Council Chambers**, AlburyCity Administration Building, Kiewa Street, Albury, on **Monday, 27 April 2009**, at **6.00pm**.

CM 1 – OPENING PRAYER	
CM 2 – CONFLICT OF INTEREST DECLARATIONS RECEIVED BY THE CHAIR AND DISCLOSURE OF POLITICAL DONATIONS	
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2B Disclosure of Political Donations	
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Note: A light meal will be served at 5.15pm, at 'Charlies on Kiewa', for Councillors and staff required to attend the meeting.

Les Tomich
General Manager

23 April 2009

6C Kambora Court Reserve, Lavington (PF 16708)

Cr Duncan-Strelec Moved, Cr Gould Seconded

That the Committee recommends to Council that:

- a. Council agrees in principle to the sale of the Community Reserve at Lot 7 Kambora Court to the Mercy Centre for the purpose of expanding their existing facilities, and the Sisters of Mercy provide an area of publicly accessible open space within this development;
- b. discussions with the Mercy Centre for the sale of this land at current valuation of \$120,000 commence;
- c. the processes required to assess the feasibility of the proposed expansion and to reclassify the Reserve from “Community Land” to “Operational” commence; and
- d. the community open space be developed, maintained and provided by the Sisters of Mercy at no cost to Council.

CARRIED

PLANNING & DEVELOPMENT COMMITTEE REPORT

KAMBORA COURT RESERVE, LAVINGTON

16708

DATE 26 March, 2009

CONFIDENTIAL YES ☐ NO ☒ If yes please tick one of the following reasons
Personnel Matters ☐ Commercial ☐ Legal ☐ Security ☐ Personal Hardship ☐

MEETING DATE 13 April, 2009

FURTHER ENQUIRIES TO Michael Keys
Director, Planning and Economic
Development

PHONE 8289

Background

The Mercy Centre Lavington, which is operated by the Sisters of Mercy Goulburn, is an accommodation support service to people with intellectual disability. The Centre's administration offices are located at 12 Kambora Court, Lavington (Lots 5 & 6, DP 264529), a medium density residential neighbourhood. The Sisters of Mercy also own 11 Kambora Court (Lot 8, DP 264529), an undeveloped site. These two properties are separated by a parcel of Council owned "Community Land" (Lot 7 DP 264529). Council's site currently has no improvements and is not actively utilised by local residents. It is zoned "Living Area" under the Albury LEP 2000.

In January 2002 and again in July 2007, the Mercy Centre approached Council regarding the possible purchase of Lot 7 or exchange of land parcels with Council to enable the Centre to expand and accommodate an increase in staff numbers. At the time, Council advised that in appropriate circumstances it was possible to reclassify "Community Land" to "Operational" and that the feasibility of the proposed expansion would need to be determined. Advice was given on potential planning considerations that would need to be addressed before the proposal to expand a non-residential use in the residential cul-de-sac could be considered an appropriate use. No further action was pursued on either occasion.

In October 2008, the Mercy Centre again approached Council to gauge the potential of a "land swap" of the two adjacent properties to enable the most practical and financially viable expansion of their Centre. This exchange of land would be accompanied by a monetary payment to ensure an equal value exchange. In addition, the Sisters of Mercy have proposed that they will develop and maintain an area of open space incorporating a gazebo and seating.

In December 2008, the Planning and Development Committee considered a report on this proposal and it was resolved to obtain a valuation for Lot 7, the "Community Land" and to seek feedback from adjacent landholders.

An independent valuation of this land has since been prepared for Council: The Community Reserve (Lot 7), covering an area of 1188m², was valued in February 2009 at \$120,000.

Correspondence was sent to land owners in Kambora Court and of adjoining properties to the rear of the "Community Land" which sought feedback on the proposal to incorporate the "Community Land"

into a development by the Mercy Centre which would include an area of enhanced open space (Appendix 5). No responses were received.

