

**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)**

**Introduction**

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), incorporating the following

- Demolition of all structures on the site (including Quamby House and Orana Allanbie housing and associated sheds, outbuildings and structures, but excluding the dwelling house and 2 small sheds located at 405 Olive Street demolished under a Complying Development Certificate issued in June 2017)
- Earthworks and servicing upgrades
- Erection of 38 dwellings in 5 single storey and 5 two storey buildings, comprising
  - 23 x 1 bedroom dwellings
  - 14 x 2 bedroom dwellings
  - 1 x 3 bedroom dwelling
- Erection of a part two storey and part three storey Community Centre and office building
- Provision of a communal open space area and children's play space
- Car parking, landscaping, internal roads and ancillary structures, and
- Consolidation of existing titles.

The development proposed by St Vincent de Paul is defined as *affordable housing* and is lodged under the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the Affordable Housing SEPP). The Cost Summary Report lodged with the application indicates that it has an estimated building and site works cost of over \$7million and a total Construction Cost of \$8.84million (excluding GST). 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) under Schedule 4A of the *Environmental Planning & Assessment Act 1979* and *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP).

The Development Application was supported by a large volume of documentation, including the following plans and reports relevant to a Development Application

- Demolition plan, site plans, floor plans, elevations, sections, site works, shadow diagrams and perspective views prepared by Curtin Architects
- Landscape Plans prepared by Somewhere Landscape Architects
- Statement of Environmental Effects (SEE) prepared by Hawes & Swan Town Planning Consultants
- Lot consolidation plan prepared by T J Hinchcliffe & Associates
- Preliminary Geotechnical Investigations prepared by Envirotech
- Stormwater Plan prepared by LHO

- Traffic and Parking Impact Assessment prepared by gtk consulting
- BASIX certificates and Section J Report prepared by Partners Energy
- BCA Assessment Report prepared by Concise Certification and
- Cost Summary Report prepared by W T Partnership

Copies of the plans, Statement of Environmental Effects and Traffic and Parking Impact Assessment (as amended) are annexed to this report and marked as *Attachments 1, 2 and 3*, respectively. Copies of the other supporting documentation have been provided in digital and paper copy to the JRPP and are available to view as required. They are not reproduced in this report but are referenced as necessary.

## **Background**

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 (annexed to this report as *Attachment 4*).

Following a detailed assessment and the public submission period, Council staff requested further information from the applicant in relation to

- Density, bulk and scale of the development, including details of compliance with the floor space ratio and landscaping provisions of the Affordable Housing SEPP
- Further justification and assessment of the impact on the surrounding local street network and neighbourhood from the proposed car parking provision
- Traffic movement and road widths within the development and potential conflicts on site between resident, staff and visitor vehicles, pedestrians and service vehicles
- Social impact of the proposed development in this location and the impact upon the character of the area
- Impact upon a Right of Way located along the western boundary of the site
- Pedestrian movement and safety within the site
- Fencing details, especially to the sporting fields located to the south
- Details of earthworks on site and the resultant site levels, and
- Clarification of the proposed development (it being noted that conflicting statements had been made publicly about whether the development was *affordable housing* or *seniors living* development).

A copy of Council's request for further information is annexed as *Attachment 5* to this report. The additional information was received by Council on 19 April 2017 and the additional plans and updated information are incorporated in *Attachments 1, 2 and 3*. The amended plans and information are the details assessed for the purposes of this 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.

## Site Description

The subject site is described as Lots B, C, D, E and F in DP 354294 and Lot E in DP 158030, otherwise known as 401-407 Olive Street and 18-22 Richs Lane, South Albury. Easements for drainage and a Right of Way benefitting adjoining land are located on the site.

The site is located approximately 500m south of the Albury CBD and is bounded by residential development to the north, east and south east; commercial and residential development to the west; and public open space to the south. Surrounding lands are zoned a mixture of *R1 – General Residential*, *B4 Mixed Use* and *RE1 Public Recreation* (Aloysius Park).

The site has frontage and access to Olive Street and Richs Lane and a total area of approximately 8,000sqm. The site has a slight slope in a generally north to south alignment and is an existing overland flow path, however the north west portion of the site is a low point. The improvements on the site include the community housing facilities Quamby House and Orana Allanbie, associated sheds, outbuildings and structures, internal access driveways, a small number of mature trees and small garden areas. The land is zoned part *R1 General Residential* and part *B4 Mixed Use* under *Albury Local Environmental Plan 2010*.

