JRPP No:	2010STH024
DA No:	10.2010.30491.1
PROPOSED DEVELOPMENT:	Mixed use commercial and retail development and associated carparking, 520-524 Smollett Street and 441 Kiewa Street, Albury (AF10/01777)
APPLICANT:	David Harper
REPORT BY:	David Christy Town Planning Team Leader Planning and Economic Development

Assessment Report and Recommendation

Introduction:

Council is in receipt of an application for a staged development involving mixed use commercial and retail development and associated carparking and public carparking on Lot 1 DP 1007152, Lot 102 DP 739674 being 520-524 Smollett Street, Albury and Lot 1 DP 1048142 known as 441 Kiewa Street, Albury. The land affected includes Council owned and privately owned land currently used as public carparks known as Kiewa Street and Volt Lane.

This application is required to be reported to the Joint Regional Planning Panel (JRPP) for the Southern Region in accordance with Clause 13B(2) of State Environmental Planning Policy (Major Development) 2005 as the proposal meets 2 of the criteria, these being:

i. a total Capital Improvement Value (CIV) of more than $10 million; and
ii. a CIV of more than $5million involving the use of Council owned land.

The application was accompanied by plans of the development, a planning report and a Statement of Environmental Effects (SEE) prepared by Blueprint Planning dated August 2010. Copies of these documents are included with this report for the information of panel members and are marked as *Attachments 1 and 2* respectively.

After an initial assessment of the application and the receipt of submissions, it was identified that further information was required to address issues relating to the proposed development. Council requested further information by way of letter dated 21 September (a copy is included and marked as *Attachment 3*). The applicant responded by way of letter dated 5 October 2010. A copy of this response is included with this report and marked as *Attachment 4*. This information satisfactorily addressed the issues raised by Council, except in relation to the issue of contamination of the Kiewa Street site. This issue, however, has been suitably addressed by the subsequent information received from the Albury Gas Company (Envestra) and DECCW which is discussed later in this report.

Site Description:

The subject development involves two separated sites and three separate parcels of land.

520-524 Smollett Street site consists of Lot 1 DP 1007152 and Lot 102 DP 739674 and is commonly known as “Volt Lane Carpark”. This site is zoned “B3 – Commercial Core” under Albury Local Environmental Plan 2010 (ALEP2010). This land is privately owned but was previously partially owned by AlburyCity.

441 Kiewa Street site consists of Lot 1 DP 1048142 and is commonly known as “Kiewa Street Carpark”. The site is zoned “B4 – Mixed Use” under ALEP2010 and is owned by AlburyCity.

Proposal Description:

The proposal involves the following works:

Stage 1 – Siteworks

- Two month construction timeframe: January 2011 to February 2011;
- Demolition of existing two-storey retail premises building (Jenny Craig); and
- Site preparation works and establishment of construction zone for carpark, office premises, and retail premises developments. (Demolition and relocation of the electrical substation is the subject of a separate process but is shown in the 'Stage 1' plan for context. These works do not form a part of this application.)

Stage 2 – Construction of public carpark at the Volt Lane Site

- Nine month construction timeframe: March 2011 to November 2011; and
- Construction of six-storey (five level) 497 space public carpark with access to/from Smollett Street.

Stage 3 – Construction of office premises, restaurants, and food and drink premises at the Volt Lane Site

- Seven month construction timeframe: March 2011 to September 2011;
- Construction of 10,733 m^2 GFA office premises and 25 space carpark; and
- Construction of 4,673 m^2 GFA office premises and 45 space carpark.

Stage 4 – Construction of retail premises, restaurants, and food and drink premises (Volt Lane Markets) at the Volt Lane Site (being ground floor of six storey (five level) public carpark)

- Eighteen month construction timeframe: March 2011 to August 2012; and
- Construction of 2,515 m^2 GFA retail premises and 595 m^2 GFA restaurants and food and drink premises.

Stage 5 – Civil works to Amp Lane adjoining the Volt Lane Site

- Three month construction timeframe: April 2012 to June 2012; and
- Construction of civil works in Amp Lane. (Re-construction of retail premises entranceway (Target store) adjoining the Volt Lane Site to be the subject of a separate development application)

Stage 6 – Construction of Market Square and civil works to Volt Lane, Selles Lane and Smollett Street at the Volt Lane Site

- Six month construction timeframe: April 2012 to August 2012;
- Construction of 66 space at-grade carpark; and
- Construction of civil works in Volt Lane, Selles Lane, and Smollett Street.

Stage 7 – Construction of public carpark at the Gasworks Site

- Six month construction timeframe: April 2012 to August 2012; and
- Construction of three-storey (two level) 328 space public carpark with access via Kiewa Street.

The development also involves a two lot to five lot re-subdivision as follows (subject to survey):

- proposed Lot 10 of 2,670m^2 (over 3 levels) for office premises, with right-of access easement for the ramp from Smollett Street to the 497 space public carpark;
- proposed Lot 11 of 5,263m^2 (over 3 levels) for office premises, restaurants, and food and drink premises;
- proposed Lot 12 of 18,293m^2 (over 3 levels) for office premises, restaurants, and food and drink premises, with right-of-access easement for the ramp from Smollett Street to the 497 space public carpark and right-of-access easement for the 497 space public carpark in general including for stratum Lot 13 and stratum Lot 14;
- proposed stratum Lot 13 of 1,866m^2 for a part of the 497 space public carpark, with right-of-access easement for the 497 space public carpark in general; and
- proposed stratum Lot 14 of 2,897m^2 for a part of the 497 space public carpark, with right-of-access easement for the 497 space public carpark in general.

The re-subdivision is required to separate different entity components of the development and will be implemented during and following construction as relevant.

Legislation:

This application is required to be reported to the Joint Regional Planning Panel (JRPP) for the Southern Region in accordance with Clause 13B(2) of State Environmental Planning Policy (Major Development) 2005 as the proposal meets 2 of the criteria, these being:

I. a total Capital Improvement Value (CIV) of more than $10 million and
II. a CIV of more than $5million involving the use of Council owned land.

The JRPP is the determining authority for this application.

The application has been assessed in accordance with the *Albury Local Environmental Plan 2010,* relevant chapters of the *Albury Development Control Plan 2010* and section 79C of the *Environmental Planning and Assessment Act 1979*.

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 CBD Masterplan 2009*
- Development 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 & ADCP 2010 and is provided later in this report.

State Policies

The following State Policies are relevant to the application:

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Major Development) 2005*
- *State Environmental Planning Policy 55 – Remediation of Land*

Consultation:

The application was notified in accordance with *AlburyCity's Public Notification Policy,* the requirements of the *Environmental Planning and Assessment Act, 1979*, and the *Environmental Planning and Assessment Regulations 2000*, which required a minimum notification period of 7 days. Due to the scale and nature of the proposal, Council determined a longer notification period was appropriate and notified the proposal for 23 days. The notification period commenced on 25 August 2010 and concluded on 17 September 2010. On Monday 6 September, Council staff also conducted a public information session on the proposal, which included a presentation by the developer on aspects of the proposal, an explanation of the planning process and relevant policies and an explanation and analysis of parking impacts during the construction phase. The information session was advertised and notified to adjoining property owners & businesses. A total of 25 attended the information session.

During the exhibition period, a total of four submissions were received, with three raising objections to the proposal. A late submission was received on 8 October and has been given consideration in the discussion on submissions later in the report.

Referral:

The matter was referred to NSW RTA under the auspices of SEPP (Infrastructure). A copy of the RTA's response dated 5 October 2010 is included with this report and marked as *Attachment 5.* The response is generally supportive and contains recommended conditions. The RTA has been involved with pre-lodgement meetings for the development.

The application was referred to the NSW Police, who upon referral raised no objections to the development. A copy of their response is included with this report and marked as *Attachment 6*.

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:

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

State Environmental Planning Policy (Infrastructure) 2007

The proposed development is permitted under the auspices of SEPP (Infrastructure) and is consistent with the provisions of Division 17 in relation to Roads and Traffic.

Clause 104 and Schedule 3 of SEPP (Infrastructure) identifies development that requires referral to the NSW Roads and Traffic Authority as possible traffic generating developments. "Shops and commercial premises" greater than 4,000m^2 and "parking" for over 200 vehicles are identified as being development to which SEPP (Infrastructure) applies. A note on Schedule 3 specifies that this applies to new development or the extension of existing premises. Clause 104 of SEPP (Infrastructure) reads as follows:

104 Traffic-generating development

1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

a) new premises of the relevant size or capacity, or

b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

*2) In this clause, **relevant size or capacity** means:*

a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

3) Before determining a development application for development to which this clause applies, the consent authority must:

a) give written notice of the application to the RTA within 7 days after the application is made, and

b) take into consideration:

i. any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission; and

ii. the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trip, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail; and

iii. any potential traffic safety, road congestion or parking implications of the development.

4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

In accordance with these provisions, this development was referred to the RTA for comment. A copy of their response dated 5 October 2010 is included with this report and marked as *Attachment 5*. The response is generally supportive and contains recommended conditions.

The sites are readily accessible in terms of people and vehicles and the augmentation of centralised public carparking will assist in aiding the efficiency of movement and maximising the opportunities for multi-purpose trips. The location of the development within the CBD and access to the existing public transport network, as well as the provision of bicycle parking well in excess of that required by ADCP2010, will assist in minimising the dependence on car transport for people visiting and working in the CBD.