Issues

Sisters of Mercy Operations

The Mercy Centre is currently unable to adequately house its expanding staff numbers in the current Kambora Court administration centre. The Sisters of Mercy have raised concerns that a possible expansion of the centre on 11 Kambora Court, which they also own, is not the most practical solution. The proposal to purchase Lot 7 provides the Mercy Centre with the opportunity to consolidate both management and training programmes in the one location.

The current operation in Kambora Court has minimal impact on the neighbourhood.

Appropriate Use

The Local Government Act 1993 states that "A Council has no power to sell, exchange or otherwise dispose of Community Land". However, in appropriate circumstances determined by the Act, Council may pass a resolution to reclassify land from "Community" to "Operational". This land may then be disposed of if appropriate.

There are planning considerations to be assessed prior to permitting the expansion of a non-residential use in a cul-de-sac in a residential area. These considerations are contained in Section 12 of Chapter C in the Albury DCP 2000 (Refer Appendix 2).

The assessment would take into account that the proposed design for the new development is of a residential style and is not intrusive, that the Centre is located in a cul-de-sac which is dominated by strata title units and that there are several imposing three storey units to the rear of the current building.

Whilst vehicular movements will increase with an expansion of the Mercy Centre, the density of the neighbourhood is higher than that of a typical residential development. It is anticipated that the impact of increased traffic movement in Kambora Court will be minimal.

Process of Reclassifying Community Land

A decision to sell or exchange Council owned "Community Land" for development by the Mercy Centre will involve its reclassification to "Operational" under the Albury LEP 2000. This process could take up to 12 months to complete.

Loss of Community Land

The Community Reserve of 1186m² has neither facilities nor trees and landscaping and does not appear to be actively used by residents. The reserve can only be accessed via Kambora Court and does not connect directly to neighbourhoods to the north, east and south.

A loss of community space would be offset by the benefits to the community of replacing an unimproved grassed lot with an enhanced community facility. These enhanced facilities would be built and maintained by the Sisters of Mercy, reducing the cost to Council of maintaining this small, isolated

open space. As part of the formal assessment process, the local residents and landowners would have the opportunity to review and comment on the proposed Mercy Centre development.

Options

If the outcome from a formal assessment into the suitability of the proposed use for the Community Reserve is positive, the options arising from the Mercy Centre proposal are:

1. Sell the existing "Community Land" to the Sisters of Mercy at the current market valuation, of \$120,000, conditional upon an area of open space being incorporated into the Mercy Centre development, or
2. Exchange Lots 7 and 8, conditional upon the Mercy Centre developing and maintaining an identified community facility, together with a financial exchange of \$30,000 to equalise land values, or
3. Decline the proposal by the Mercy Centre.

Conclusions

The proposal by the Mercy Centre provides a practical solution to constraints to their physical expansion. As a charitable organisation which is serving a vital role within our community, it is incumbent upon Council to endeavour to assist the Mercy Centre to overcome these constraints where possible.

The passive function of the centre, its complimentary design with the neighbouring residences and the dominating three storey units to the rear of the Centre are considerations which will be taken into account when assessing the appropriateness of this use on reclassified "Community Land".

Maintaining the reserve within Kambora Court is not critical, there being neither existing built infrastructure nor linkages to other public open space or walkways. The exchange of land with the Mercy Centre is not an imperative and consideration should be given the sale of this land.

The opportunity to sell Lot 7 to the Mercy Centre provides Council with the ability to assist the Mercy Centre in its role of serving the community, whilst also improving the visual amenity of Kambora Court and providing a small, improved area of open space. This can be delivered at no cost and with no ongoing maintenance costs to ratepayers. Income from the sale of this land can be directed towards enhancing existing community facilities in the local area which are currently well utilised by residents.

Recommendation

That the Committee recommends to Council that:

- a. Council agrees in principle to the sale of the Community Reserve at Lot 7 Kambora Court to the Mercy Centre for the purpose of expanding their existing facilities and providing an area of publicly accessible open space within this development; and
- b. discussions with the Mercy Centre for the sale of this land at current valuation of \$120,000 commence; and
- c. the processes required to assess the feasibility of the proposed expansion and to reclassify the Reserve from "Community Land" to "Operational" commence.