The site previously provided community housing and associated services, but has not been occupied in recent years as the facilities were not considered to provide an adequate standard of accommodation. The existing structures are dilapidated and the site is currently not in use.

## Council Plan and Council Policies

The following Council Policies are relevant to the application

- *Albury Local Environmental Plan 2010 (Albury LEP 2010)*
- *Albury Development Control Plan 2010 (Albury DCP 2010)*
- *Albury Infrastructure Contributions Plan 2014 (Albury ICP 2014)*
- *Albury City Council Notification Policy (Part 3 and Appendix B of Albury DCP 2010)*

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

## Consultation

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

The notification period was from Tuesday 7 February 2017 and Friday 24 February 2017. Four submissions were received to the proposed development (annexed to this report as *Attachment 4*).

The amended plans and information were notified to submitters from 2 May 2017 to 12 May 2017. No additional submissions were received.

## **Environmental Assessment**

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

Development proposals within the *RE1 General Residential* and *B4 Mixed Use* zones are assessed according to the zone objectives, the provisions of Albury LEP 2010 and *Albury DCP 2010* and the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*.

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

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

State Environmental Planning Policy (State and Regional Development) 2011.

## **Part 3: Regional Development**

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 location of the site in South Albury (where there is potential for historic uses of the site to impact future development) warranted the investigation of the site under this SEPP. The applicant has conducted a Phase 2 Contamination Assessment for the site and submits that

*The contamination assessment notes that all areas required for the contamination assessment for full suite [sic] analysis indicated chemical concentrations below the relevant health Investigation levels.*

*These results indicate that those areas identified as having the potential for contamination were determined to be acceptable chemically. It did identify the presence of asbestos in two of the twenty samples undertaken, however the report notes that once a clearance certificate is issued by a suitable qualified person for the removal of that asbestos the site will be deemed suitable for its intended use.*

*The site has therefore been deemed suitable for its intended use.*

The *Environmental Site Assessment (Phase II Site Investigation)* dated 23 May 2016 and prepared by Envirotech was submitted with the Development Application. This report provides details of the soil sampling undertaken and methodology for their analysis, the results and their comparison with the *Health Investigation Levels (HILs) Guidelines* and *Ecological Screening Levels (ESLs) for standard residential allotments (NEPM 2013)*. This report concludes that the site is suitable for the proposed development, once clearance certificates for asbestos are provided for the site.

The development has therefore complied with the objectives and requirements of this SEPP.

#### 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.

Consequently, the provisions of the Affordable Housing SEPP are the relevant primary development controls for this development and will prevail over any conflicting control contained within *Albury LEP 2010* or *Albury DCP 2010*.

The Affordable Housing SEPP includes the following aims

- a) *to provide a consistent planning regime for the provision of affordable rental housing,*
- b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- f) *to support local business centres by providing affordable rental housing for workers close to places of work,*
- g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

Clause 14 of the SEPP further provides that certain development standards cannot be used to refuse development if the development complies with those standards. An assessment of the development under those standards follows, below.

#### **Division 1: In-fill affordable housing**

##### **Clause 10: Development to which Division applies**

The applicant provided the following statements in the submitted SEE

*St Vincent de Paul is a registered community housing provider and therefore is a 'social housing provider' within the meaning of Clause 4(1) of ARHSEPP.*

*Division 1 of Part 2 of ARHSEPP facilitates infill affordable housing. It applies to dual occupancies, multi- dwelling housing or residential flat buildings where:*

- *the zoning already permits that form of development, and*
- *the site is within 400m distance of land within Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to any of those zones.*

*As noted above, the site is zoned R1 General Residential and B4 Mixed Use Development Residential under the Albury Local Environmental Plan 2010 and the proposal is for a "multi dwelling*

*housing" development which is permissible in the applicable zones with development consent. It also therefore meets the 400m walking distance requirement to land zoned B4.*

*The development is therefore proposed under the provisions of Division 1, Part 2 of the ARHSEPP and the standards of Clause 14 specified for social housing providers therefore apply to this development.*

As St Vincent de Paul is a registered *community housing provider*, they therefore benefit from further reduced parking requirements under Clause 14(2)(a) the SEPP.

