

**SOUTHERN REGION JOINT REGIONAL PLANNING PANEL - Development Application 10.2017.35189.1 Demolition of all structures and erection of Affordable Housing development and community centre – 401-407 Olive Street and 18-22 Richs Lane South Albury (AF17/00278)**

**EXECUTIVE SUMMARY**

Development Application No. 10.2017.35189.1 was received by Council on 3 February 2017. The development proposes the erection of an affordable housing development by Amelie Housing (a subsidiary of St Vincent de Paul).

As an *affordable housing development* undertaken by a private organisation with a Capital Investment Value exceeding \$5million, the development is also defined as *Regional development* to be determined by a Joint Regional Planning Panel (JRPP).

Following its receipt, the development application was publicly exhibited between Tuesday 7 February 2017 and Friday 24 February 2017. Four submissions were received to the proposed development.

Following a detailed assessment and the public submission period, Council staff requested further information from the applicant. The additional information was received by Council on 19 April 2017. The amended plans and information are the details assessed for the purposes of the report.

The amended plans and information were notified to submitters from 2 May 2017 to 12 May 2017. No further submissions were received in regard to the amended plans and updated information.

**Relevant Section 79C Considerations:**

***Section 79C(1)(a)(i) Provisions of Environmental Planning Instruments***

State Environmental Planning Policy (State and Regional Development) 2011: As an *affordable housing development* undertaken by a *community housing provider* (not being the Crown) with a Capital Investment Value exceeding \$5million, the development is defined as *Regional development* to be determined by a Joint Regional Planning Panel (JRPP) under Schedule 4A of the *Environmental Planning & Assessment Act 1979* and Clause 20 and 21 of *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP).

State Environmental Planning Policy 55 – Remediation of Land: The *Environmental Site Assessment (Phase II Site Investigation)* dated 23 May 2016 and prepared by Envirotech .. concludes that the site is suitable for the proposed development, once clearance certificates for asbestos are provided for the site.

State Environmental Planning Policy (Affordable Rental Housing) 2009: The development has been lodged under the provisions of the Affordable Housing SEPP, which states that the SEPP prevails to the extent of any inconsistency with any other Environmental Planning Instrument, including Local Environmental Plans. Clause 14 of the SEPP further provides that certain development standards cannot be used to refuse development if the development complies with those standards. Conditions are proposed to address some issues raised in the detailed assessment in the report.

Murray Regional Environmental Plan No.2 – Riverine Land (MREP2) – A Deemed State Environmental Planning Policy: The development proposal is not inconsistent with the intent and application of MREP2 as the site is some distance from the Murray River and will have no specific impact on the riverine environment. The type of development proposed in this application is not included in the list of specific developments for which MREP2 requires additional notification and referral.

Albury Local Environmental Plan 2010: The development as proposed satisfies the aims of *Albury LEP 2010*. The site is zoned part *R1 General Residential* and part *B4 Mixed Use* under the provisions of *Albury LEP 2010*.

The development achieves the objectives of the *[R1 General Residential]* zone in that it provides for the housing needs of the community, provides for a variety of housing types and densities and provides affordable housing. The proposed development is consistent with the objectives of the *B4 Mixed Use* zone as it provides a mixture of compatible land uses by providing residential and community development in accessible locations and provides affordable housing in close proximity to the CBD.

Albury Development Control Plan 2010:

**Part 4 Developer Contributions:** The *Albury Infrastructure Contributions Plan 2014* (Albury ICP 2014) came into effect on 1 July 2014 and provides for the levying of contributions on development under Section 94 and 94A of the *Environmental Planning and Assessment Act 1979* and Section 64 of the *Local Government Act 1993*. The site is located within a Section 94A Contributions area. However, Affordable Housing development is exempt from payment of Section 94 and Section 94A contributions under a Section 94E Ministerial Direction when that development is provided for the sole purpose of affordable housing. However, the proposed development will, in the opinion of Council, result in an increased demand being placed upon infrastructure and services, in particular the reticulated water and sewerage systems.

Consequently, at the rates applicable per ET in *Albury ICP 2014*, the development is liable for contributions of

**Water:** \$21,145.42  
**Sewer:** \$4,929.01

**TOTAL:** **\$26,074.43**

**Part 6 Planning for Hazards:** The subject site is located within an area identified at risk of inundation in the event of a 1:100 year flood. The development includes importation of fill to provide finished floor levels at 500mm above the 1:100 year flood level. The site is also located in an area where historic land uses may have an impact upon future development. A Phase 2 Contamination Assessment undertaken for the site has concluded that the site is suitable for the proposed development.

**Part 10 Development in the Residential Zones:** Council's controls relating to Multi Dwelling Housing are generally overridden by the provisions of the Affordable Housing SEPP.