• **Attachments**

1. Photos, Kambora Court
2. Extract from Albury DCP 2000
3. DP 264529, showing Lots 5,6,7 & 8 Kambora Court
4. Aerial view of Kambora Court.
5. Copt of letter issued to adjacent landholders

Attachment 1



Community Reserve, Kambora Court



L to R: 12 Kambora Court (Mercy Centre), Community Reserve, 11 Kambora Court (with carparking)



Mercy Centre, Kambora Court



View to north from Community Reserve, Kambora Courtr

Attachment 2

Excerpt from Albury Development Control Plan 2000

12 NON-RESIDENTIAL USES

Non-residential uses, in the Living Area context, can generally be classified as large or small scale development.

Large scale development includes clubs, schools, community halls or facilities, hospitals, motels, places of worship and child care centres, or any other use which is significantly different from the surrounding residential development by way of bulk, scale, design, traffic/noise generation, operational nature or the like.

Small scale development includes mixed businesses, home businesses, health consulting rooms and the like whose scale of operation and built form is similar to the surrounding residential area.

Non-residential uses will be assessed according to the zone objectives and matters for consideration at the beginning of this Chapter, and the following controls.

12.1 Setbacks and Siting

Small scale developments are to match the setbacks of surrounding residential development. Where a development will appear as being excessively bulky or dominating, the setbacks are to be as per large scale developments.

Large scale developments are to be set back to adjoining residences a distance which is 1.5 times the height of that development's external building wall. This is the minimum setback.

The building setback on large scale developments should be significantly increased around activity areas which are likely to generate noise – for example, main entrance doors, food preparation and delivery areas, auditorium or like rooms.

The building should be sited and designed to face activity/noise generating areas away from adjoining residences.

All non-residential developments should protect the visual and acoustic privacy, solar access, visual amenity and residential character/design of surrounding homes.

Apart from home businesses **non-residential uses will not be permitted within courts (cul-de-sacs)** due to the limited off-street parking available and the likelihood of decreased amenity to residents.

12.2 Vehicle Parking

Car parking and service vehicle parking is to be provided as per the requirements of Chapter K of the DCP.

Large scale developments are likely to require more parking than outlined in Chapter K if the expected maximum number of occupants of a building – compared to their method of transport to the premises, is more than the Chapter K requirements.

12.3 Landscaping

Landscaping should be utilised generously to visually screen the activity areas and expansive building walls of non-residential developments.

Attachment 2

Excerpt from Albury Development Control Plan 2000

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The building should be sited and designed to face activity/noise generating areas away from adjoining residences.

All non-residential developments should protect the visual and acoustic privacy, solar access, visual amenity and residential character/design of surrounding homes.

Apart from home businesses **non-residential uses will not be permitted within courts (cul-de-sacs)** due to the limited off-street parking available and the likelihood of decreased amenity to residents.