### **Clause 13: Floor space ratios**

This clause applies to development where the percentage of the gross floor area of the development used for the purposes of affordable housing is at least 20 per cent, with a bonus floor space ratio (FSR) provided where 50% or more of the dwellings are affordable housing. The development proposes that 100% of the dwellings are to be provided as affordable housing and therefore the FSR bonus provided by this clause applies to the development.

The Clause provides that the applicable FSR is any applicable FSR under *Albury LEP 2010* **plus** a bonus of 0.5:1 FSR.

The *R1 General Residential* portion of the site is not subject to a FSR control under *Albury LEP 2010*. The FSR applicable to the *B4 Mixed Use* portion of the site under *Albury LEP 2010* is 1.5:1, which in addition to the bonus FSR applicable, results in a FSR of 2:1 being applicable to the development.

The applicant was requested to provide further information in regard to the proposed FSR as calculations had not been provided to confirm compliance with the provisions of the Affordable Housing SEPP at the time of lodgement.

The applicant has subsequently provided the following advice

*The B4 portion of the site, to the west off Richs lane has an FSR of 1.5:1 applied under the provision of the Albury LEP 2010. Under the provisions of the SEPP (Affordable Rental Housing) 2009, where at least 20% of the units are used for the purposes of affordable housing, a bonus FSR of 0.5:1 can be applied to the site. The proposed development proposes 100% of the units used for the purposes of affordable housing. Therefore, it benefits from a maximum FSR of 2:1.*

*The total site area within the B4 portion of the site controlled by the FSR development standard is 2,707m<sup>2</sup>. To apply the applicable FSR calculation to this site area (as calculated above) equates to a permissible developable FSR area of 5,414m<sup>2</sup> (2,707m<sup>2</sup> x 2).*

*The proposed total GFA within the B4 portion of the site totals 1,819m<sup>2</sup>. The proposed GFA within the B4 portion of the site can be expressed as an FSR ratio of 0.67:1. Therefore the proposed gross floor area within the B4 portion of the site is well below the bulk and scale allowable under the controls of the site which in this instance is 2:1.*

*Amended plans have been provided by Curtin Architects Pty LTD which highlight the portion of the site zoned B4, clearly noting total GFA calculations within the B4 Portion of the site.*

*In addition, plans have been provided detailing the portion of the site that is zoned R1. Whilst no FSR is applicable to this portion of the site, the GFA proposed to the R1 zone is 0.38:1 which is comparable with surrounding like developments (refer to 398-406 Olive Street, South Albury).*

The calculations have been cross checked by Council and are considered to be accurate. The development therefore complies with the FSR applicable to the site under this Clause of the SEPP.

**Clause 14: Standards that cannot be used to refuse consent**

The following standards are applicable to the development under the Affordable Housing SEPP and, if the development complies with those provisions, the development cannot be refused on those matters.

**(1) Site and solar access requirements**

**(a) (Repealed)**

**(b) Site area: Minimum area of 450sqm**

The area of the site is 8,000sqm and the development therefore complies with this standard.

**(c) Landscaped area: Minimum of 35sqm per dwelling**

The applicant was requested to further quantify the landscaping area provided per dwelling, as the application as lodged did not provide sufficient clarity to determine compliance with this provision of the SEPP.

The applicant subsequently provided the following information

*It is noted, Council is concerned that the required 35m<sup>2</sup> of landscaping required per dwelling for units 19-38 is achieved through combined ground floor, balcony and communal open space areas within the site.*

*The minimum prescribed landscape area for 38 dwellings equates to 1,330m<sup>2</sup>. Revised open space plans have been prepared by Curtin Architects Pty Ltd which demonstrate the areas of the proposed communal and private open space areas. The proposed total open space provided to the development equates to 2,200m<sup>2</sup>. The proposed development as mentioned above is well under the allowable developable area for GFA and in addition exceeds the minimum landscape area by 870m<sup>2</sup>.*

