

**SOUTHERN REGION JOINT REGIONAL PLANNING PANEL - DEVELOPMENT APPLICATION
10.2013.32101.1 – ALBURY WODONGA REGIONAL INTEGRATED CANCER CENTRE, ALBURY BASE
HOSPITAL, 201 BORELLA ROAD, EAST ALBURY (AF13/00511)**

DATE 17 July 2013

FURTHER ENQUIRIES TO David Christy
Planning & Environment

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Introduction

Development Application No. 10.2013.32101.1 was received by Council on Thursday 21 February 2013. The proposed development is for construction of the Albury Wodonga Regional Integrated Cancer Centre. The development involves the following:

- Construction of the Albury Wodonga Regional Integrated Cancer Centre containing:
 - Additional 60 beds comprising 30 multi day beds and 30 day beds (resulting in a total of 241 beds on-site);
 - Additional 23 consulting rooms; and
 - Additional ancillary facilities such as pharmacy, coffee shop, education centre, and wellness centre.
- Additional 148 car parking spaces utilising existing access points in East Street and Keene Street (resulting in a total of 586 spaces on-site)

Copies of the plans, Planning Report and Traffic Report are included within this report and marked as *Attachments 1& 2* respectively.

The development application was publicly exhibited between Wednesday 27 March 2013 and Monday 29 April 2013. No submissions were received.

Following a detailed assessment and the public submission period, Council staff requested further information from the applicant in relation to compatibility with existing buildings, carpark design and earthworks. Additional information was received by Council on Friday 28 June 2013 and the additional plans that are incorporated in *Attachment 1*.

It should be noted that Council staff have been recently advised that the applicants wish for the Development Application to be identified as a Crown Application and therefore subject to the provisions of Division 4 of Part 4 (ss88-89B) of the *Environmental Planning and Assessment Act, 1979*. As a result, Albury Wodonga Health has the opportunity to object to any suggested conditions and request the NSW Minister for Planning to determine whether a condition should be imposed. Therefore the recommended conditions attached to this assessment report are for endorsement as Draft and sending to Albury Wodonga Health for their acceptance.

Site Description

The subject site is described as Lot 12 DP 1166792, otherwise known as 201 Borella Road, East Albury at the Albury Base Hospital.

The land contains existing buildings, a small number of mature trees and smaller garden type vegetation. The land is zoned SP2 Infrastructure in Albury Local Environmental Plan 2010. The site currently houses the Albury Base Hospital and associated uses.

Surrounding lands are zoned a mixture of R1 – General Residential, E2 - Environmental Conservation and B2 - Local Centre. The developed site contains the existing Albury Base hospital, related buildings and associated carparking (currently 437 spaces).

Water and sewerage infrastructure traverses the site(s) and services both the subject site and surrounding properties.

In regards to topography, the site slopes downward from south to north.

Council Plan and Council Policies

The following Council Policies are relevant to the application:

- *Albury Local Environmental Plan 2010 (ALEP 2010),*
- *Albury Development Control Plan 2010 (ADCP 2010),*
- *Albury City Council's Notification Policy.*

The town planning assessment of the proposal under Section 79C of the *Environmental Planning and Assessment Act 1979* has involved the consideration of the *ALEP 2010* and *ADCP 2010*.

Consultation

The application was publicly notified in accordance with AlburyCity Council's Public Notification Policy.

The notification period was from Wednesday 27 March 2013 until Monday 29 April 2013. Several members of the public made enquiries in relation to the proposal however no submissions were received by Council, during the notification period.

There has been substantial public interest generated in the local media on this project.

Environmental Assessment

An assessment of the application has been carried out under the provisions of the *Environmental Planning and Assessment Act, 1979*. Relevant details are outlined below:

Development proposals within the SP2– Infrastructure Zone are assessed according to the zone objectives, the provisions of ALEP 2010 and ADCP 2010 and the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*.

The relevant considerations under Section 79C are considered in this report and a response is outlined in the following section of this report.