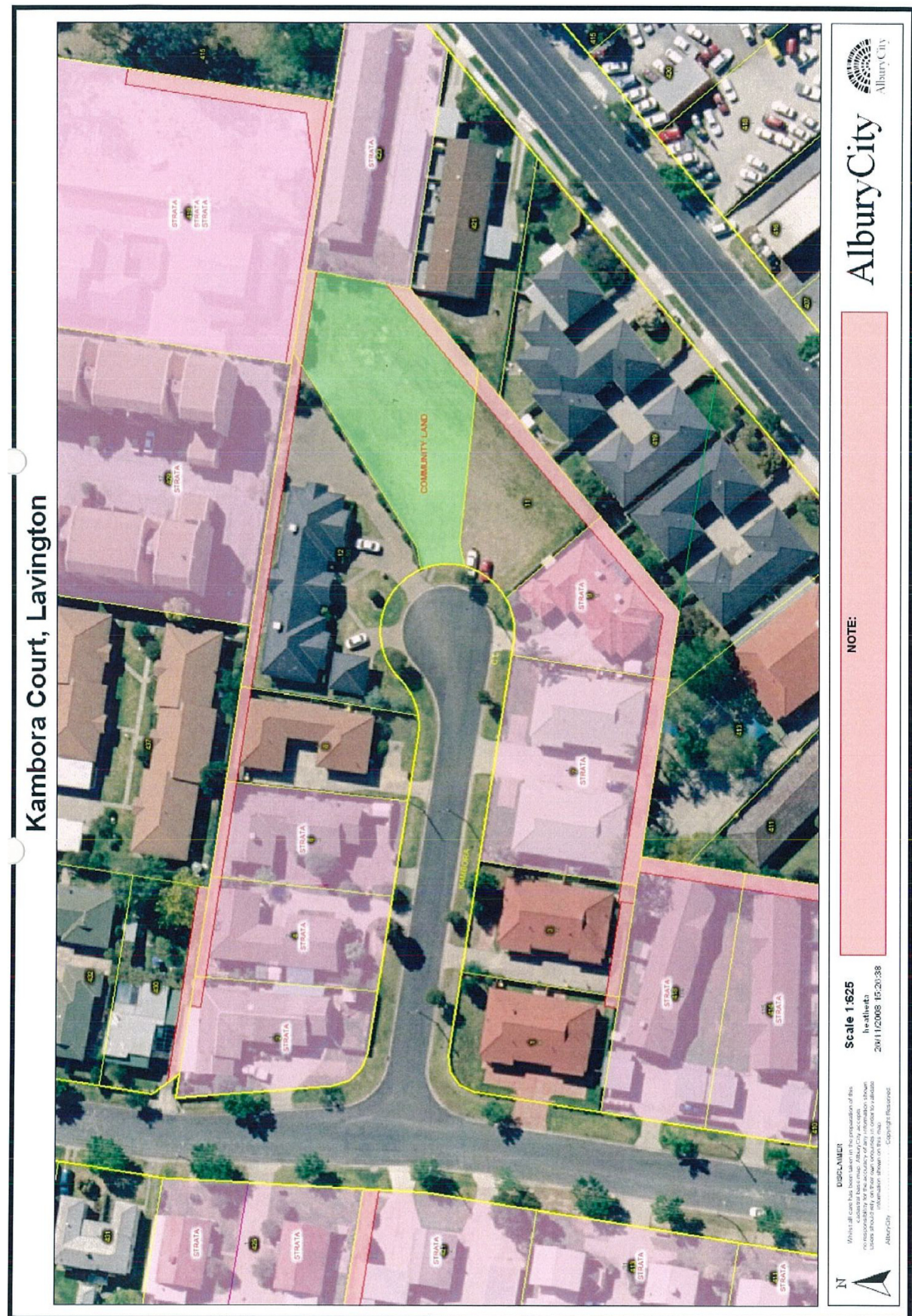
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Landscaping should be utilised generously to visually screen the activity areas and expansive building walls of non-residential developments.



AlburyCity

AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

Reference: 16708
Contact: H Taylor

10 February 2009

C & N Carnegie
1b Carlisle Crescent
WODONGA VIC 3690

Dear Sir/Madam

Kambora Court Reserve, Lavington

Council has been approached by the Mercy Centre regarding a proposed expansion of their Accommodation Support Service at 12 Kambora Court, Lavington. This expansion is constrained by a parcel of Community Land which separates the Administration Centre from a vacant lot at 11 Kambora Court, also owned by the Mercy Centre.

As a practical solution, the Mercy Centre seeks to incorporate this Community Land into their development which will include an area of enhanced open space within Kambora Court for community use.

Prior to proceeding further, we seek your feedback as a landowner in the neighbourhood regarding this possible change of use of Community Land. We would also welcome any suggestions you may have for the open space which could be developed by the Mercy Centre.