*In addition, each of the units contain landscape areas well in excess of the 35m<sup>2</sup> prescribed by the ARH SEPP (the majority of the units provide almost double the minimum landscape requirements). Of the 38 units proposed, 10 of those have their landscaped area in split locations, i.e. within the upper level balcony and within the communal open space on site. Given these 10 units are located on the upper levels of the development, the provision of a balcony with an area of 35m<sup>2</sup> is considered unviable and unrealistic. Further to this, Clause 14 of the ARH SEPP does not state that the 35m<sup>2</sup> must be provided within the dwelling itself, rather it requires 35m<sup>2</sup> of landscaped area within the site per dwelling. The total area dedicated to landscaping equates to a surplus of 870m<sup>2</sup> which more than complies with this control*

*Landscaped area is not defined in the SEPP and it is therefore unclear whether balconies are considered to be landscaped area for the purposes of the SEPP.*

Notwithstanding, the ground level landscaped area provided in the development exceeds the required landscaped area by 870sqm, which would offset the area of the balconies if excluded from the calculation.

Whilst the information provided by the applicant indicates **technical** compliance with the landscaping area provisions of the SEPP, Council's concerns are related to the practicality of the open space available to the residents for their needs. *Landscaped area* and *open space* are not necessarily interchangeable terms, it being noted that much of the landscaped area calculated is incapable of any physical use by the residents and only provides visual amenity for the site.

The development proposes that 10 upper level units will have no directly accessible open space and will rely on a combination of balconies, site landscaped area and shared communal open space for their needs. The landscaped areas of the site calculated by the applicant comprise, collectively, ground level **private** open space adjacent to the other 28 dwellings, the overland stormwater path and landscaped garden beds adjacent to the driveways and car parking areas. Consequently, those areas provide little or no opportunity for the residents of the 10 first floor dwellings to utilise them as ground level open space. The communal open space area, at 187sqm, provides less than 20sqm of open space per dwelling for those 10 dwellings and less than 5sqm per dwelling when shared amongst the total 38 dwellings.

Approximately 200sqm of area surrounding the Community Centre is also identified for use by the residents, however the location and shared nature (with non-resident community activities) of the area reduces its utility for the open space needs of the future residents.

It is unfortunate that the SEPP is phrased in terms of landscaped area and not open space available for the recreational and social needs of the residents, as it is considered that the onsite open space needs of all of the future residents have not been met by the development. However, the development achieves compliance with the requirements of the SEPP and cannot be refused on this ground.

It is noted that the site is located in a part of South Albury where numerous retardation basins have been constructed by Council and subsequently embellished for use as playing fields and active open space areas, including Aloysius Park immediately to the south of this site. As a result, the shortfall of private open space provided on the site for a quarter of the dwellings is somewhat offset by availability of public open space in the vicinity.

**(d) Deep soil zones: Minimum of 15% of the site, with minimum dimension of 3m and at least 2/3rds located at the rear of the site.**

The applicant states that

*More than 15% of these [sic] has been set aside for deep soil planting and this is demonstrated on the landscape plans submitted. The dimensions of the deep soil zones all meet the required dimension of 3m and whilst a large portion of the deep soil zone sites [sic] in*



*the centre of the site this is deemed more suitable as it becomes accessible to the residents and also takes into account the mixed use land to the rear.*

It is noted that these deep soil zones have not been identified on the plans, but it is agreed that the site is capable of providing 15% of the site area as deep soil zones with minimum dimensions of 3m. It is also agreed that if these zones are in the centre of the site, they provide more value to the future residents than locating them at the rear of the site towards Richs Lane.

**(e) Solar access: 70% of dwellings must receive at least 3 hours direct sunlight between 9am and 3pm in mid-winter**

The site has an east-west orientation on its long axis, enabling a large portion of the development to gain solar access by northern orientation of courtyards, balconies and living areas. Given the low density nature of the development to the north, all dwellings located in the northern part of the site achieve the minimum solar access in June. Buildings located to the southern side of the development are shadowed by the buildings to the north, however, the shadow diagrams provided show that at least 70% of the dwellings in those buildings will receive the minimum of 3 hours solar access in June.