Provisions of Environmental Planning Instruments (S79C(1)(a)(i))

State Environmental Planning Policy (Infrastructure) 2007

Division 10: Health Services Facilities

Clause 57 of this SEPP outlines that development for the purposes of health services facilities may be carried out by any person with consent on land in a prescribed zone, including the SP2 Infrastructure Zone, which the subject site is located within.

Division 17: Roads and Traffic

101 Development with frontage to classified road

1. *The objectives of this clause are:*
 - a. *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - b. *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
2. *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*
 - a. *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
 - b. *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - i. *the design of the vehicular access to the land, or*
 - ii. *the emission of smoke or dust from the development, or*
 - iii. *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - c. *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposed cancer centre meets these requirements. The proposal utilises existing vehicular access points along both Keene Street and East Street rather than creating a new vehicular access point onto Borella Road. The proposal is also well setback from Borella Road and will not be sensitive to traffic noise or vehicle emissions.

Clause 104 Traffic-Generating Development

Schedule 3 of this SEPP lists developments that are traffic generating development to be referred to the NSW Roads and Maritime Service (RMS). Included within this table is 'Hospital', and therefore there was a formal referral to the NSW RMS under this SEPP.

The matter was referred to NSW RMS who replied that they have no objection to consent being granted subject to conditions (included in draft consent) and noted the following in their response:

"As the majority of the developed area of Albury and the external urbanised areas within the district that the facility is likely to service are to the west of the subject site or would access Albury via the Hume Highway it is anticipated that a significant portion of the traffic to the subject site would be from the west. Given the existing road patterns surrounding the Hospital site it is anticipated that such areas would access the site along Borella Road from the west and therefore turn right into Keene or East Streets and left from these streets to Borella Road on the return journey. Any traffic accessing the site from the east would likely use East Street.

Roads and Maritime Services has assessed the Development Application based on the documentation provided and would raise no objection to the development proposal subject to the Consent Authority ensuring that the development is undertaken in accordance with the information submitted.. "

Deemed State Environmental Planning Policy - Murray Regional Environmental Plan No.2 – Riverine Land (MREP2)

This deemed State Environmental Planning Policy (MREP2) is applicable to the proposal. The aim of MREP2 is to conserve and enhance the riverine environment of the River Murray (meaning the Murray River, the waters and the bed and banks of its tributaries and associated water bodies, including related anabranches, creeks, lagoons, lakes, billabongs and wetlands) for the benefit of all users.

The objectives of MREP2 are:

- a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray;*
- b) to establish a consistent and coordinated approach to environmental planning and assessment along the River Murray; and*
- c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.*

The development proposal is not inconsistent with the intent and application of MREP2 as the site is some distance from the Murray River and will have no specific impact on the riverine environment. The type of development proposed in this application is not included in the list of specific developments for which MREP2 requires additional notification and referral.

Albury Local Environmental Plan 2010

The Albury Local Environmental Plan 2010 aims to make local environmental planning provisions for land in Albury in accordance with the relevant standard environmental planning instrument under section 33A of the Environmental Planning and Assessment Act 1979.

(2) *The particular aims of this Plan are as follows:*

- a) *to give effect to the desired outcomes, principles and actions contained in the Council's adopted strategies and policy documents, and*
- b) *to promote sustainable urban development by providing for efficient management of urban growth and resource utilisation, and*
- c) *to promote a city for the people, with a high level of social and physical amenity and a diversity of activities and uses, and*
- d) *to maintain or improve biodiversity across Albury, and to avoid significant impacts on matters of environmental significance.*

The development as proposed satisfies the aims of ALEP2010.

The site is zoned SP2 – Infrastructure under the provisions of Albury Local Environmental Plan 2010 (ALEP2010).

Specific clauses relevant to the development include:

Part 2 Permitted or prohibited development Land Use Zones

Clause 2.3 of ALEP 2010 references the Land Use Table and Objectives for each zone in ALEP2010. The objectives of the SP2 – Infrastructure zone are as follows:

Zone SP2 Infrastructure

1 Objectives of zone

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

2 Permitted without consent

Environmental protection works

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Roads

4 Prohibited

Any development not specified in item 2 or 3

The proposed development is consistent with the objectives of the SP2 Infrastructure Zone as it provides important infrastructure and services (care treatment facility) for the Albury and wider area and is a permissible use within the subject zone, as it is for the purpose shown on the land zoning map, being 'Health Services Facility'. The proposed development is not incompatible with the current use of the site or the provision of further related health services facilities on the site.