Your comments should be received by Friday, February 27th and should be addressed to

Mr Michael Keys
Director, Planning & Economic Development
AlburyCity
PO Box 553
ALBURY NSW 2640

I have attached a plan of Kambora Court which identifies the parcels of land in question. Should you have any queries, please feel welcome to call Heather Taylor on 6023 8268

Yours faithfully

Michael Keys
Director, Planning & Economic Development

PLANNING & DEVELOPMENT COMMITTEE REPORT

KAMBORA COURT RESERVE, LAVINGTON 16708

DATE 1 December, 2008

CONFIDENTIAL YES ☐ NO ☒ If yes please tick one of the following reasons
Personnel Matters ☐ Commercial ☐ Legal ☐ Security ☐ Personal Hardship ☐

MEETING DATE 8 December, 2008

FURTHER ENQUIRIES TO David Christy **PHONE** 8290
Acting Director, Planning and Economic
Development

Background

The Mercy Centre Lavington, which is operated by the Sisters of Mercy Goulburn, is an accommodation support service to people with intellectual disability. The Centre's administration offices are located at 12 Kambora Court, Lavington, a typical residential neighbourhood. The Sisters of Mercy also own 11 Kambora Court, an undeveloped site. These two properties are separated by a parcel of Council owned "Community Land". Council's site currently has no improvements and is not actively utilised by local residents. It is zoned "Living Area" under the Albury LEP 2000.

In January 2002, the Mercy Centre approached Council regarding the possible exchange of land parcels with Council to enable the Centre to expand and accommodate an increase in staff numbers. At the time, Council advised that in appropriate circumstances it was possible to reclassify "Community Land" to "Operational" and that the feasibility of the proposed expansion would need to be determined. Advice was given on potential planning considerations that would need to be addressed before the proposal to expand a non-residential use in the residential cul-de-sac could be considered an appropriate use. No further action was taken at the time.

In July 2007, the Mercy Centre again approached Council to gauge the potential of a "land swap" of the two adjacent properties to enable the most practical and financially viable expansion of their Centre. This exchange of land would be accompanied by a monetary payment to ensure an equal value exchange. In addition, the Sisters of Mercy have proposed that they will develop and maintain a park on the Community Reserve, incorporating a gazebo and seating.

The Land Parcels - DP264529-01

- 12 Kambora Court (Lots 5 & 6)
An area of 1372m², with a building of nine offices, 2 consulting areas and conference facilities. There are nine carparks provided on site, including two visitor carparks.
- 11 Kambora Court (Lot 8)
An area of 601m², this site was purchased by the Sisters of Mercy in 2002 for \$66.50/m², a total of \$40,000.

- **Community Reserve (Lot 7)**

The reserve covers an area of 1188m². This site has no improvements. The 2007 Valuer General valuation for this land was \$66.50/m², a total of \$79,068. At current land values, it is estimated that the land is worth approximately \$100,000.

Official land valuations for these sites have not yet been ascertained.

Issues

Sisters of Mercy Operations

The Mercy Centre is currently unable to adequately house its expanding staff numbers in the current Kambora Court administration centre. The Sisters of Mercy have raised concerns that a possible expansion of the centre on 11 Kambora Court, which they also own, is not the most practical solution. The proposal to exchange parcels of land with Council provides the Mercy Centre with the opportunity to consolidate both management and training programmes in the one location.

The current operations in Kambora Court have minimal impact on the neighbourhood.

Appropriate Use

The Local Government Act 1993 states that "A Council has no power to sell, exchange or otherwise dispose of Community Land". However, in appropriate circumstances determined by the Act, Council may pass a resolution to reclassify land from "Community" to "Operational" which may then be disposed of if appropriate.

There are planning considerations to be assessed prior to permitting the expansion of a non-residential use in a cul-de-sac in a residential area. These considerations are contained in Section 12 of Chapter C in the Albury DCP 2000 (Refer Appendix 2).