**(2) General**

**(a) Parking: 0.4 car spaces per 1 bedroom dwelling, 0.5 car spaces per 2 bedroom dwelling and 1 car space per 3 or more bedroom dwelling**

The development comprises

- 23 x 1 bedroom dwellings (9.2 spaces)
- 14 x 2 bedroom dwellings (7 spaces)
- 1 x 3 bedroom dwelling (1 space)

which results in the development requiring a total of 17.2 spaces, rounded up to a requirement for 18 car parking spaces. The SEPP does not include any requirement for parking for the Community Centre.

The development provides 23 car parking spaces in garages attached to dwellings, 5 spaces adjacent to the Community Centre for Community Centre staff and 5 visitor spaces - 1 located adjacent to the Community Centre, 2 located adjacent to the communal open space and 2 located on the internal road between Block B and Block F.

The development achieves compliance with the requirements of the SEPP in terms of car parking on the site and consequently cannot be refused on this ground. However, the parking provided is less than 1 space per dwelling and Council raised concerns in regard to the **impact** of that parking rate upon the surrounding public roads and residents given that car ownership rates in Albury in all socio economic groups are higher than in metropolitan areas and there is limited public transport available in the area.

Council was also concerned that if, as claimed by the applicant, fewer residents will own cars then walking and cycling through the site will be more prevalent. The safety

of pedestrians, particularly, was raised as a concern given that no dedicated pedestrian paths are provided in the development.

These concerns are addressed in more detail under the Section 79C(1)(b) consideration of the impacts of the development.

**(b) Dwelling size: 35sqm for studio; 50sqm min one bedroom; 70sqm min two bedroom; 95sqm min three bedroom**

The development proposes the erection of 38 one, two and three bedroom dwellings. No studios are proposed. The 38 dwellings are comprised of

- 23 x 1 bedroom dwellings
- 14 x 2 bedroom dwellings
- 1 x 3 bedroom dwelling.

The development proposes dwelling sizes in excess of the minimum requirements, with the one bedroom dwellings ranging in size from 75sqm to 100sqm; the two bedroom units ranging from 95sqm to 162sqm and the three bedroom unit having a floor area of 185sqm.

The development therefore complies with this provision of the SEPP and provides dwellings of significantly greater floor area than the minimum, providing more liveable dwellings with higher amenity for the residents.

**Clause 15: Design requirements**

This clause states that a consent authority ***must not consent to development for affordable housing unless it has taken into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development*** published by the Department of Infrastructure, Planning and Natural Resources in March 2004, ***to the extent that those provisions are consistent with this Policy.***

The applicant stated in their SEE

*Regard has been had to the requirements of Seniors Living Policy: Urban Design Guidelines for Infill Development and where possible the design has been informed by those guidelines.*

To assist the Panel to comply with the requirement to take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*, a summary of the relevant provisions of that document is provided below.

The *Seniors Living Policy: Urban Design Guidelines for Infill Development* (the Guidelines) contains five sections which relate to key issues in designing appropriate developments in an existing urban area, as follows

1. Improving neighbourhood fit
2. Improving site planning and design
3. Reducing impacts on streetscape
4. Reducing impacts on neighbouring properties
5. Improving internal site amenity

Relevant to the consideration of this development, each section contains objectives, design principles and better practice as well as rules of thumb to provide additional guidance for good design.

- 1. Improving neighbourhood fit** - the Guidelines recommend that neighbourhood character be analysed and referenced in any new development. Aspects to consider include existing built form, topography and landform, type and function of streets and trees and vegetation in both streets and gardens.

In this regard, it is noted that the wider South Albury area contains a variety of housing forms and densities, reflecting its history as a mixed use area where workers cottages were interspersed with commercial and industrial development. The suburb of South Albury also has the highest per capita provision of open space in the city, arising from the number of creek and riverside reserves, large parks and reserves utilised for flood storage. Many of those parks and retention basins are also utilised as playing fields and passive open space when not required for flood control.

The streets are generally provided in a grid pattern, with the former Hume Highway forming the northern and western edges of the suburb and the Great Southern Railway and Hume Freeway forming the eastern boundary. The Murray River borders the suburb to the south. Mature exotic trees are predominant in both the street tree plantings and private gardens.

As a result of these historic land use patterns, good transport access and natural constraints, industrial and commercial development flourished in the area and residential redevelopment pressure was lower than other areas of the city until flood mitigation works delivered a reduction in the frequency and severity of flood affectation. Consequently, the area contains a good stock of historic housing and its lower housing price, large lot sizes and proximity to the CBD is now making it a popular area for urban infill and rejuvenation.