**Part 17 Off Street Car Parking:** Part 17 of the DCP requires that developments be provided with car parking in accordance with the Table included in that section. However, the Affordable Housing SEPP prevails over the provisions of Part 17 and Council's parking standards cannot be applied to the residential component of this development.

The Affordable Housing SEPP does not stipulate a parking rate for the Community Centre.

Given that the majority of services provided in the Community Centre are directly related to services supporting residents of this development, the parking shortfall is somewhat offset by the lower demand for car parking by those clients. The Affordable Housing SEPP prevents refusal of the application on the grounds of car parking if the development provides the required parking for the dwellings. The SEPP is silent on the parking needs of ancillary development and Council therefore accepts that the parking provided for the Community Centre is satisfactory on this site in these circumstances.

#### ***Section 79C(1)(a)(iiia) Any Planning Agreement***

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

#### ***Section 79C(1)(a)(iv) Provisions of Regulations***

Sections 92-98 of the Regulations outline the matters to be considered in the assessment of a development application. These matters have been considered and are deemed to be satisfied for the proposal. A condition requiring compliance with AS 2601—1991: *The Demolition of Structures* can be imposed.

#### ***Section 79C(1)(b) Likely Impacts of the Development***

Section 79(C) of the *Environmental Planning and Assessment Act 1979* requires consideration of likely impacts of the development, including environmental impacts on both natural and built environments, and social and economic impacts in the locality.

- The development will not have a detrimental impact on the scenic qualities, character and amenity of the locality and streetscape.
- The development as proposed is not unreasonable within the context of the applicable zones and its location on the fringe of the CBD, with consideration given to the scale of the development, its relationship to the existing development and surrounding uses and the setbacks to surrounding development.
- The internal pedestrian circulation is less than satisfactory and it is considered that it should be reconsidered and safe and distinct pedestrian routes *to all dwellings and communal facilities* be provided as required in the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. A condition requiring consideration of pedestrian facilities that may be provided and means of prioritising pedestrian movement within the road hierarchy has been recommended.
- Further information was sought from the applicant in regard to the impact upon local roads and parking as a result of the site being provided with parking at a rate less than 1 space per dwelling (notwithstanding the compliance with the Affordable Housing SEPP) and the safety of the internal roads.
- The internal traffic conflicts arising from the garbage truck traversing the site on narrow roads were raised as concerns with the applicant during assessment of the application, however the applicants' traffic consultant has considered that a combination of low vehicle speeds and low frequency of access by garbage trucks will provide a satisfactory level of safety.
- The SEE states that the car parking exceeds the SEPP requirements notwithstanding that many of the future residents will not have vehicles. Consequently, Council is concerned that a higher proportion of the residents of this development will rely upon alternate forms of transport (such as walking and cycling) and that some of the residents will have restricted mobility. The location of the site in close proximity to open space and the Albury CBD helps to contribute to these concerns.
- The location of the letterboxes and garbage receptacles at the eastern frontage of the site requires all residents to negotiate the internal roads to access those facilities as no pathways are provided through the landscaped areas or adjacent to the internal roads. It is therefore considered that the development has failed to provide safe pedestrian access to all dwellings and communal facilities.
- The development has addressed the requirement to provide FFLs at 500mm above the 1:100 year flood level. The Phase 2 Contamination Assessment concluded that the site is suitable for the proposed development.

- An assessment has been undertaken in regards to the principles outlined in Crime Prevention through Environmental Design and these have not raised any significant issues in regards to the proposed development.
- It is considered that there are no unreasonable impacts in relation to privacy or overshadowing for nearby residential properties, as discussed in detail in regard to the provisions and requirements of the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development*.

### ***Section 79C(1)(d) Public Submissions***

The notification period was from Tuesday 7 February 2017 and Friday 24 February 2017. Four submissions were received to the proposed development. The amended plans and information were notified to submitters from 2 May 2017 to 12 May 2017. No additional submissions were received.

It is noted that whilst the submissions have been annexed to the report in full (with the exception of information identifying the submitters) several irrelevant matters were raised in regard to the development and have not been further considered in the report. Consequently, only the matters raised that relate to a relevant planning matter or a matter of the public interest are included in this assessment.

Conditions are proposed to address some of the concerns raised in the submissions.

### ***Section 79C(1)(e) Public Interest***

The impacts of the proposal on the environment in general, and on adjoining properties, has been considered and addressed. Having regard to the issues raised and discussed in this report, it is considered that the proposal is not contrary to the public interest.

### **Conclusion**

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

Accordingly, Development Application 10.2017.35189.1 for an affordable housing development at 401-407 Olive Street and 18-22 Richs Lane South Albury is recommended for approval subject to conditions.