Part 3 Exempt and Complying Development

The application is not Exempt or Complying Development. Pursuant to Clause 2.6 the application is seeking Development Consent.

Part 4: Principal Development Standards

No principal development standards are applicable to the subject development application.

Part 5 Miscellaneous Provisions

5.9 *Preservation of trees or vegetation*

- 1. The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.*
- 2. This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.*

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

- 3. A person must not ring bark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - a. development consent, or*
 - b. a permit granted by the Council.**
- 4. The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.*
- 5. This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.*
- 6. This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.*
- 7. A permit under this clause cannot allow any ring barking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
 - a. that is or forms part of a heritage item, or**

- b. that is within a heritage conservation area.*

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

- 8. *This clause does not apply to or in respect of:*
 - a. the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003 or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or*
 - b. the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or*
 - c. trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
 - d. action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying Act 2002, or*
 - e. plants declared to be noxious weeds under the Noxious Weeds Act 1993.*

The proposed Albury Wodonga Regional Integrated Cancer Centre (AWRICC) will result in the removal of a number of existing trees on-site to make way for the proposed cancer centre. To offset this tree removal, the proponent has submitted a detailed landscape plan showing the location of new landscaping and tree plantings. These works are satisfactory in this instance.

5.12 Infrastructure development and use of existing buildings of the Crown

- 1) *This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.*
- 2) *This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.*

Clause 5.12 of ALEP 2010 does not restrict or prohibit the carrying out of development by, or on behalf of a public authority that is permitted to be carried out with or without development consent under State Environmental Planning Policy (Infrastructure) 2007.

Part 6 Urban Release Area

Not relevant to the application. The subject site is not located in an Urban Release Area.

Part 7 Additional Local Provisions

There are no Additional Local Provisions relevant to the proposal except for the following.

7.1 Earthworks

- 1) *The objectives of this clause are as follows:*
 - a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - b) *to allow earthworks of a minor nature without separate development consent.*
- 2) *Development consent is required for earthworks unless:*
 - a) *the work does not alter the ground level (existing) by more than 600 millimetres, or*
 - b) *the work is exempt development under this Plan or another applicable environmental planning instrument, or*
 - c) *the work is ancillary to other development for which development consent has been given.*
- 3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - c) *the quality of the fill or the soil to be excavated, or both,*
 - d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - e) *the source of any fill material and the destination of any excavated material,*
 - f) *the likelihood of disturbing relics,*
 - g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Note. *The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.*

The site slopes from south to north and slightly from east to west. The design as proposed is going to require a significant amount of site cut to enable the development. The plans and details originally submitted with the application did not provide any substantial detail on the proposed alterations to the site level so as to comprehend the scale of works proposed and enable consideration of the potential consequential impacts. Therefore a request for further details outlining the extent of cut and/or fill was requested.

Additional details were provided which indicated the range of alteration to the site levels. These additional details include an earthworks plan and also indications of existing and proposed ground levels on the elevation drawings. The earthwork plan noted that site cut equivalent to 29,860m³ is proposed and 40m³ of fill. This is a significant level of earthworks across a large, high profile site.

The southern section of the proposed development area adjacent to the existing hospital building has an existing ground level of between 173-174m and the proposed ground floor level of the cancer centre is 167.35m. The cut ranges in depth across the site and affected

area from 0.1m to almost 6m. The deepest area of cut is in the southern most section of the new building (directly adjacent to existing hospital buildings) to enable the new cancer centre to integrate with the existing hospital. The majority of cut ranges from 1.5m to 6 metres in depth which is along the centre of the affected area of the site, with smaller cuts up to 1m along the eastern, western and northern boundaries of the site.

The main area portion of fill is in the north-east corner of the site and along a portion of the northern boundary of the site. The purpose of the fill is to enable the development to drain to the proposed on-site stormwater drainage basin in the north-east corner of the site.