The proposed development contains a mix of single and two storey residential buildings and a part two storey, part three storey Community Centre and office building together with narrow internal roads and landscaped garden areas, which is consistent with the character of residential development in the area. The development presents three single storey dwellings to Olive Street as attached dwellings, reflecting a housing form found throughout the suburb. The proposed landscaping contains a mix of deciduous and evergreen exotic trees, which is consistent with the landscape character of the suburb.

The nearly 10m wide driveway and garbage area however does not reflect the predominantly low density residential nature of the surrounding area, reflecting more of the industrial streetscapes found further to the south in the suburb. Opportunities to relocate the garbage facilities internally to the site are limited; however a redesign could locate the facilities adjacent to the Community Centre, being an area adequately serviced by the proposed one way traffic flow and providing these facilities in a central location to the majority of residents. It is unknown if this option was considered in the development of the design.

- 2. Site planning and design** – the Guidelines include suggestions to locate higher buildings toward the street frontages to minimise impacts on neighbours and to orient dwellings to maximise solar access. It also includes guidance for the use of trees, permeable areas and deep soil zones to create internal amenity, manage runoff and reflect the character of low density areas with larger open space areas. The Guidelines also recommend locating car parking in centralised car courts to reduce the amount of site area occupied by driveways, garages and manoeuvring areas.

The development generally achieves the outcomes anticipated by this section of the Guidelines; however the design has located the single storey buildings to the Olive Street portion of the site and the two storey buildings in the central and western part of the site. The part three storey Community Centre and office building has been located adjacent to the south boundary of the site. This reflects the zoning and different character and future character of the two parts of the site and the public open space bordering the southern boundary of the site. These existing features provide opportunities to locate taller buildings in areas where they will not impact upon the streetscape or neighbouring residential development and, consequently, the design has achieved the objectives of this section of the Guidelines.

The design has protected the privacy and amenity of neighbouring residential development to the north by using highlight windows on the northern elevation of the upper level of the two storey residential building (Block H) located near existing residences to the north. The setbacks to the northern boundary have been increased for Block H to provide greater visual separation from the existing dwellings to the north.

The landscaping plan indicates a variety of trees and other vegetation will be used to provide attractive internal spaces and to create a development which reflects the landscape character of the area. The species selected are appropriate in this location. Overland flow of stormwater has been accommodated by the provision of a grassed area running from north to south through the allotment.

The car parking is predominantly provided in garages attached to dwellings, with the Community Centre and visitor parking provided as open parking in the centre of the site. The internal roads are narrow and bordered by landscaped areas. It is not considered that the car parking design is contrary to the objectives of this section of the Guidelines.

- 3. Impacts on streetscape** – key issues identified for consideration include design and proportions of building facades and roof forms, fences and landscaping, design of the front setback, size and treatment of vehicular entries, potential for retention of existing vegetation, and pedestrian and building entries.

The Guidelines recommend that the design be sympathetic to the existing streetscape patterns, which the development has generally achieved on Olive Street. Richs Lane is predominantly a secondary access lane, which provides rear access to neighbouring commercial developments and the design does not provide for direct

access and frontage to that lane. This is appropriate as any dwellings oriented to the lane would have a lesser outlook and reduced areas of north facing courtyards.

The single storey dwellings reflect the scale and massing of other single storey residential development in the area. The two storey buildings are modern interpretations of traditional terrace or row housing, with sufficient articulation in both the horizontal and vertical planes to provide interest and character to the buildings. Roof pitches for the residential buildings are reflective of the historic character of the area. The materials selections for all buildings and hard surface areas are appropriate in this area. The Community Centre has a more symmetrical and commercial design, reflecting its different purpose and clearly identifying it as a non-residential component of the site. It is located in the south west of the site and is not adjacent to any existing residential development. It has an outlook over Aloysius Park from the upper levels and is provided with landscaped surrounds, including outdoor seating areas.

Site facilities for pedestrian access to the street and letterboxes are consistent with the Guidelines, however the very wide driveway and garbage collection facility are not consistent with a low density residential character. The garbage receptacle structure was redesigned in the amended plans to provide further enclosure of the skips and provision of cleaning facilities, as well as additional landscaping facing the driveway.