Further discussion on traffic and transport is included later in this report and concludes that there will be no significant adverse traffic impacts and that no significant additional traffic control measures above those identified in the development proposal are required to accommodate the development.

State Environmental Planning Policy (Major Development) 2005

This application is required to be reported to the JRPP for the Southern Region in accordance with *Clause 13B(2) of State Environmental Planning policy (Major Development)*

2005 as the proposal has a total Capital Improvement Value (CIV) of more than $10 million and also has a CIV of more than $5million involving the use of Council owned land. The JRPP is the determining authority for this application.

State Environmental Planning Policy 55 – Remediation of Land

The land identified as the Kiewa Street carpark, ie Lot 1 DP 1048142 is currently declared as significantly contaminated by DECCW and is subject to a Declaration of Remediation Site. This declaration relates to contaminants detected in the groundwater and soil under the site and adjoining lands and is the result of historical activities undertaken on the land primarily by the Albury Gas Company in their operation of the Albury Gasworks.

SEPP 55 is therefore relevant and requires Council to be satisfied that the land is suitable (or capable of remediation to be suitable) for the proposed development and use. Clause 7 of SEPP55 is the most relevant and is reproduced below:

7 Contamination and remediation to be considered in determining development application

1. A consent authority must not consent to the carrying out of any development on land unless:

- *a. it has considered whether the land is contaminated, and*
- *b. if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- *c. if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

2. Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

3. The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

4. The land concerned is:

- *a. land that is within an investigation area,*
- *b. land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- *c. to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
  - *i. in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

ii. on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

The applicant is seeking consent to construct a multi deck carpark on this land, that has been identified as contaminated. The land is owned by Albury City Council and is currently used as a long term carpark. Council supports the future development of this site for the purposes of a carpark.

In relation to the contamination of the site Albury City is aware of the contamination and has been actively working with the original user and owner of the site, the Albury Gas Company, and DECCW to develop a voluntary remediation plan. Investigations have been undertaken with regards to potential contamination and the extent of the contamination and a voluntary remediation proposal is currently being prepared.

In undertaking the assessment of this application Council's officers sought advice from the applicant in relation to the proposed level of contamination and remediation as Council was of the opinion that the issue had not been suitably addressed in their initial SEE. The applicant advised by way of letter dated 5 October 2010 that they were aware that the site was contaminated and that the Albury Gas Company (Envestra) was currently undertaking remediation of the site. They noted that the site was currently being used for an above ground public carpark and its use and purpose would not change.

Council's officers independently sought advice from DECCW and the Albury Gas Company (Envestra) who are responsible for the management of the contamination. Responses were received from both parties and copies of the responses are provided with this report and marked as Attachment 7 (DECCW response) and Attachment 8 (Albury Gas Company – Envestra).

An extract from DECCW's response is contained below:

"What is the current status of the site in regards to contamination and DECCW orders or notices regarding remediation of the site?

The former Albury Gasworks site is currently declared as Significantly Contaminated Land under the Contaminated Land Management Act (the Act) due to contamination of the site with separate phase and dissolved phase petroleum hydrocarbons including monocyclic, polycyclic and heterocyclic hydrocarbons and solvents. The declaration (# 26109) identifies 'the chemicals detected at the site include known, probable and possible human carcinogens as well as compounds that are toxic to aquatic ecosystems. The contaminants are present at high concentrations. Human exposures to the chemicals may result from the inhalation of volatile emissions, the use of groundwater (e.g., for irrigation of domestic gardens or park land) and contact with contaminated groundwater during excavation and/or maintenance works. Aquatic species may become exposed to the chemicals should the contaminated groundwater ultimately discharge into the Murray River. In addition, vapours associated with non-aqueous phase liquids that exist in parts of the site may present an explosion hazard'.

DECCW is currently working toward a Voluntary Management Proposal (VMP) with the Albury Gas Company for the remediation of the site which is expected to be provided by December 2010. The remediation is intended to remove the risks associated with the significantly contaminated land in relation to the existing use of the site as an open space car park.

Is there any objection from DECCW to the proposed carpark being constructed on the site given the current use of the site and DECCW's remediation declaration?

The declaration of remediation site does not prevent the redevelopment of the site for any specific use. Any change in use should be addressed by Council in accordance with State Environmental Planning Policy 55 (SEPP 55) which would take into account the construction and design of the proposed redevelopment.

Is there a minimum timeframe for completion of the remediation works?

The timeframe for the remedial work must be commensurate with the risks associated with the contamination. The timeframe will be specified in the Voluntary Management Proposal and agreed between DECCW and the Albury Gas Company."

An extract from the Albury Gas Company's response provides the following:
"AGC is well advanced in undertaking a range of environmental investigations that will allow it to complete a Remediation Action Plan (RAP) for the site. It is AGC's intention to remediate the site to an extent that will allow it to continue to be used as a carpark, along with addressing the Declaration.

Subject to completing the necessary investigations and obtaining the agreement of Council and DECCW on the preferred remedial strategy and associated health, safety and environmental aspects of the project, which will be detailed in the RAP, it is AGC's intention to commence remedial works in the second quarter of 2011. It is expected that the remediation of the soil will be completed within an approximate three month period. However, treatment of the contaminated groundwater beneath the site will continue for a longer period yet to be determined. It is AGC's understanding that the groundwater treatment process will not impede the proposed construction of a multi-story carpark on the site"

In considering the proposed development and the provisions of SEPP 55 Council is satisfied that the development is appropriate. This is based on the following:

i) there is no change in use proposed for the site with the current and intended future use being a public carpark;
ii) suitable and appropriate investigations have been undertaken across the site to identify the extent of the contamination;
iii) a voluntary remediation plan is currently being prepared in conjunction with DECCW and the landowners (Council);
iv) the remediation of the site will be completed prior to any works (nominated as the final stage of development) being undertaken on this site;
v) all other works proposed in the development relate to the Volt Lane site.

<u>Deemed State Environmental Planning Policy – Murray Regional Environmental Plan No 2</u>

The subject site is within the area affected by Murray Regional Environmental Plan No 2 – Riverine Land. The proposal is not located within the Riverine Environment and is not contrary to the aims and objectives of the plan.

<u>Albury LEP 2000</u>

The Volt Lane site (Lot 1 DP 1007152 and Lot 102 DP 739674) is zoned "B3 – Commercial Core" under the provisions of Albury Local Environmental Plan 2010.

Part 2 of Albury LEP 2010 contains the objectives of the B3 – Commercial Core Zone. These objectives are as follows:

"Zone B3 Commercial Core

1. Objectives of the B3 Commercial Core Zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling*
- *To encourage development and investment in the Albury and Lavington Central business districts.*
- *To increase the permanent population within the commercial cores by encouraging the development of shop top and mixed use developments.*

2. Permitted without consent

Home-based child care; Home occupations

3. Permitted with consent

Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Roads; Sewage reticulation systems; Shop top housing; Any other development not specified in item 2 or 4.

4. Prohibited

Agriculture; Air transport facilities; Airstrips; Bed and breakfast accommodation; Caravan parks; Correctional centres; Crematoria; Depots; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mining; Recreation facilities (major); Research stations; Residential accommodation; Restriction facilities; Rural industries; Sewerage systems; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities.

The proposed development is permitted with consent and consistent with the objectives of the B3 – Commercial Core zone for the reasons outlined in this report. General comments on the objectives are provided below:

- The proposed development provides a range of retail, business and office uses that serve the needs of the local and wider community. The proposed augmentation of public carparking facilities provides a substantial benefit to the general community.
- The proposal provides for the appropriate location of employment opportunities in the heart of the CBD, adjacent to public carparking and readily accessible to both occupants and the general community.

- The proposal encourages public transport and walking and cycling opportunities by virtue of the city centre location which is well serviced by existing public transport and also the provision of additional bicycle facilities. The development site and the form of development proposed is also located within the main pedestrian walking movement paths within the city and provides for augmentation of these linkages.
- The proposal is consistent with encouraging development within the Albury CBD.
- The last objective is not relevant as the proposed development does not include any residential component. However it should be noted that the proposed development does not unduly impact upon the ability of surrounding properties to be developed for residential purposes nor does it unduly impact upon existing residential development contained on surrounding properties.

The Kiewa Street public carpark site (Lot 1 DP 1048142) is zoned as "B4 – Mixed Use" under the provisions of Albury Local Environmental Plan 2010.

1. "Objectives of the B4 Mixed Use Zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To identify areas in close proximity to the commercial core where commercial and retail uses may be considered.
- To encourage development and investment in the Albury and Lavington central business districts.
- To increase the permanent population and encourage the provision of affordable housing within mixed use areas through shop top housing and residential flat building development.
- To protect residents in close proximity to the commercial core from encroachment by commercial and retail premises which by reason of their demands for parking and public infrastructure, should be located within the commercial core.
- To encourage the provision of affordable housing.

2. Permitted without consent

Home-based child care; Home occupations

3. Permitted with consent

Boarding houses; Business premises; Child care centres; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Office premises; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Retail premises; Roads; Self-storage units; Seniors housing; Sewage reticulation systems; Shop top housing; Any other development not specified in item 2 or 4

4. Prohibited

Agriculture; Air transport facilities; Airstrips; Caravan parks; Crematoria; Depots; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries;

Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Home occupations (sex services); Industrial retail outlets; Industries; Marinas; Mining; Recreation facilities (major); Research stations; Residential accommodation; Restriction facilities; Rural industries; Sewerage systems; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities

The proposed development is permitted with consent and consistent with the objectives of the B4 – Mixed Use zone for the reasons outlined in this report. General comments on the objectives are provided below.