Overall, the proposed earthworks associated with this development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The earthworks proposed are ancillary to the development proposed, and contained within the area affected by the proposed development, and therefore considered reasonable and appropriate. The main purposes of the earthworks are to integrate the proposed development with the existing development on-site and for stormwater management and drainage purposes. There is no significant concern in relation to contamination or likely significant adverse impacts upon adjoining properties.

7.6 Essential services

1. *This clause does not apply to land in an urban release area.*
2. *Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*
 - a) *the supply of water,*
 - b) *the supply of electricity,*
 - c) *the disposal and management of sewage,*
 - d) *stormwater drainage or on-site conservation,*
 - e) *suitable road access.*

Essential services are currently available to the site and there is sufficient capacity for their extension and augmentation to meet the demands of the proposed development.

Provisions of any Draft Environmental Planning Instruments (S79C(1)(a)(ii))

No draft environmental planning instrument affects the site or proposed form of development.

Provisions of Development Control Plans (S79C(1)(a)(iii))

Albury Development Control Plan 2010

The application has been assessed against the provisions of Albury Development Control Plan 2010 (ADCP 2010). More specifically, the application has been assessed against the following sections of ADCP 2010.

Part 3 Development Notification Policy

The development application was publicly exhibited in accordance with Part 3 and Appendix B of the Albury Development Control Plan 2010 from Wednesday 26 March 2013 to Monday 29 April 2013. No submissions were received within this period.

Part 4 Developer Contributions Plans

The proposed development will, in the opinion of Council, result in an increased demand being placed upon infrastructure and services, in particular the reticulated water and sewerage systems. This activates Council's Developer Contributions Plans which requires monetary contributions to be paid pursuant to Section 64 of the *Local Government Act 1993* to provide Council with funds to provide coordinated infrastructure and services for the city.

The development has been assessed under the existing *AlburyCity Section 94 Development Servicing Plan*. In accordance with the provisions of Clause 2.9 'Exemptions' of the Section 94 Plan construction of industrial, commercial or public buildings within the AlburyCity area is not subject to a levy for contributions except in exceptional circumstances. Those circumstances are stated as being:

- *The development generates a high demand for infrastructure (such as heavy vehicle traffic, stormwater runoff etc.);*
- *Circumstances warrant the levying of a charge on the basis that extraordinary demands will be placed on Council's infrastructure and services.*

The proposed development does not generate a high demand for public road or other community infrastructure and therefore no contributions should be levied under this policy for the proposed development.

Council's *Section 64 Development Servicing Plan* outlines the method for calculating *Developer Contributions* and methods of payment. The calculations for contributions are based on the total demand anticipated by a development. Council's *Section 64 Development Servicing Plan* references the NSW Water Directorate "*Section 64 Determination of Equivalent Tenements Guidelines*" in regards to calculating total anticipated water and sewerage usage (expressed as number of Equivalent Tenements or ETs).

Service Demand for Proposed Albury Wodonga Regional Integrated Cancer Centre						
			Water		Sewer	
Proposed Use	No	Measure	ET/Unit	ETs in DA	ET/Unit	ETs in DA
Hospital Beds	30	Day Beds ¹	0.45 ¹	13.5 ¹	0.7 ¹	21 ¹
	30	Multi-Day Beds	0.90	27	1.43	42.9
Consulting Rooms	23	Rooms	0.4	9.2	0.63	14.49
			Total ETs	49.7	Total ETs	78.39

¹ Discounted rate applied to day beds, based on 50% use, no overnight stay.

Council has recently adopted new charges per ET for 2013/14 in relation to water and sewer contributions. The figures adopted for 2013/14 are \$2,875 for water and \$3,923 for sewer.

The contributions payable for this development are therefore calculated as follows:

$$\begin{aligned}
 \text{Water} &= 49.7 \text{ ETs} \quad \times \quad \$2,875 \\
 &= \$142,887.50
 \end{aligned}$$

$$\begin{aligned}
 \text{Sewer} &= 78.39 \text{ ETs} \quad \times \quad \$3,923 \\
 &= \$307,523.97
 \end{aligned}$$

$$\begin{aligned}
 \text{Total} &= \$142,887.50 + \$307,523.97 \\
 &= \$450,411.47
 \end{aligned}$$

Council has recently been advised by the proponents of the development that no allowance for developer contributions has been provided for in the project budget. There have been further discussions with Albury Wodonga Health regarding these charges, their purpose and possible funding sources. To facilitate the development a number of options have been put forward with regards to the amount and timing of payment for these charges without compromising Council's long term finances and infrastructure planning.