The internal roads have included the recommended landscaping treatments and design features to reduce their impact upon the streetscape. The internal roads do not provide uninterrupted vision through the site, and the views through the site are restricted by use of garden beds, trees and grassed areas.

Fencing to the boundaries of the site with private properties (to the north and west) is proposed to be 1.8m metal panel fencing, which is consistent with the urban context and appropriate in this location.

Fencing to the boundary with Aloysius Park is proposed to comprise a 1.8m high timber fence with horizontal slats, provided with inset sections at varying intervals along the fence for articulation. The inset sections include horizontal corrugated metal panels to provide relief and detail. The fence design was discussed with Council's Team Leader Parks and Recreation, as it is a substantial fence of over 100m long adjacent to Council public open space. The Team Leader advises that the park is regularly used for active recreation (predominantly soccer) and that spectators use the higher ground adjacent to the boundary of the subject site to watch matches. The proposed fence will assist in providing privacy to the dwellings and courtyards located adjacent to the southern boundary in these circumstances and is appropriate in this area.

4. **Impacts on neighbours** – key issues to address in this regard are the location of living and private open space areas in adjacent dwellings, overlooking and overshadowing, location of windows on existing and proposed development and retention of existing screening vegetation or new planting to achieve a similar level of privacy.

Existing dwellings are located on the adjacent allotments to the north of the site fronting Hume Street and Olive Street and a single dwelling to the west fronting Kiawa Street (zoned *B4 Mixed Use*).

The development has been designed to protect the privacy and amenity of neighbouring dwellings through the use of single storey buildings fronting Olive Street and the design of the two storey buildings on the northern boundary incorporating greater setbacks, highlight windows and ground level courtyards in place of balconies.

The two storey building located adjacent to the western boundary contains no windows on the western elevation and the balcony provided to the upper level is located further north preventing views back toward the south and into open space of the neighbouring dwelling.

The trees on the site are not retained by this development, and as outlined in the consideration of Clause 5.9 of *Albury LEP 2010*, their loss is considered to be supportable on this site for this development. The development proposes planting of numerous trees of appropriate species, which will provide for suitable visual amenity for neighbouring properties.

A submission has been received from a neighbour to the north advising that they consider the location of courtyards adjacent to their rear boundary to impact their privacy and amenity. Whilst this is addressed in more detail in the consideration of submissions, the location of courtyards on the northern boundary is appropriate for solar access and utility, but is also an expected feature which would be provided to any form of residential development on this site. The design and location at ground level are considered to minimise the impacts of the courtyards.

The development has therefore achieved the objectives of this section of the Guidelines and has reduced the potential impacts from a development of this density through sensitive location of windows, balconies and landscaped areas.

- 5. Internal site amenity** – the Guidelines state that internal amenity is delivered through provision of quality useable private and communal open space for all residents, provision of dwellings that have distinct entries and safe entries, provision of safe and distinct pedestrian routes to all dwellings and communal facilities, provision of adequate solar access to living areas and private open space and reduction of the dominance of parking, garaging and vehicular circulation space on the internal character of new development.

The development provides for safe and distinct entries to dwellings and has provided adequate solar access to all dwellings and private open space areas, where provided to dwellings.

However as outlined in consideration of the Affordable Housing SEPP landscape area and parking requirements, it is considered that the development does not provide adequate private open space to **all** dwellings.

The internal access roads are generally designed for one way traffic flow and have been narrowed with the intention to slow vehicular traffic to reduce conflicts. However, the internal roads will also cater for garbage vehicle access and any other medium to large sized vehicles servicing the site.

The development proposes that garbage trucks will enter the site at Olive Street to collect waste then travel through the site to exit via Richs Lane. Amended plans lodged show that the internal road network is capable of providing this path of travel for this size vehicle, but it is severely constrained in parts, particularly at the curves. It is also noted that no works have been shown which enforce the “exit only” traffic proposal at Richs Lane.