- The proposed augmentation of the existing public carpark is compatible with surrounding land uses
- The provision of additional public carparking in a central location encourages the integration of surrounding land uses and provides for opportunities to develop the city so as to encourage additional pedestrian and cycling alternatives and options.
- This objective is not relevant as the proposal is not for retail or commercial development, however, the augmentation of existing public carparking facilities is certainly consistent with this objective as it provides facilities to support retail and commercial development in the CBD.
- The proposal is consistent with encouraging development within the Albury CBD
- This and the last objective are not relevant as the proposed development does not include any residential component. However it should be noted that the proposed development does not unduly impact upon the ability of surrounding properties to be developed for residential purposes nor does it unduly impact upon existing residential development contained on surrounding properties.
- The proposed development satisfies this objective as the proposed augmentation of the Kiewa Street carpark does not unduly impact upon any existing residential development nor is there any demand for public infrastructure to service the development.

Clause 4.3 of ALEP2010 is relevant to the identified sites as they are contained within the Height of Building Map. Clause 4.3 reads as follows:

4.3 Height of buildings

(1) The objectives of this clause are as follows:

(a) to ensure the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,

(b) to protect the heritage character and significance of buildings and not adversely affect the heritage integrity of heritage items and heritage conservation areas identified in this Plan,

(c) to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight and privacy,

(d) to nominate heights that will provide a transition in built form between varying land use intensities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The proposed development is considered suitable in scale and context, does not adversely affect nearby heritage items and does not adversely impact upon the amenity of neighbouring properties. The proposed development provides a suitable transition in built form to adjoining development.
The development sites have an overall limit of 35 metres. The proposed development does not exceed this and the highest point is 33.35m.

Clause 4.4 of ALEP2010 is relevant to the identified sites as they are contained within the Floor Space Ratio Map. Clause 4.4 reads as follows:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:
- *(a) to ensure that the density, bulk and scale of development is appropriate for a site,*
- *(b) to ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*
- *(c) to facilitate development that contributes to the economic growth of the Albury and Lavington Central Business Districts.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The proposed density bulk and scale of the development is appropriate for the site and integrates well with the streetscape and character of the area. The development will be a significant contributor to the economic growth of the Albury CBD and will provide a substantial economic and social benefit to the general community.

The FSR for the proposed Volt Lane development is 1.9:1 which is less than the maximum 3:1 permitted under the Floor Space Ratio Map. The Kiewa Street site does not have a FSR value as the site is developed for carparking and this is excluded from the definition of gross floor area under ALEP2010.

Clause 5.10 of ALEP2010 does not apply to the development sites as they do not contain a heritage item or archaeological site and are not contained within a Heritage Conservation Area. Subclause 5.10(5)(c) of ALEP2010 allows Council to require the submission of a heritage impact assessment for development within the vicinity of land containing a heritage item or part of a heritage conservation area, however it is the opinion of Council that this is not warranted as there will be no significant impacts upon nearby or adjacent heritage items. Further discussion on heritage impacts is contained later within this report

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

No draft EPI applies to the site or form of development.

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

The application has been assessed against the provisions of Albury Development Control Plan 2010 (ADCP).

- Part 3 (and Appendix B) of the Albury DCP 2010 sets out Council's Public Notification Policy which has been complied with during the assessment process. Four submissions were

received during the notification period and the relevant issues raised in these submissions are discussed later in this report.

- Part 11 of the Albury DCP 2010 relates to the B3 and B4 zones.

1.1 DEVELOPMENT IN THE B3 COMMERCIAL CORE AND B4 MIXED USE ZONES

The B3 Commercial Core Zone has been assigned to the two predominant retail and commercial areas of the City, being the Albury and Lavington Central Business Districts (CBDs). This zone allows for a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community, creating the social hubs of Albury and its surrounds.

Likewise, the B4 Mixed Use Zone has been assigned to the land bordering the Albury and Lavington B3 Commercial Core Zones. This zone allows for a mix of commercial and residential land uses that co-exist compatibly within close proximity to the City Centre, whilst seeking to provide a transition between the Commercial Zones and adjacent Residential Zones. Notwithstanding the regional role of the Albury and Lavington CBDs, there has traditionally been an oversupply of office and retail floor-space. Attracting new commercial businesses to locate within the B3 Commercial Core Zones will continue as a key Council strategic priority through both the *Albury Land Use Strategy 2007* and the *Albury and Lavington CBD Masterplans 2009*. The LEP reinforces this priority through its objectives for the B4 Mixed Use Zone, which seeks *"to identify areas in close proximity to the commercial core where commercial and retail uses may be considered".*

The *Albury CBD Masterplan, 2009* and the *Lavington CBD Masterplan, 2009* form the basis of development provisions, urban design principles and guidelines for land located within the B3 Commercial Core and B4 Mixed Use Zones. These plans seek to ensure the efficient development of these zones, as well as, minimising the impacts upon adjoining lower-scale land use types.

Consequently, this Section has been derived from both the *Albury and Lavington CBD Masterplans 2009* and contains the controls and requirements that need to be satisfied for development in these areas. As such this Section has been divided into Albury and Lavington in lieu of the two CDB Strategies.

There are numerous controls within this section of Part 11 of ADCP2010. These controls are contained on pages 11-10 to 11-30 in Part 11 of ADCP2010. These controls are as follows:

11.7.1 Development in the B3 Commercial Core and B4 Mixed Use Zones
11.7.2 Land Use Precincts - Albury
11.7.3 Building Heights - Albury
11.7.4 Street Wall Heights and Upper Level Setbacks - Albury
11.7.5 Floor Space Ratio (FSR) - Albury
11.7.6 Building Design - Albury
11.7.7 Building Setbacks - Albury
11.7.8 Building Depth - Albury
11.7.9 Building Separation - Albury

11.7.10 Open Space and Landscaping - Albury
11.7.11 Car Parking, Traffic and Access – Albury
11.7.12 Streetscape - Albury
11.7.13 Urban Design and Pedestrian Circulation – Albury
11.7.14 Outdoor Advertising – Albury
11.7.15 Key Sites - Albury
11.7.16 Opportunity Sites - Albury
11.7.17 Masterplan Requirement - Albury
11.7.18 Future Character Areas - Albury
11.7.19 Heritage – Albury
11.7.20 Awnings, Verandahs and Balconies – Albury

The development as proposed satisfies these controls except in the case of 11.7.4 on page 11-13 and 11.7.11 on pp 11-18 to11-19. Control 11.7.4 relates to "Street Wall Heights and Upper Level Setbacks - Albury". This permits a maximum of three storeys as a street wall and then requires a 3 metre setback for upper levels. This control has the following objectives in addition to the numerical controls:

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*

The proposed development does not satisfy the standard on two frontages – being the eastern and western frontages that front Selles Lane and Amp Lane respectively. These frontages have a seven storey street wall height. These frontages are minor in context, do not adversely impact upon adjoining properties or the streetscape context and the level of articulation, building design and architectural interest ensure that the objectives of this control are satisfied.

Control 11.7.11 is titled "Car Parking, Traffic and Access – Albury" and relates to the design, location and numerical provision of carparking and its access for development within the commercial zones. 11.7.11 provides the following objectives and controls:

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.*
3. *To contribute to the provision of a compact, accessible and connected retail core.*
4. *To ensure that developments that are known to produce significant parking demands, make sufficient car parking provision on the actual development site.*
5. *To ensure car parking facilities are both pedestrian and motorist friendly.*

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 regarding desired locations and access arrangements.

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.*

iii. *Car parking areas shall be landscaped to provide shade.*

iv. *Advertising, signage, landscaping and physical barriers shall be provided for the efficient movement of pedestrians.*

v. *On-grade parking shall be provided at the rear of properties and should incorporate stormwater collection and re-use into their design.*

vi. *On sites with a minimum 24m frontage, parking above ground level or underground may be possible.*

vii. *Terrace buildings shall have garages located along a rear laneway or if viable under the building footprint.*

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:*

- *Office complexes and shopping centres over 1,500m² gross floor area (including malls).*
- *Supermarkets.*
- *Department stores.*
- *Shopping centres containing supermarkets or department stores.*
- *Retail bulky goods, warehouses or like retail premises.*
- *Freestanding take-away food restaurants.*
- *Hotels, motels and clubs.*
- *Reception/conference centres.*
- *Industrial uses.*
- *Places of public worship.*
- *Hospitals and schools.*
- *Similar land uses as determined by the Council.*

ix. *Multi-level parking (basement or deck) may be appropriate provided that it:*

- *Supports the objective of keeping the centre compact.*
- *Is attractively designed.*
- *Reinforces continuity of pedestrian activity rather than creating or exacerbating any sense of separation between commercial uses.*

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.*

In regards to the objectives of 11.7.11, the development as proposed has addressed and satisfies their intent. Further comment against the individual objectives is provided below:

1. The Volt Lane and Kiewa Street public carparks are part of the identified centralised car parking areas in Albury CBD Masterplan 2009.
2. The development is located on main access routes and consistent with AlburyCity's Car Parking Strategy
3. The redevelopment as outlined will contribute to the provision of a compact, accessible and connected retail core
4. This development will create a significant demand for carparking and a total of 663 parking spaces (563 public and 70 private) will be provided on site – a significant increase on the current 240.
5. The design of the proposed carparking areas will ensure that pedestrian and motorist ease of use and functionality is maximised