Following this discussion, and clarification on the purpose and function of a number of the facilities identified in the development, the above figures have been generated. This has involved distinguishing the difference between 'Day Beds' and 'Multi-Day Beds'. There is no such distinguishment in the NSW Water Directorate "*Section 64 Determination of Equivalent Tenements Guidelines*". In determining an appropriate rate for the 'Day Beds' it has been determined that they will be in use generally for approximately 50% of a day and therefore the charges normally applicable to a 'Hospital Bed' have been reduced by 50% in recognition of this fact.

This figure is significant for any project but the cost of providing, maintain and expanding AlburyCity's water and sewer infrastructure is substantial. AlburyCity's current four year financial plan includes major infrastructure works and augmentation to cater for growth, most

notably works include over \$23 million for the Waterview Treatment Plant upgrade and \$5.5 million for the Water Filtration Plant upgrade.

The Development Application has been identified as a Crown Application and therefore subject to the provisions of Division 4 of Part 4 (ss88-89B) of the *Environmental Planning and Assessment Act, 1979*. As a result, Albury Wodonga Health has the opportunity to object to any suggested conditions of consent. If this were to occur, the final decision is made by the NSW Minister for Planning in relation to whether a condition should be imposed. At this point in time, Albury Wodonga Health have indicated that they object to the condition regarding Developer Contributions.

Following the indication that Albury Wodonga Health would object to the imposition of developer contributions Council staff have been investigating and researching legislation and procedural provisions in relation to the imposition of Developer Contributions, as well as any recent relevant examples.

In regards to the permissibility of the levying of contributions for Crown developments, there is no clause permitting exemptions for Crown development in AlburyCity's *Section 64 Development Servicing Plan*.

Council staff have also identified that a Development Application for alterations and additions to Wagga Wagga Base Hospital was recently submitted to the NSW Department of Planning and Infrastructure for consideration and determination. The Environmental Impact Statement submitted on behalf of the applicant (being Health Infrastructure NSW) for this development addressed the issue of developer contributions in the Development Application (pp54-55 of EIS). The EIS notes that developer contributions under Section 64 are due and payable to both Wagga Wagga City Council (in relation to sewerage and stormwater) and Riverina Water (in relation to water supply and reticulation).

One document that provides some context with regards to Crown Development is Circular D6 dated 21 September 1995 and titled "*Crown Development Applications and Conditions of Consent*" (NSW Department of Urban Affairs and Planning). This circular considers the appropriateness of conditions in relation to crown developments. The circular considers in some detail the appropriateness of conditions under Section 94 of the *Environmental Planning and Assessment Act, 1979*, and provides a framework for consideration of their appropriateness. Section 94 Developer Contributions relate to community facilities, traffic or stormwater infrastructure as opposed to section 64 (Local government Act 1993) Developer Contributions that relate to sewer and water infrastructure.

In relation to Section 94 contributions, the circular notes that

"Crown activities providing a public service or facility lead to significant benefits for the public in terms of essential community services and employment opportunities. Therefore it is important that these essential community services are not delayed by unnecessary disputes over conditions of consent. These activities are not likely to require the provision of public

services and amenities in the same way as developments undertaken with a commercial objective.”

The circular then concludes in relation to Section 94 contributions that

“Where councils intend to levy contributions on Crown developments, they must be justified in a section 94 contributions plan. Consideration should also be given to the Crown’s role in providing a community service, the cost of which is accountable to all taxpayers in the State. Accordingly, the matrix outlines which section 94 contributions are usually considered appropriate or inappropriate for Crown activities.”

The circular also considers the issue of contributions for water and sewerage facilities under Section 64 of the *Local Government Act, 1993*. There is no discussion in this section on the appropriateness of the levying of contributions for water and sewerage on Crown developments. This section does contain the following

“While councils can still levy contributions towards the provisions of water and sewerage facilities, this is now done under division 2 of part 3 of the Water Supply Authorities Act 1987 and not under the EP&A Act.”