Such assessment would take into account that the proposed design for the new development is of a residential style and is not intrusive, that the Centre is located in a cul-de-sac, which is dominated by strata title units and there are several imposing three storey units to the rear of the current building.

Whilst vehicular movements will increase with an expansion of the Mercy Centre, the neighbourhood is dominated by a higher density than a typical residential development. Traffic studies may show that current local traffic flows are higher than residential neighbourhoods of a lower density and the impact of increased traffic movement in Kambora Court will be minimal.

The impact of an expanded Centre on the neighbourhood and the appropriateness of its use on reclassified "Community Land" will require formal assessment.

Process of Reclassifying Community Land

If it proceeds, this land exchange will involve the reclassification of Council owned "Community Land" to "Operational" under the Albury LEP 2000. This is a lengthy process and could take up to 12 months to complete.

Reduction of Community Land

If a direct exchange of land parcels were to proceed, the Community Reserve would be reduced by 587m², representing a 49.5% loss of community space. However, the reserve has neither facilities nor trees and landscaping and does not appear to be actively used or required by residents. The reserve can only be accessed via Kambora Court and does not connect directly to neighbourhoods to the north, east and south.

This reduction of community space would be offset by the benefits to the community of replacing an unimproved grassed lot with an enhanced community facility. Local residents and landowners should be consulted in order to ascertain their vision for the community reserve, ensuring it has relevance to the neighbourhood and promoting a sense of community ownership. This proposal presents an opportunity for a local identity to lead the way in demonstrating local responsibility to its community.

These enhanced facilities would be built and maintained by the Sisters of Mercy, reducing the cost to Council of maintaining this small, isolated park.

Options

Dependent upon a positive outcome from a formal assessment into the suitability of the proposed use for the Community Reserve, the options arising from the Mercy Centre proposal are:

1. Decline the proposal by the Mercy Centre Lavington.
2. Make a direct swap of Lots 7 and 8, conditional upon the Mercy Centre developing and maintaining an identified community facility, together with a financial exchange to equalise land values.
3. Make a direct swap of Lots 7 and 8, conditional upon the Mercy Centre developing and maintaining an identified community facility, together with a financial exchange to equalise land values. Revenue from this financial exchange to be used to provide additional funds for the community facility.
4. Make a boundary adjustment between Lots 7 and 8 prior to an exchange of parcels. This will enable the Mercy Centre to effectively expand its facilities whilst also maintaining a Community Reserve of an equal scale to the existing reserve.
5. Sell the existing "Community Land" to the Sisters of Mercy at market valuation, estimated to be \$110,000.

Conclusions

The proposal by the Mercy Centre provides a practical solution to constraints to their physical expansion. As a charitable organisation which is serving a vital role within our community, it is incumbent upon Council to endeavour to assist the Mercy Centre to overcome these constraints where possible.

The passive function of the centre, its complimentary design with the neighbouring residences and the dominating three storey units to the rear of the Centre are considerations which will be taken into account when assessing the appropriateness of this use on reclassified "Community Land".

The location of the reserve within Kambora Court is not critical, there being neither existing built infrastructure nor linkages to other public open space or walkways.

The opportunity to exchange sites provides Council with the ability to replace an underutilised lot with a quality community open space which is of relevance to the neighbourhood. This can be delivered at no cost and with no ongoing maintenance costs to ratepayers.

The merits of the proposal by the Mercy Centre Lavington warrant further investigation and assessment of the options outlined in this report.

Recommendation

That the Committee recommends to Council that:

1. Council agrees in principal with the proposal.
2. The local community adjacent to Kambora Court is consulted with regarding the proposal and future community infrastructure in this location.
3. A market valuation is obtained for the land to determine fair value for Lot 7 Kambora Court, Lavington.