In regards to the technical controls contained in 11.7.11, the proposal generally complies, however, there are some departures on specific controls. Further comment is provided on each of the controls below:

i. The Volt Lane and Kiewa Street public carparks are part of the identified centralised car parking areas in Albury CBD Masterplan 2009
ii. The proposed carparking provided on-site includes a mixture of private and public carparking – but predominately public.
iii. The multi-level parking on Kiewa Street and Volt Lane is within a roofed structure (except for the top level) and therefore suitable shade is provided. Landscaping is proposed for the at-grade carpark which will provide relief and shade.
iv. The efficient movement of pedestrians within the carparks is aided by a combination of suitable advertising, signage, landscaping and physical barriers.
v. The on-grade parking is provided to the side and rear of the site and opportunities exist for suitable stormwater collection and re-use.
vi. The sites have frontages well in excess of 24 metres.
vii. Not relevant as the proposal does not include terrace buildings
viii. The development is identified as a likely significant customer attractor and this control requires the development to provide two-thirds of the generated parking demand on-site. Technically, a departure on this provision is required. The generated parking demand for the proposed development is 463 spaces. This suggests a minimum of 306 spaces be provided on-site. The development proposal includes a total of 633 spaces being provided on the site and would therefore appear well in excess of the minimum 2/3 provision. However, this redevelopment involves provision for existing parking demand and adjoining developments. A core aim of Council's Albury Parking Strategy is to consolidate parking into centralised locations, minimising capital cost, increasing built form opportunities for central core properties and improving access for the community in general.

    The current Volt Lane public carpark contains 240 spaces. Council has an obligation under the previously approved Proton development to provide for an additional 154 spaces on-site. Therefore the total required provision of public carparking (exclusive of this development) on the Volt Lane site is 394 spaces. The development will provide 633 spaces on the Volt Lane site which is an additional 239 spaces or 51% of

the created demand. This does not satisfy the requirement to provide 310 or 67% of the generated parking demand on-site.

It is considered that a variation to this control is justified in this case based on the following reasoning:

a. A significant majority (169) of the additional parking provided on the Volt Lane site is designated as public carparking and therefore providing a greater community benefit than private parking.
b. The Kiewa Street carpark site is located less than 200 metres (nearest point to point walk) from the Volt Lane site.
c. There is substantial augmentation of public carparking as previously noted.
d. The nomination of the retail parking provision as public carparking will enable greater control and accessibility of this carparking for all potential users of the site and the Albury CBD in general.
e. Council's Traffic Engineer also supports the proposal and advises that *"locating all the works on one site would significantly increase the traffic generation at the site – not just from the additional development, but also from the relocated tax office employees, who currently park in Kiewa Street. It would necessitate re-designating some car parking on Volt Lane as all day parking, resulting in higher traffic and parking demands in this core CBD site, at the expense of Kiewa Street. The current outcome, with a spread of traffic and parking between Volt Lane and Kiewa Street, along with the convenience of at-grade car parking at Volt Lane, is considered the preferred outcome."*
f. The public parking provided on the site will be time limited and patrolled by Council to ensure availability to a wide variety of visitors and patrons to both the new development site and existing business premises in the CBD.
g. The off-site provision for parking from this development will be designated as all-day parking to encourage staff attending the commercial offices to utilise this facility and therefore ensure availability of parking on the Volt Lane site for short-term (2-3 hours).

ix. The design of the proposal will support the continued compact development of the CBD, it incorporates suitable architectural features to ensure attractiveness of the design and reinforces the continuity of pedestrian access through the use of multiple entrances and the overall permeability of the development

x. The provision of carparking is in accordance with the standards contained in part 17 of ADCP2010.

- Part 16 of the Albury DCP2010 sets out Council's controls for advertising signage. It outlines that there are a number of signage types that do not require Council consent subject to satisfying size, design and location criteria. The SEE submitted with the application noted on p22 that advertising signage will be the subject of separate development applications where applicable. Some indicative blade signage and flush mounted signage panels are included on the submitted plans that comply with this part of the DCP. It is recommended that should the JRPP resolve to grant consent, then appropriate conditions in regards to limiting advertising signage without separate approval should be imposed.

- Part 17 of the Albury DCP 2010 sets out Council's requirements for the provision of on-site carparking for developments.

The proposed development provides carparking consistent with the requirements of this Part. The current Volt Lane site contains 240 car spaces (plus an obligation for Council to provide an additional 154 spaces). The development will provide a five storey public carpark of 497 spaces, 70 basement carspaces and 66 at-grade spaces. The current Kiewa Street site contains 365 spaces and the development will provide a total of 693 spaces, which is an increase of 328 spaces.

Table 17.1 of ADCP2010 on pp17-4 to 17-8 outlines the required on-site parking provision by landuse type. The required carparking rate is 1 space per 40m^2 for office/commercial floorspace (15,399m^2) and 1 space per 40m^2 for retail floorspace (2,515m^2) and 1 space per 40m^2 for the restaurant/food & drink premises floorspace (595m^2). Table 17.1 also provides a carparking rate of 1 per 30m^2 where retail floorspace (nominated as Gross Floor Area) is greater than 3,000m^2. This is attributed to larger retail facilities generating a higher demand. The gross floor area includes more than 3,000m^2, however, the parking rate has been provided at the rate of 1 per 40m². This is considered satisfactory to Council based on the following reasoning:

i. The proposal includes subdivision of the site to which the proposed "Volt Lane Markets" will be on a separate title to the offices which incorporate retail areas.
ii. The overall retail areas nominated on the proposed plans includes a mix of food and drink premises. These uses are separately nominated landuses within Table 17.1 and therefore should be potentially excluded from floorspace calculations.
iii. The main retail space of 2,515m^2 is a single combined floorplate with multiple entrances, irregular shape and includes an internal accessway/loading area that is designed to accommodate multiple occupants rather than single large retail occupant.
iv. The "Volt Lane Markets" area includes a large internal avenue linking Smollett Street to Volt Lane. This was a key outcome sought by Council to encourage permeability of the site and to encourage the passage of workers and visitors to the site to access the CBD ant-trail, this reinforcing and contributing to existing central core businesses. This area technically forms part of the calculation of total gross floor area and contributes to the exceedence of the threshold.
v. An additional control to minimise any potential impact could be implemented by requiring a separate approval for any initial occupancy or use of the retail areas. This allows flexibility for the owner in attracting and assigning tenancies yet retains the opportunity to assess each use on an individual basis, ie. Food and drink premise versus retail.

   A condition could be imposed on the consent requiring approval prior to any initial occupation or use and separate condition could also be imposed preventing any single occupancy from having a gross floor area in excess of 3,000m^2.

Giving consideration to the reasons outlined above and Table 17.1, the proposed development generates an overall demand for 463 carparking spaces (with 3% being provided for people with a disability). The proposed development provides for 464 parking spaces being an additional 328 spaces at Kiewa Street, 70 basement spaces and 66 at-grade spaces on the Volt Lane site. The development generates a demand for 14 spaces for people with a disability and 14 spaces are provided. The proposed 497 space public carpark also complies with the 3% requirement and provides 15 spaces. The development

generates an overall demand for 16 motorcycle spaces which are provided and 47 bicycle spaces with 128 being provided.

Albury CBD Masterplan 2009

In 2007 Council instigated a project to develop Structure Plans for the Albury and Lavington CBD's incorporating design and presentation of the major City entrances. This project was identified following growing demand from Council and concern amongst the community regarding urban design outcomes of development occurring in the CBD areas of Albury and Lavington.

In August 2008 Council appointed Allen, Jack + Cottier (AJ+C) in conjunction with Oculus Consultants, to prepare, formulate and present the Albury and Lavington CBD Masterplans project. In June 2009 (prior to lodgement of the subject Development Application), the final *Draft* Masterplans were placed on formal public exhibition.

After a comprehensive and extensive 12 month consultation and analysis period (which involved community workshops and numerous meetings with representative groups and community members at different stages of formulation of the Masterplans as well as public displays of the documents), the CBD Masterplans for Albury and Lavington were formally adopted by Council in September 2009.

The purpose of the project was:

- To provide a long term planning framework for both the CBD's;
- To improve the public face of the CBD's at their entry points;
- To improve the public open space;
- To reinforce Albury & Lavington's role at the top of the regional hierarchy; and
- To grow the CBD's in a cohesive manner.

The project was designed to deliver the following outcomes:

- A collective vision for Albury and Lavington CBD's, documented as a set of planning documents;
- Public domain plan, setting objectives and controls for open spaces and streets; and
- Built form controls, to inform Council's policies (*Local Environmental Plan and Development Control Plan*).

The preparation and formulation of the Masterplans involved extensive public consultation and community workshops, which commenced with the inception of the project. The community response was very positive throughout the project and the strategies, principles and objectives provided in the Masterplans set a substantial strategic context and will assist in developing and facilitating the community's long term vision for the Albury CBD's.

The Albury CBD Masterplan is based on five key design objectives as listed in **Table 1** below with a short summary provided as an explanation.

Table 1. Design Objectives Albury

1. Enhance Albury's Public Image	Create a better visitor experience and improve the legibility of the CBD. Respect heritage and reinforce streetscapes and view corridors to hills. Promote better building design.
2. Create a Sense of	Define thresholds and entry sequences. Create a tourism destination and experience.