It is significant to note that this circular does not provide, nor discuss, any restrictions on the ability of a council (or other water and sewerage services provider) to levy appropriate contributions in relation to water and sewerage infrastructure.

Following consideration of the issues outlined above, it is considered appropriate in this instance that a condition of consent is imposed, should consent be granted, requiring the payment of contributions prior to issue of an Occupation Certificate for the development. This is not strictly in accordance with the requirements of Section 3.8 of Council's *Section 64 Development Servicing Plan* that requires payment prior to construction commencing. However this concession recognises the significant construction time for the project (approximately 18 months) as well as the substantial community benefit of the project. The delayed payment schedule will also allow for further opportunities to be considered to fund the payment of the contributions.

Part 5 Tree Preservation

5.2 Tree Preservation Order

Objectives

- 1. To conserve and enhance the existing aesthetic character and public amenity of Albury.*
- 2. To control the management and/or removal of unsuitable trees.*
- 3. To assist the retention and ongoing protection of native vegetation that may have derived from endangered ecological communities and/or that may be habitat for threatened species.*

Controls

- i. *Clause 5.9 of the LEP provides that trees as prescribed by this DCP must not be ringbarked, cut down, topped, lopped or wilfully destroyed without the Council's approval and landowners consent.*
- ii. *Clause 5.9 of the LEP and this Section applies to all trees over 4.5 metres in height and 3 metres in spread.*
- iii. *An application for the Council's approval must be accompanied by an appropriately qualified specialist (i.e. Arborist) report outlining the following information:*
 - *The location, size, species and condition that is diseased healthy, etc).*
 - *A statement that details any anticipated impacts on vegetation that may have derived from endangered ecological communities and/or that may be habitat for threatened species.*
 - *The purpose of removal and whether the pruning of the tree would be a more practical and desirable alternative.*
 - *Whether a replacement tree or trees should be planted.*
 - *The location, size and species of any trees proposed to replace those intended for removal.*
 - *The owner's consent to the application being lodged.*
 - *Any other relevant information regarding the tree to be removed (i.e. photographs).*

The application does not propose the removal of any significant vegetation. The issue of tree removal has been considered earlier in this report in relation to Clause 5.9 of ALEP2010.

In conclusion, the tree removal proposed is consistent with the requirements of ALEP2010 and subsequently ADCP2010.

Part 6 Planning for Hazards

The subject site is part of a larger site located within an area designated as a Bushfire Vegetation Buffer on the Albury Bushfire Prone Land Map. Consequently, the proposal is defined as Integrated Development under Section 91 of the Environmental Planning & Assessment Act 1979 as the application relates to a 'Special Fire Protection Purpose' being a 'Hospital' (see below for further details). Following a review by the RFS and given the proposed building's proximity to the natural hazard, being approximately 150 metres away from the bush fire hazard and separated by existing hospital on the site, no issues, concerns or conditions were raised as part of this assessment.

Part 14 Development in the Special Purpose Zones

The proposed development is located within the SP2 Infrastructure Zone and the provisions of Part 14 of the DCP therefore apply. It is noted, however that this Part defers to the requirements of State Environmental Planning Policy (Infrastructure) 2007. Clause 57 of this SEPP outlines that development for the purposes of health services facilities may be carried

out by any person with consent on land in a prescribed zone, including the SP2 Infrastructure Zone, which the subject site is located within.

Part 16 Outdoor Advertising

Not relevant as the proposed development does not propose any outdoor advertising.

Part 17 Off Street Car Parking

Section 17.2 – Parking Provision by Land Use

Part 17 of the DCP requires that for a 'Health Services Facility' or 'Medical Centre' the proposal must provide 3 car spaces per surgery, consultation or treatment room and 1 space per 4 beds and 1 per 2 employees for a 'Hospital'. With 23 treatment, procedure or consult rooms, 69 car spaces are required and in addition the 60 hospital beds require 15 spaces and the additional 112 employees require 56 car spaces.