- **Attachments**

1. Photos, Kambora Court
2. Extract from Albury DCP 2000
3. DP 264529
4. Aerial view of Kambora Court.

AlburyCity

AMENDMENT TO ALBURY LOCAL ENVIRONMENTAL PLAN 2010

Letter – Mercy Centre Request for Purchase of Lot 7, DP 264529

30/06/2009 12:44 02602506246

MERCYCENTRELAVINGTON

PAGE 02/02



MERCY CENTRE, LAVINGTON LIMITED

ARN 45 075 648 378

10-12 Kambora Court
PO Box 440, Lavington NSW 2641
Phone: (02) 6025 3869
Fax: (02) 6025 0624

8 May 2009

Mr Michael Keys
Director, Planning & Economic Development
Albury City Council
PO Box 323
Albury NSW 2640

Dear Mr Keys

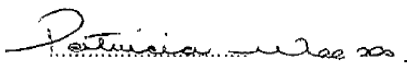
7 Kambora Court Reserve, Lavington

Mercy Centre Lavington Limited would like to advise Council of its intent to purchase the site at 7 Kambora Court Lavington from Albury City Council as per the Council's letter of offer dated 5 May 2009 for a purchase price of \$120,000 incl. GST (if applicable).

Mercy Centre Lavington Limited would like to thank Albury City Council for its consideration and offer of this land to assist us in continuing to provide quality services to the disability community within Albury.

Mercy Centre Lavington Limited also looks forward to working with Albury City Council on not only this facility's development but also other further dealings in the future.

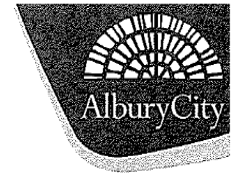
Yours Faithfully


Patricia Weekes RSM
Chief Executive Officer

Established in 1882 as Saint Johns Orphanage

Letter – AlburyCity Response to Request for Purchase

Reference: 16708
Contact: M Keys



5 May 2009

Sister Patricia Weeks
Chief Executive Officer
Mercy Centre, Lavington Ltd
PO Box 440
LAVINGTON NSW 2641

Dear Sister Weeks

Kambora Court Reserve, Lavington

Council has considered the Mercy Centre's need to extend its premises at 12 Kambora Court Lavington and the constraints faced by your organisation with the configuration of your current land ownership. In order to enable the Mercy Centre to expand in the most effective manner, Council is willing to sell Lot 7 Kambora Court, being the Council owned Community Reserve, to the Centre for the purpose of developing an administration centre.

Council offers this property for purchase at the current market valuation of \$120,000 incl. GST (if applicable). The purchase price is based on a recent independent valuation prepared for AlburyCity by Cosgraves. This offer is conditional upon the Mercy Centre building and maintaining an area of enhanced open space within the new development. These facilities are to be built and maintained at the cost of the Mercy Centre.

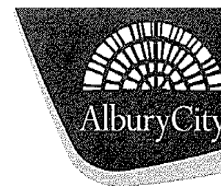
To enable the sale of Council owned "Community Land" it will be necessary for Council to make application to reclassify this land as "Operational" under the Albury LEP 2000. This process could take up to 12 months to complete.

This offer does not in itself give planning permission for the proposed development. There are planning considerations to be assessed prior to permitting the expansion of a non-residential use in a cul-de-sac in a residential area.

Upon receipt of correspondence confirming the Mercy Centre's intent to purchase this site from AlburyCity at the proposed price, we shall commence the process of land reclassification, determine if GST is applicable in this instance, and arrange for draft legal documentation to be prepared.

T 02 6023 8111
F 02 6023 8190
info@alburycity.nsw.gov.au
ABN 92 965 474 349

PO Box 323
553 Kiewa Street
Albury NSW 2640
www.alburycity.nsw.gov.au



We look forward to receiving your response and working with the Mercy Centre to facilitate the processes of developing your new facilities.

Yours faithfully


Michael Keys
Director, Planning & Economic Development
cc. Mr Terry Pearce

T 02 6023 8111
F 02 6023 8190
info@alburycity.nsw.gov.au
ABN 92 965 474 349

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