Arrival	
3. Connect important places	Integrate the Railway precinct into the CBD. Link to the Murray River Parklands. Reinforce the 'ant trail' and define networks of small streets, pedestrian links and cycle pathways.
4. Increase the CBD's vitality	Reinforce Dean Street as the "Main Street" and strengthen the retail and civic core. Support yet control location and street edge of show rooms.
5. Make outdoor rooms for living	Reinforce streets as places with active edges and frontages; Enliven squares and parks for all; Increase safety at night.

In response to the design objectives, seven key strategies were developed. The strategies seek opportunities to improve areas that were identified as needing attention or improvement. The strategies are identified in **Table 2** below.

Table 2. Summary of Key Strategies Albury

Strategy No.	Summary of Principles
1. An Identifiable City	Building upon the existing assets in Albury to create a memorable and unique experience.
2. A Connected City	Reinforcing the structure and legibility of Albury through a clear street hierarchy and urban form, providing cues for vehicles.
3. A Sustainable City	Maintain Albury's economic, social, cultural and environmental role in the region, while promoting a holistic approach to sustainability and climate change.
4. A Walkable City	Providing a high level of pedestrian amenity within the city to create vibrant, safe and easy-to-navigate streets.
5. A Bicycle Friendly City	Providing a clean, healthy, safe alternative to motorised transport for people of all ages.
6. A City for Culture and Recreation	Creating both public and private places for everyone in the community to gather, celebrate, relax and express themselves.
7. A Beautiful Liveable City	Simplify visual clutter, enhancing tree planting and identifying areas for public art and new public spaces.

Implementation

The implementation section of the Masterplan is focused on managing change across the City. The wide variety of development and especially lot sizes across the CBD means that there are different measures and controls appropriate for different sites and the Masterplan has sought to achieve and provide for this.

The Masterplan seeks to manage and guide future development through the following mechanisms:

1. Key Sites

The Masterplan addresses large consolidated sites and the opportunities available to accommodate significant change within the CBD both from a development capacity viewpoint and a public benefit viewpoint.
Detail site studies have been prepared for the following sites to provide future guidance on their redevelopment, as these sites or group of sites demonstrate great potential for change and therefore capacity to deliver initiatives within this report.

- Railway Precinct
- Council Depot Precinct

The Masterplan contains structure diagrams, design principles, indicative building forms and precedent images for each Precinct.

2. Infill Development

The Masterplan also includes a range of building types that could occur within small infill sites within the CBD. Redevelopment of these sites is likely to be incremental. Building types are used to illustrate how future buildings can respond to the desired uses and characters within the CBD.

3. Development Controls

The Masterplan proposes a range of development controls, which work together to describe building envelopes for future development. Building envelopes demonstrate development capacity. They are not buildings but three dimensional areas within which a building or series of buildings can be designed. The Masterplan adopts an approach to determining controls that is design–based. This means that controls are seen as design tools for shaping the future character, defining the spatial form of the CBD, and promoting better quality development. These controls compliment existing performance based development controls guiding environmental performance and amenity.

The FSR defines the permissible development capacity of a site, but does not predict the future building form or height of development. The Masterplan recommends a base FSR across various areas of the CBD. Where sites are amalgamated to achieve a minimum site frontage then additional FSR may be provided, thereby encouraging amalgamation.

The Masterplans also provides for a lower FSR for large sites to encourage provision of public domain and amenity.

The Building Height plan provides a maximum height limit across various areas of the City and ranges from two storey to a maximum of seven storeys.

As discussed earlier in this report, the controls envisaged in the Masterplan were translated and inserted directly into ADCP2010. As evidenced by the preceding information, the Albury CBD Masterplan was created after extensive consultation with the community. The development as proposed is consistent with the development envisaged by the Albury CBD Masterplan 2009 and consistent with the design objectives and key strategies as outlined.

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

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. The proposed development satisfies all relevant requirements of these matters.

Impact of the Development (S79C(1)(b))

- Traffic, Access and Parking

There are two major potential significant impacts in relation to this development application. Firstly, the potential disruption during the construction phase of the proposal, when two major city centre public carparks will be effectively shut-down (though not concurrently). This is an unavoidable consequence of the development. However the magnitude of the impact has been dramatically lessened as the construction phase of the development will be staged over a period time. Also Council has undertaken an analysis and identified that there is sufficient capacity within the existing CBD parking network to cater for the dislocated parking as a result of the construction period. It is extremely pertinent to note that currently the Volt Lane and Kiewa Street car parks provide 605 public spaces. At the conclusion of the construction of the proposed development there will be 1256 public spaces (plus the 70 basement spaces provided exclusively for the development). The development generates a demand for 463 spaces. So after considering the demand generated by the development and the existing public spaces currently provided, there will be an additional 258 public carparking spaces located centrally within the CBD.

The other impact is in regards to the traffic generated by the operation of the actual completed development.

As discussed earlier in this report, the matter has been referred to the NSW RTA as required under Schedule 3 of SEPP (Infrastructure). A copy of their response dated 5 October 2010 is included with this report and marked as *Attachment 5*. The response is generally supportive and contains recommended conditions. A copy of the general comment is extracted from the letter and contained below:

"I REFER TO YOUR CORRESPONDENCE REGARDING THE SUBJECT DEVELOPMENT APPLICATION WHICH WAS REFERRED TO THE ROADS AND TRAFFIC AUTHORITY (RTA) FOR COMMENT.

THE DEVELOPMENT PROPOSAL CONSISTS OF 2 COMPONENTS WHICH CAN GENERALLY BE DESCRIBED AS:

- ***A MULTI-STOREY COMMERCIAL AND RETAIL DEVELOPMENT WITH MULTI-DECK CARPARK WITH FRONTAGE TO SMOLLETT STREET, AND***
- ***A DECKED CARPARK WITH FRONTAGE AND ACCESS TO KIEWA STREET.***

THE PROPOSED DEVELOPMENT OF THE COMMERCIAL AND RETAIL DEVELOPMENT WITH FRONTAGE TO SMOLLETT STREET IS LOCATED IN THE CENTRE OF THE ALBURY CENTRAL BUSINESS DISTRICT. THE SUBJECT SITE AND THE IMMEDIATELY SURROUNDING PRECINCT CURRENTLY EXPERIENCE A SIGNIFICANT AMOUNT OF PEDESTRIAN AND VEHICULAR MOVEMENT ACTIVITY. THIS DEVELOPMENT WILL ADD TO THIS ACTIVITY HOWEVER WITH APPROPRIATE DESIGN CONSIDERATIONS IT MAY PROVE BENEFICIAL TO THE PEDESTRIAN AND VEHICULAR ACTIVITY, AND ITS INTERACTION, WITHIN THE AREA PARTICULARLY ALONG AMP AND VOLT LANES. ALSO TO BE CONSIDERED IS THE ADDED ACTIVITY GENERATED BY OTHER DEVELOPMENTS IN THE PRECINCT.

THE DEVELOPMENT PROPOSAL FOR THE SMOLLETT STREET SITE REPRESENTS THE PROVISION OF 2 NEW DRIVEWAYS TO SMOLLETT STREET, ONE TO SERVICE THE MULTI DECK CARPARK AND ONE TO SERVICE THE PROPOSED LOADING DOCK, WITH BOTH TO BE LOCATED IN CLOSE PROXIMITY TO THE EXISTING ACCESS INTO AMP LANE AND THE DRIVEWAY FOR THE TARGET LOADING DOCK WITH LIMITED SEPARATION PROVIDED BETWEEN THESE DRIVEWAYS. ADMITTEDLY THERE ARE CURRENTLY MORE DRIVEWAYS ALONG THE FRONTAGE OF THE SITE TO SMOLLETT STREET HOWEVER THIS PROPOSAL, PARTICULARLY WITH ONLY ONE DRIVEWAY PROPOSED TO SERVICE THE MULTI DECK CARPARK WILL CONCENTRATE THE VEHICULAR MOVEMENTS TO THE SITE. THE DEVELOPMENT PROPOSES TO ADDRESS THIS WITH WORKS WITHIN THE TRAVEL LANES THROUGH SMOLLETT STREET INCLUDING THE INCLUSION OF A CENTRAL MEDIAN WITH CHANNELISED RIGHT TURN (CHR) TREATMENTS AND THE DENIAL OF RIGHT TURN EGRESS FROM THE MULTI DECK CARPARK AND NEW LOADING DOCK AREA.