As a consequence, there is a need to provide a total of 140 additional spaces on-site. The proposed development is satisfactory in this instance as it will provide 148 car spaces.

Section 17.3 – Car Parking Controls

Section 17.3.1 – Car Parking Design

Details regarding car parking design have been addressed. To support this the proponent has provided a separate Traffic Assessment by Cardno Victoria Pty Ltd. This report details that the proposed car bay dimensions, aisle widths and surface treatment (sealing, line marking, drainage, kerbing etc) satisfy both Austroad Guide to Traffic Management; Part 11: Parking and the AlburyCity Engineering Guidelines for Subdivisions and Development Standards.

Appropriate landscaping has also been provided in accordance with a separate landscaping plan, which will improve the visual appearance of this area, whilst appropriate provision has been made for pedestrians and vehicular connections with adjacent public roads, which will connect to the existing hospital facility and existing council footpaths.

Car parking entrances and exits are also satisfactory as the proposal will utilise existing access points along Keene and East Streets rather than Borella Road, which is a designated Classified Road.

It is also noted that the NSW Roads and Maritime Service (RMS) were consulted as part of the application process. Upon assessment, no objection was received from RMS subject to the imposition of a number of conditions which have been included in the draft development consent.

Section 17.3.2 – Disabled Persons Parking

The proposal complies with the disabled parking requirements of this section, which requires 1 disabled space per 33 spaces provided. For a development containing 148 spaces, this requires the provision of 5 disabled car spaces. In response, the applicant has provided 9 disabled spaces, which are located at the front entrance to the building and which comply with Australian Standard AS 2890.6 – Parking Facilities – Part 6: Off-Street Parking for People with Disabilities.

Section 17.3.3 – Bicycle Racks and Motorcycle Parking Spaces

This Section of the DCP requires the provision of 15 bicycle parking spaces and 5 motorcycle parking spaces. In response, the development has provided 16 bicycle spaces and 5 motorcycle parking spaces, which satisfies the requirements of this Section.

Section 17.3.4 – Off Street Loading Facilities

The proposed cancer centre makes provision for appropriate off street loading facilities. These facilities have been separated from patient parking and are located at the rear of the building. All proposed service vehicles can enter and exit in a forward direction and satisfy minimum dimensions for loading facilities.

Section 17.3.5 – Pedestrian Movements

Pedestrian access and safety has been considered in the car parking layout. Separate landscape plantings, line marking and aisle design have been used to improve pedestrian safety and the proposal integrates with the existing hospital building.

Section 17.3.6 – Contributions in Lieu of Physical Provision of Car Parking

Not relevant as the proposed development satisfies the parking provision requirements of this Part of the DCP as outlined above.

Part 18 Albury Airport

Not relevant, as the proposed development site is not located within the Albury Approach or Take-off Splay and does not have any building height restrictions applicable to the Albury Airport.

Any Planning Agreement (S79C(1)(a)(iia))

There are no planning agreements in place that affect the evaluation of the subject development application.

Provisions of Regulations (S79C(1)(a)(iv))

Sections 92-98 of the Regulations outline the matters to be considered in the assessment of a development application. These matters have been considered and are deemed to be satisfied for the proposal.

Likely Impacts of the Development (S79C(1)(b))

Section 79(C) of the Environmental Planning and Assessment Act 1979, requires consideration of likely impacts of the development, including environmental impacts on both natural and built environments, and social and economic impacts in the locality. Key areas for consideration in respect to the subject application are:

Context and Setting

The development will not have a detrimental impact on the scenic qualities, character and amenity of the locality and streetscape.

Streetscape

The building, whilst 3 storeys in height, is complimentary to the existing streetscape values as the design and scale are consistent with the existing base hospital and future anticipated development of the site. The proposal has been designed with recognition and response to the sloping nature of the site. This necessitates a significant amount of cut and fill but minimises the impacts upon the streetscape and neighbourhood context. The impacts of the cut and fill have been assessed and deemed suitable as noted elsewhere in this assessment report.