THE SUBJECT SITE HAVE FRONTAGE TO SMOLLETT STREET AND KIEWA STREET WHICH ARE BOTH LOCAL ROADS WITH THE RELEVANT ROADS AUTHORITY BEING THE ALBURY CITY COUNCIL. THIS DEVELOPMENT HAS BEEN REFERRED TO THE RTA DUE TO THE NATURE OF THE DEVELOPMENT AND THE POTENTIAL TRAFFIC GENERATION OF THE DEVELOPMENT. WHILST THIS PROPOSAL MAY NOT HAVE A SIGNIFICANT IMPACT ON THE CAPACITY OF THE CLASSIFIED ROAD NETWORK IT WILL IMPACT ON THE OPERATION OF THE TRAFFIC SIGNAL FACILITIES AT THE NEARBY INTERSECTIONS OF SMOLLETT STREET WITH KIEWA STREET, SMOLLETT STREET WITH OLIVE STREET AND POTENTIAL FOR IMPACT ON THE INTERSECTION OF KIEWA STREET WITH HUME STREET (THE RIVERINA HIGHWAY). WHILST THE SUPPORTING INFORMATION IDENTIFIES THAT ANY IMPACT CAN BE ACCOMMODATED IT MAY BE PRUDENT TO CONSIDER A CONDITION REQUIRING AN ASSESSMENT OF THE ACTUAL FUNCTIONING OF THESE INTERSECTIONS FOR BOTH PEDESTRIAN AND VEHICULAR MOVEMENT AFTER THE COMPLETION AND OCCUPATION OF BOTH DEVELOPMENT SITES. THIS COULD BE CONDITIONED TO BE UNDERTAKEN BY THE DEVELOPER WITHIN 12 MONTHS OF THE OCCUPATION OF THE DEVELOPMENT WITH ANY AUGMENTATION WORKS TO THE INTERSECTIONS TO BE BORNE BY THE DEVELOPMENT.

THE RTA HAS ASSESSED THE DEVELOPMENT APPLICATION AND SUPPORTING INFORMATION PROVIDED AND WOULD NOT OBJECT TO THE DEVELOPMENT PROPOSAL SUBJECT TO THE COUNCIL ENSURING THAT IN ADDITION TO THE CONTENT AND RECOMMENDATIONS OF THE STATEMENT OF ENVIRONMENTAL EFFECTS PREPARED BY BLUEPRINT PLANNING THAT THE FOLLOWING COMMENTS ARE CONSIDERED AS CONDITIONS OF DEVELOPMENT CONSENT AND ARE COMPLIED WITH"

The detailed recommended conditions are provided in full in *Attachment 5.*

Council's Traffic Engineer has also considered the proposal and provides the following comment:

"I have reviewed the Development Application for 520-524 Smollett Street and 441 Kiewa Street, Albury in relation to traffic and transport-related issues. This has included a review of

the Statement of Environmental Effects, Traffic Impact Statement and comments from the NSW RTA.

With respect to the recommendations proposed by the NSW RTA, I generally agree with all 12 proposed conditions. It is noted that the RTA recommend alternative on-site car parking rates be utilised to calculate the minimum number of parking spaces, in line with the RTA Guide to Traffic Generating Developments. However, the car parking calculations have been undertaken in line with the Albury DCP 2010, and are considered appropriate for this type and scale of development in this particular location. Note that a number of these are small car spaces, and will need to be designated appropriately (this is covered by the RTA Condition Number 2). It should be noted that "site" is taken to refer to both the Smollett Street ("Volt Lane") and Kiewa Street ("Gasworks"), and conditions containing the word site apply to both. I would propose the following small changes:

Condition 3 – Change to read:

> *The swept path of the largest vehicles entering and exiting the subject site and manoeuvrability through the site (including along Amp Lane, Volt Lane and Selles Lane) is to be in accordance with AS2890.2-2002 etc. etc. etc.*

Condition 10 – Change to read:

> *The proposed carpark capacity signage is to be clearly visible to vehicles travelling along Smollett Street before turning into the driveway for the car park.*

With respect to the recommendations proposed in the Traffic Impact Assessment, these are listed below, followed by my response to each:

- *The median in Smollett Street contain a 6m mountable nose west of the Amp Lane opening to facilitate access by semi trailers to the Target loading dock;*

  Agreed, however the length of the mountable nose should be determined based on an overlay turning template, demonstrating the movement of an articulated vehicle reversing into the Target loading dock (the turning movement shown in the traffic study would be difficult to achieve in reality, and it may be that a length other than 6m is appropriate).

- *The right angle junction of Amp Lane and Volt Lane is flared with a 4m x 4m splay to cater for the passage of a 12.5m single unit delivery truck around this bend;*

  Agreed, subject to provision of a suitable turning movement diagram (the one provided in the traffic study has insufficient detail on the speed and turning radius used). Covered in the proposed modification to RTA condition 3 detailed above.

- *The proposed median in Smollett Street will contain a 6m mountable nose west of the Amp Lane opening to facilitate access by semi trailers to the Target loading dock;*

  Refer previous comment.

- *The multi-deck car park entrance and exit lanes are to be separated by a minimum 1.0m wide separator island;*

  Agreed – note that this will require some modification to the plans. This applies only to the Smollett Street access, and not to Kiewa Street. The design should seek to incorporate some physical measures to reinforce the left turn only on exit.

- *Operational procedures for the Market, supported by signing, will restrict access to the Market loading dock to vehicles of 12.5m in length or less;*

  Agreed.

- *Appropriate signing will be installed at the basement car park access to reinforce the proposed left-in left-out access movements;*

  Agreed. Appropriate signing should also be installed at the other car park egress points (Smollett Street and Volt/Selles Lane)

- *Operational procedures for the ATO Office, supported by signing, will restrict access to the ATO loading dock to vehicles of 8.8m in length or less;*

  Agreed.

- *The current clockwise circulation through Amp Lane, Selles Lane and Volt Lane is to be retained as part of the development proposals;*

  Agreed

- *The multi-deck car park is provided with an electronic message board at the entry to indicate available parking;*

  Agreed, and note proposed RTA condition 10.

- *The egress from the new Volt Lane car park will be restricted to left-out only;*

  Agreed with reference to the exit onto Smollett Street. To be supported with appropriate signage.

- *The standard of the connection of Volt Lane with Olive Street will be reviewed, with the intention of upgrading pedestrian priority and sight lines for exiting drivers;*

  Agreed, as it is likely volumes will increase slightly along Volt Lane, due to the shorter parking duration proposed for the at-grade car park. The review and any associated plans are to be submitted to Council for approval. Any works required at the intersection of Volt Lane and Olive Street as a result of this review, and approved by Council, are to be at the cost of the developer.

- *Operation of the enlarged "Gas Works" car park should be accompanied by an extension of the northbound left turn lane in the Kiewa Street south approach to Smollett Street to 50m;*

  Disagree. *The report has assumed a 50/50 split between exiting vehicles heading north and south from the Kiewa Street car park. This has not been supported by any analysis of current movement patterns at the site (as was provided by Council to the developer for the existing Volt Lane site). The majority of vehicles using the Kiewa Street car park travel to/from Hume Street, and so the impact on the Kiewa Street/Smollett Street access is likely to be less than predicted. It would also remove*

3 existing on-street car parks from in front of the shops located on the south-western corner of Kiewa/Smollett Streets, impacting on these businesses.

- *The introduction of mid-block pedestrian crossing facilities be included in the detailed design of Smollett Street following resolution of location issues in consultation with ACC.*

  Agreed, subject to endorsement by AlburyCity of a safe location for a pedestrian refuge only (not a dedicated zebra or signalised pedestrian crossing). It is noted that safe, signalised pedestrian crossings are located at the intersections of Kiewa/Smollett and Olive/Smollett Streets, which provide additional green time for pedestrians to cross, and that the proposed location in the plans is in the middle of a turning lane.

Further recommendations would be:

- *There should be a lift provided to the proposed multi-level car park in Kiewa Street. Although the proposed disabled parking is on the ground floor, there are no facilities on the upper floors for either disabled persons, or other people who may require something other than a staircase (eg. People using prams/strollers, moving heavy items, etc.)*
- *Consider locating additional trolley bays or relocating existing to the middle or the eastern side of the at-grade car park (strictly speaking not a traffic issue, but could have an impact on the operation of the car park)*
- *Provision of mini-lockers for bikes (similar to those located in QEII Square) should be made on Smollett Street and Amp Lane, without compromising the overall number of bike racks. Consideration should be given to provision of bike racks and/or lockers in the vicinity of the at-grade car park.*

Overall the proposed development has been assessed against the provision of SEPP (Infrastructure) 2007 by the NSW RTA and Council's Traffic Engineer. A detailed Traffic Impact Assessment by CPG Australia was also undertaken on behalf of the applicants and submitted with the Development Application. It is recommended that the development is satisfactory subject to the imposition of suitable conditions of consent in relation to traffic management and carparking as provided by NSW RTA and Council's Traffic Engineer.

- Waste

The development is easily serviced by local waste contractors and provision has been made within the site for storage and collection of waste.

- Demolition and Construction.

It is expected that any noise and dust pollution will occur primarily during demolition and site construction works. To minimise the impact, appropriate conditions relating to demolition and construction hours are recommended together with conditions relating to soil and water management.

- Context and Setting

The sites are located in the core central area of the Albury CBD. Their general context is within a setting of mixed use retail and commercial development, with some associated public uses such as Schools and churches. They both contain existing at-grade public

carparks which are part of Council's public carpark network. A variety of building heights surround the site and the Albury CBD has several other existing buildings of comparable height, namely the Chifley in Dean Street and the Gardens Medical Centre in Smollett Street.

They are identified in the Albury CBD Masterplan 2009 and ADCP 2010 in relation to their current and desired future uses. Figure 11.7 on page 11-51 of ADCP2010 is titled "Land Use Diagram – Albury" and generally identifies area by current landuse and character. The Volt Lane site is identified as "Dean Street and Retail Core" whilst the Kiewa Street site is identified as "CBD Commercial". Figure 11-13 on page 11-57 of ADCP2010 is titled "Future Character Areas – Albury" and identifies the future desired character of areas of the Albury CBD. This identifies the Volt Lane site as "Dean Street and Retail Core Character Area" and the Kiewa Street site as "Commercial Character Area". The development as proposed is consistent with the current and future desired character and context for the sites as envisaged by the Albury CBD Masterplan 2009 and ADCP2010 as the augmentation of centralised public carparking is consistent with these uses.

The proposed nature of the building, its scale and bulk is considered to fit within the existing context of the site and will not unreasonably intrude upon the area. The proposed development is below the permitted maximum FSR and Building Height for the sites as identified in the Albury CBD Masterplan, ADCP2010 and ALEP2010. On this basis, and having regard to the substantial compliance with the other controls contained in Albury CBD Masterplan 2009, ADCP2010 and ALEP2010 the proposal is considered satisfactory

- Flora and Fauna

The development will not have any detrimental impact upon flora and fauna.

- Heritage and Archaeology

The sites do not contain any formally listed heritage items.

The Volt Lane development adjoins the state listed "Carriageway Building" (to the south east of the site at 506 Smollett Street) as well as a number of local listings, most notable being the "T & G Building" (to the north of the site at 553 Dean Street), and is located directly across the road from the St Patricks Church (515 Smollett Street), Presbytery (515 Smollett Street), Roman Catholic Hall (521 Smollett Street) and a Fig Tree (444 Kiewa Street). The overall development will not have an adverse impact upon these buildings and heritage items.

The Carriageway Building is distinctive for its architecture and Smollett Street facade. This will remain unaffected by the proposed development. There is a substantial distance between this building and the proposed development including Selles Lane and adjoining shops at 510 Smollett Street.

The T&G Building is most prominent in its relationships to Dean Street and Amp Lane which is unaffected by the proposed development. The residential apartments in both the Carriageway Building and the T & G Building will have minimal amenity impacts as a result of the proposed development.

With consideration given to cases such as *Anglican Church Property Trust v Sydney City Council (2003) NSWLEC353,* it is considered that the proposed development does not unreasonably reduce public views of the heritage items and their settings, does not visually dominate the heritage items, does not unreasonably overshadow the heritage items and

reasonably relates to the character and form of the heritage items without utilising emulation or mimicry.

- Socio-Economic

The proposal will have a positive social and economic impact upon the locality. Additional employment will be created during construction. The future operation and business investment will lead to additional employment and investment in the City core, emphasising Albury's role as a regional centre and destination.

Overall the proposed expansion of public carparking within the CBD will have a positive socio-economic benefit for the city.

- Visual Impact

The development will not have a significant impact upon existing vistas or view lines. The overall size and scale of the structures will guarantee that they have an impact, but it is considered that combination of the design, materials used and its relationship and context to surrounding development will ensure that the impact is not detrimental.

- Water and Hydrology

The applicant's letter dated 5 October 2010 advised that preliminary geotechnical investigations have been undertaken for the site and revealed that it is not likely that groundwater will be intercepted during construction.

- Hazards and Risks

The site is not affected by bushfire or flooding. The issue of site contamination has been separately addressed in this report.

- Safety, Security and Crime Prevention

As previously stated within this report the application was referred to the NSW Police, who upon referral raised no objections to the development. A copy of their referral response is included with this report and marked as *Attachment 6*.

Furthermore the design and layout of the building is satisfactory in terms of Safer by Design Principles and the development is not seen to cause or create a crime risk.

- Noise

Air conditioning and other noise sources are proposed to be located on the roof, which is appropriate in this instance due to the substantial height of the building and the minimal effects likely to result to adjoining buildings. Nonetheless to minimise the impact on acoustic and visual amenity (particularly for those residents on the upper floors) an appropriate condition is recommended, should the JRPP determine that consent be issued. The condition could require plant and equipment generating noise to be housed within the confines of a purpose built structure and sited to ensure visual amenity

- Utilities

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

- Privacy and Overlooking

The development as proposed contains a large number of glazed areas. An assessment of these areas and their location and proximity to surrounding land uses determined that they are not seen to cause or create any significant concerns regarding overlooking and overshadowing as the building is predominantly surrounded by commercial and retail developments.

- Solar Access and Overshadowing

Due to the substantial height of the building (33.35m at its highest point) the proposal will create/cast significant shadows to adjoining properties as well as properties on the southern side of Smollett Street. The Albury CBD Masterplan 2009 envisaged the potential for development within the short to medium term that would potentially be of this height and scale and therefore have a degree of potential for overshadowing.

Overshadowing diagrams were provided for the development indicating shadows cast by existing buildings and development. The submitted plans indicated potential for additional overshadowing at the winter solstice (being the time of greatest length of shadow) and the spring equinox (being the median shadow). An analysis of the overshadowing diagrams provided indicates that the level of overshadowing is not excessive and that suitable solar access will still be provided for these properties. The Church is not affected by the development until the afternoon, the school (containing the Fig Tree) is generally only affected in the morning and, whilst the front yard of the Presbytery is affected, there is ample solar access to this property. The Roman Catholic Hall is generally overshadowed throughout the day, however this is not considered unreasonable due to combination of factors including that the hall is used for non-residential purposes, the overshadowing is generally confined to winter, late afternoon solar access is still available in winter and there are numerous unrestricted windows on the eastern and western elevations. Overall, it is considered the overshadowing of the Roman Catholic Hall is not unreasonable in context and impact.

It should be noted that solar access and overshadowing is generally held to be of minor significance where it affects commercial/non-residential properties as the level of amenity expectations is not the same as that for residential development.

Suitability of the Site (S79C(1)(c))

The site is appropriately zoned and fully serviced to allow the development to proceed. The site is not within a flood referral area or bushfire hazard area. Whilst the Kiewa Street site (Lot 1 DP 1048142) is identified as contaminated, this issue has been considered under SEPP55 and the site is considered suitable for the proposed development. There are no major physical constraints or exceptional circumstances that would hinder the development as proposed.

Public Submissions (S79C(1)(d))

The proposed development was advertised from 25 August until 17 September 2010. During this period, 4 submissions were received, with three submissions raising concerns with the proposal and one indicating support.

The submissions raised the following concerns/issues with the proposed development.

1. Economic Impact Analysis

Concern is raised in relation to the potential economic impact of the creation of such large office and retail floorspace

Planning Response

As part of the creation and formulation of the recent Albury CBD Masterplan, HillPDA undertook a detailed analysis of potential floorspace demands for office and retail development within the Albury CBD. The proposed development is less than the possible FSR indicated for the site in the Albury CBD Masterplan 2009, which was subsequently adopted into the ALEP2010. Overall a development of this nature will not have a significant detrimental impact upon the Albury CBD. The creation of such a large development within the Albury CBD will reinforce its primacy and role, not only within the Albury LGA but regionally and therefore will not significantly alter the existing dynamics of Albury.

2. Construction period blowout

The objectors are concerned that there are no contingency measures outlined in the event that the construction period is longer than expected.

Planning Response

It is noted that any significant extension to the construction period would have an impact upon the general amenity of the locality, a development cannot be refused on this basis and it is considered that the overall impact of the construction will be beneficial to the general community once the development is completed.

3. Construction and operational impacts

Concern in regards to the inconvenience and amenity impacts during construction and operational stages of development.

Planning Response

This has been suitably addressed earlier in this report. A detailed construction management plan will be required to be prepared and submitted for approval to address amenity issues during construction, while an operational management plan will be required to be prepared to address amenity issues during operation (for example, procedures for loading/unloading trucks). In general, amenity issues are catered for in the design of the building (eg. all loading/unloading to be carried out internally).

4. Carpark design and setback

Insufficient rationale and justification is provided for the variation to the streetwall setback for Selles Lane and Amp Lane.

Planning Response

This issue has been separately addressed earlier in this report and it is considered that the variation has been suitably justified in the submitted information.

5. Views

The objectors are concerned that the Planning Report and Statement of Environmental Effects do not adequately address the impact that the development will have on the overall city skyline and important vistas.

Planning Response

The development will not have a significant impact upon existing vistas or view lines. The size and scale of the structures will result in an impact, however it is considered that a combination of the design, materials used and its relationship and context to surrounding development will ensure that the impact is not detrimental.

6. Construction waste management

Concerns were raised in relation to the management of construction activities and waste..

Planning Response

Initial detail has been provided in relation to construction management and it is recommended that should the JRPP grant consent, then a condition be imposed requiring the submission and approval of a Construction Waste Management Plan.

7. Infrastructure Impacts

Concerns are raised as to the impact upon existing infrastructure.

Planning Response

Council's Asset Team has considered the proposal and existing water and sewer infrastructure can cater for the proposed development. Relocation, upgrading and expansion of other utility services for the site have been designed and agreed to by utility providers. The works will relocate and significantly upgrade the existing electricity substation providing greater security and certainty of supply to the CBD and especially central core businesses.

8. Elevation details

Lack of detail on street elevations including finishes and materials.

Planning Response

Sufficient detail has been provided to enable Council to determine the potential impact and suitability of the proposed building design. The proposed building design is modern, contemporary and consistent with that envisaged by the Albury CBD Masterplan 2009 and ADCP2010.

9. Heritage Impacts

There are concerns that the proposed development will have a significant adverse impact upon nearby heritage items, namely the Carriageway Building, T&G Building and St Patricks Church, Presbytery and Fig Tree (in the primary school).

Planning Response

This has been discussed previously in this report and it is concluded that the proposed development will not have a significant detrimental impact upon adjoining heritage properties.

10. Alternative design strategy

Concerned that no discussion on alternative designs that lessen the scale and bulk of the proposal.