Details regarding the relationship with the existing Albury' Base Hospital were requested by Council and additional information was supplied by the applicant. In this regard the applicant provided elevations and perspectives showing the existing and proposed buildings as well as an exterior finishes plan. The proposed development is considered to suitably integrate with the existing Albury Base Hospital both in terms of design and scale and therefore is considered satisfactory in regards to any potential streetscape impacts. The relationship can be seen on the attached plans.

The development as proposed is not unreasonable within the context of the SP2 – Infrastructure Zone with consideration given to the scale of the development, its relationship to the existing Albury Base Hospital building, the substantial setbacks to surrounding development and setting on the site.

Site Design and Internal Design

The site and internal design has been considered previously in this report and is deemed satisfactory.

Traffic, Access and Parking

As outlined earlier in this assessment, the proposed development provides carparking in accordance with the requirements of ADCP2010. Council's Traffic Engineer is satisfied that the proposed development will not have a detrimental impact upon traffic flows and volumes in East Street, Keene Street or Borella Road. Council's Traffic Engineer confirms that any increase in traffic volumes can be catered for within the local road network.

The application was also referred to NSW RMS who have raised no objection to the proposal subject to conditions.

Public Domain

The proposed development will not unreasonably impact upon the public domain in the locality.

Utilities

The site is presently serviced by all relevant utility services which can be readily extended to meet the requirements of the development.

Construction

Standard conditions associated with the development, including soil and water management practices, construction hours and traffic management during construction, are recommended to be imposed, if consent was granted.

Water Quality and Stormwater

Standard conditions associated with the development, including soil and water management practices, are recommended to be imposed, if consent was granted.

Soils, Soil Erosion

As indicated earlier in this assessment, the proposed cut across the site varies from 0.1m to 6m in depth with some minor areas of fill up to 0.5m. This is due to the existing topography of the site and the desire to integrate the proposed building with the existing building so as to minimise the streetscape impacts.

No significant concerns in regards to soils and soil erosion have arisen as a result of the assessment that cannot be managed by suitable and appropriate conditions which could be imposed to minimise any potential impacts if consent is granted.

Noise and Vibration

The proposed development has the potential to result in increased noise from civil works construction. The extent of the noise generated is not considered to be unreasonable and is of a temporary nature whilst construction works are carried out.

Flora and Fauna

As previously discussed in this report, the proposed development is satisfactory in terms of flora and fauna impacts.

Natural Hazards

The site is affected by bushfire along its southern boundary. The development application was referred to NSW RFS who have issued a Bush Fire Safety Authority with no conditions.

Safety, Security and Crime Prevention

An assessment has been undertaken in regards to the principles outlined in Crime Prevention Through Environmental Design and these have not raised any significant issues in regards to the proposed development.

Overlooking - Overshadowing

It is considered that there are no unreasonable impacts in relation to privacy or overshadowing for nearby residential properties. The existing use of the site and significant setbacks provide adequate protection and separation to residential premises.

Waste

Waste generated by the proposed development will be collected and disposed of in accordance with current and legislative requirements.

Public Submissions (S79C(1)(d))

The application was notified in accordance with AlburyCity Council's Public Notification Policy.

The notification period was from Wednesday 27 March 2013 to Monday 29 April 2013. Several members of the public made enquiries in relation to the proposal, however no submissions were received by Council during the notification period.

Public Interest (S79C(1)(e))

The impacts of the proposal on the environment in general, and on adjoining properties, has been considered and addressed. There has been significant publicity on this project in local media and community discussions. The project has received strong support from the community. Having regard to the issues raised and discussed in this report, it is considered that the proposal is not contrary to the public interest.

Conclusion

Overall it is concluded that the impacts of the proposed development on public amenity and the public domain are reasonable and satisfy the requirements of this consideration.

The proposed development including revised proposals has been assessed against the requirements of Section 79C of the Environmental Planning and Assessment Act, 1979. This has involved consideration of the requirements of the Albury LEP 2010 and Albury DCP 2010. It is considered that the proposed development is appropriate and satisfactory as a result of this assessment.

Accordingly, Development Application 10.2013.32101.1 is recommended for approval subject to conditions.

- **Attachments**

1. Plans and Elevations,
2. Planning Report & Traffic Report
3. *Draft* Conditions of Consent.