Planning Response

The proposed scale and bulk of the development is satisfactory and consistent with the development form envisaged by ALEP2010, ADCP2010 and the Albury CBD Masterplan 2009. There is no need for the application to include consideration of alternative designs when the proposed design is be consistent with the planning consideration and policies pertinent to the site and form of development.

The design documents address the reasoning for incorporating an at-grade car park in the development. This includes the need to retain elements of the existing site, retain some natural light to the site, and provide a convenient alternative to multi-level car parking.

11. Future tenancy and ownership

There is concern over the future tenancy and ownership of the completed development.

Planning Response

This is not a relevant planning concern beyond ensuring that the development can be utilised for land uses that are permissible within the zone.

12. General impact on nearby residences

Concerns that there will be impacts on the amenity of nearby residences.

Planning Response

There are adjacent and nearby residences in the historic T&G and Carriageway Buildings and the St Patricks Presbytery. These residences will not be unduly impacted upon either by way of overshadowing or privacy. The intensification of development on-site will have some detrimental impacts in regards to noise and potentially hours of operation, however it is considered that this form of development is not unreasonable nor beyond the reasonable expectation in regards to core CBD development for a large regional centre such as Albury.

13. Traffic Management

There are concerns as to the impacts upon surrounding streets and egress to and from nearby development as a result of the traffic generated by the proposed development.

Planning Response

This has been previously considered in this report and it is concluded that the proposed development will not have a significant detrimental impact upon traffic patterns in the locality and that it can be suitably managed through design and implementation of suitable traffic control measures.

Parallel parking will continue to be available on Smollett Street. Parents wishing to collect students can do so from Smollett or Kiewa Streets, and also have access to the multi-level or at-grade car parks. The Traffic Impact Assessment has demonstrated that congestion on Smollett Street will not be a significant issue, but that congestion at nearby signalised intersections may be (and consequently Council proposes to condition the DA to include a requirement to review the operation of the signals after 12 months). A pedestrian refuge will be considered mid-block on Smollett Street between Kiewa and Olive Streets (although it should be noted that there are safe crossing points at the signalised intersections of Smollett Street with Kiewa and Olive Streets, both no more than 100m away).

The Traffic Impact Assessment has demonstrated that congestion on Kiewa Street will not be a significant issue, but that congestion at nearby signalised intersections may be (and consequently Council proposes to condition the DA to include a requirement to review the operation of the signals after 12 months). Pedestrians can cross Kiewa Street safely at the signalised intersection of Smollett and Kiewa Street, no more than 100m away. A signalised pedestrian crossing from the Kiewa Street car park to the school is not warranted.

Both the RTA and Council's Traffic Engineer have provided support for the proposal.

14. Carparking

There are concerns as to carparking functionality and impacts. Also concerns in regards to the validity of the carparking availability during construction.

Planning Response

The at-grade and multi-level car parks will be available for safe usage by the public 24 hours a day. A pedestrian refuge on Smollett Street is being considered, although it should be pointed out that there are safe crossing points at the signalised intersections of Smollett Street with Kiewa and Olive Streets (both no more than 100m away). The effect of traffic on the surrounding road network has been considered in the Traffic Impact Assessment, and addressed through conditions such as those requiring the developer to review levels of service after 12 months of operation.

The proposed development will increase the number of available car parking spaces at Volt Lane and Kiewa Street in the long term. A parking strategy has been developed to address the temporary loss of car parking during the construction phase, and Council will continue to monitor supply and demand for car parking. The proposed parking is in line with AlburyCity's CBD Parking Strategy (adopted in 2010).

15. Overshadowing

There are concerns in relation to the level of overshadowing on buildings to the south of the Volt Lane site, namely St Patricks Church, St Patricks Primary School (especially the Fig Tree and playground) and the St Patricks Presbytery.

Planning Response

An analysis of the overshadowing diagrams provided indicates that the level of overshadowing is not excessive and that suitable solar access is still available to these properties. The Church is not affected by the development until the afternoon, the school is generally only affected in the morning and, whilst the front yard of the Presbytery is affected, there is ample solar access to this property.

16. Scale, bulk and impact of development

Concerns that the overall development is excessively bulky and excessive in height.

Planning Response

The development is consistent with the form of development envisaged by the recently adopted Albury CBD Masterplan.

17. Safety and fencing

St Patricks Primary School perceives an increased risk to students to increased pedestrian usage near a low fence.

Planning Response

Pedestrians travelling between the Kiewa Street car park and the Volt Lane development would most likely cross at the signalised intersection of Kiewa and Smollett Streets. They would be unlikely to travel along Smollett Street and cross near the school. The current conditions will not significantly alter and there is no obvious or justifiable link between the proposed development and the need to upgrade fencing at the school.

18. Non-compliance with ADCP2010 and Albury CBD Masterplan 2009

The objectors are concerned that the proposed development does not comply with requirements of ADCP2010 in relation to provision of 2/3 of parking on-site and that the provision of parking on-site is not consistent with the desired future landuses identified in the Albury CBD Masterplan 2009..

Planning Response

The site does provide substantial additional public parking on-site. As previously discussed in this report, an additional 721 spaces (including 651 public spaces) are provided across the two carparks which are in extremely close proximity (less than 5 minutes walk). The development generates a demand for 463 spaces. The multi–level Volt Lane carpark provides for 497 public spaces on-site, an additional 66 spaces at grade public spaces are provided plus a further 70 exclusive basement spaces. It is considered that the intent of 11.7.11 is satisfied.

The issue of the appropriateness of the parking calculations in relation to retail floorspace has been considered earlier in this report in the discussion on compliance with Part 17 of ADCP2010.

The issue of the use for carparking and its consistency has been previously considered in this report under "context and setting". In summary the development as proposed is

consistent with the current and future desired character and context for the sites as envisaged by the Albury CBD Masterplan 2009 and ADCP2010 as the augmentation of centralised public carparking is consistent with these uses.

19. Traffic Assessment

An issue was raised that the Traffic Impact Statement was not done correctly and had issues in relation to cumulative assessment of impacts and that there are some inconsistencies between the traffic assessment and the planning report

Planning Response

Council's Traffic Engineer noted that "the traffic assessment appears to provide a separate (rather than cumulative) assessment of the operating performance of the Smollett Street/Kiewa Street intersection." However Council has carried out a cumulative assessment and is satisfied that the operation of the intersection is acceptable under the cumulative scenario.

Council's Traffic Engineer notes that there are a number of minor discrepancies between the various reports and documents supporting the DA but concludes that "the inconsistencies are unlikely to materially change the traffic and parking implications of the proposed development".

The other submission was from a local resident. They advised no objection to the proposed development but suggested a minor name change for a section of the development. The naming of the actual building and elements of the development is not a relevant planning consideration and therefore not considered as part of this assessment report.

As discussed earlier in this report, the matter was referred to the NSW RTA as required under Schedule 3 of SEPP (Infrastructure). A copy of their response dated 5 October 2010 is included with this report and marked as *Attachment 5*. The response is generally supportive and contains recommended conditions. It is recommended that these form part of the conditions of consent should the JRPP resolve to grant consent.

As previously stated within this report the application was also referred to the NSW Police, who upon referral raised no objections to the development. A copy of their referral response is included with this report and marked as *Attachment 6*.

Public Interest (S79C(1)(e))

The impacts of the proposed development on the environment in general has been considered and addressed. The proposal serves the public interest by provision of additional public carparking and suitable development of an important city centre site. The subject development has generated minimal concern from the public. Those issues raised have been considered and responded to in the preceding sections of the report. Given the detailed assessment report provided, it is considered that this proposal is not contrary to the public interest.

The proposal is not known to contravene any State or Federal Government Legislation, Regulation or Policy.

Options:

The Southern Region JRPP has the following options in relation to this report:

a. Approve the application, subject to conditions,
b. Defer the application for further information or redesign, or
c. Refuse the application.

Conclusions:

The proposed development 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 Deemed State Environmental Planning Policy – Murray Regional Environmental Plan No 2, State Environmental Planning Policy 55 (Remediation of Land), State Environmental Planning Policy (Major Developments) 2005, State Environmental Planning Policy (Infrastructure) 2007, Albury CBD Masterplan 2009, Albury Local Environmental Plan 2010 and Albury Development Control Plan 2010. It is considered that the proposed development is appropriate and satisfactory as a result of this assessment.

Accordingly, Development Application 10.2010.30491.1 is recommended for APPROVAL subject to the imposition of suitable conditions of consent.

Recommendation:

a. JRPP note the contents of this report; and
b. That Southern Region Joint Regional Planning Panel grant development consent for 10.2010.30491.1 for a staged development involving mixed use commercial and retail development and associated carparking and public carparking on Lot 1 DP 1007152, Lot 102 DP 739674 and Lot 1 DP 1048142, being 520-524 Smollett Street and 441 Kiewa Street, Albury subject to the draft conditions attached.

- **Attachment**

1. Plans of the Development (separately provided to JRPP members)
2. Statement of Environmental Effects by Blueprint Planning dated 23 August 2010 (separately provided to JRPP members)
3. Further information letter dated 21 September 2010
4. Further information received dated 5 October 2010
5. Referral response from RTA dated 5 October 2010
6. Referral response from NSW Police dated 17 September 2010
7. Letter from Envestra dated 6 October 2010
8. Email from NSW DECCW dated 7 October 2010
9. Public Submissions
10. Draft Consent conditions