Council’s Team Leader Transport and Traffic has raised a number of concerns with the internal road design and proposed use and queried whether the Olive Street entry could be reconfigured to allow a garbage truck to perform a 3-point turn to exit the site via Olive Street. However, this may create further traffic conflicts with light vehicle traffic and pedestrians and is not considered to be a viable outcome without substantial redesign of the entry to separate light and heavy vehicles and pedestrians.

The internal traffic conflicts arising from the garbage truck traversing the site on narrow roads was raised as concern 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 additional information prepared by *gtk consulting* in response to Council’s concerns states

*It is not uncommon in low traffic volume residential developments to allow pedestrians to walk on the internal road system. As previously stated, the use of road narrowing and curvatures is an accepted treatment to reduce vehicle speeds and promote driver awareness. The proposed internal road widths and road curvatures within the proposed development site effectively achieves a 'traffic calming' environment which benefits other users of the road, e.g. pedestrians.*

*A further treatment that would regulate driver behaviour and establish 'pedestrian right of way' would be to designate the internal roads within the site as pedestrian shared zones. Shared zones are specifically designed to establish pedestrian priority which is considered an appropriate treatment for the proposed affordable housing development. One of the key requirements for implementing a shared zone is that the road environment is attractive and interesting for the community, and reflects the needs and activities of residents. A shared zone is ideally suited to the environment being created within the housing development.*

*Following issue of a Construction Certificate, any proposal to implement a shared zone within the development site will be required to be referred to Council's Local Traffic Committee for consideration and approval by RMS.*

The consultant concludes that Council should give favourable consideration to designating all internal roads as pedestrian shared zones through the Albury Local Traffic Committee and RMS. However, it is noted that internal roads in this development will not be public roads and therefore neither Council nor RMS are empowered to designate the internal roads as pedestrian shared zones to address this concern.

The SEE states that the car parking exceeds the SEPP requirements and 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 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 does not adequately *provide safe and distinct pedestrian routes to all dwellings and communal facilities*. Consideration should be given to improving pedestrian safety and amenity within the site and a condition has been recommended seeking details of the means to improve pedestrian safety and to prioritise pedestrian movements within the internal road hierarchy.

In summary, it is considered that the development has generally addressed the requirements of the *Seniors Living Policy: Urban Design Guidelines for Infill Development*, with the exception of the provision of adequate private open space to all dwellings and the provision of safe and distinct pedestrian routes to all dwellings and communal facilities.

#### **Clause 16A: Design requirements**

This clause requires that the consent authority must consider whether the design of the development is compatible with the character of the local area. The assessment undertaken under Clause 15 and the *Seniors Living Policy: Urban Design Guidelines for Infill Development* (above), has concluded that the development is compatible with the character of the local area.

#### **Clause 17: Must be used for affordable housing for 10 years**

To ensure that the development is provided for an appropriate time for the purposes permitted by the SEPP, this clause requires the consent authority to impose conditions to the effect that

- (a) *for 10 years from the date of the issue of the occupation certificate:*
  - (i) *the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and*
  - (ii) *all accommodation that is used for affordable housing will be managed by a registered community housing provider, and*
- (b) *a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance*



*with section 88E of the [Conveyancing Act 1919](#), that will ensure that the requirements of paragraph (a) are met.*

A condition reflecting these requirements will be imposed on any consent if the Panel resolves to approve the development.

#### **Clause 18: Subdivision**

This clause provides that land on which development has been carried out under the SEPP may be subdivided with the consent of the consent authority. The development proposes consolidation of all existing allotments into one lot and does not propose subdivision. Should subdivision of the site be contemplated in the future, separate development consent from the JRPP (as the consent authority for this development) will be required. A condition to this effect will be included on any consent issued if the panel resolves to approve the development.

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

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

*The objectives of MREP2 are*

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

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

#### **Albury Local Environmental Plan 2010**

##### **1.2 Aims of Plan**

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

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

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

The development as proposed satisfies the aims of *Albury LEP 2010*.

The site is zoned part *R1 General Residential* and part *B4 Mixed Use* under the provisions of *Albury LEP 2010*.

Specific clauses relevant to the development include:

## **Part 2 Permitted or prohibited development Land Use Zones**

### **2.3 Zone objectives and Land Use Table**

The objectives of the *R1 General Residential* zone are as follows

#### **Zone R1 General Residential**

##### **1 Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage affordable housing.
- To encourage medium density housing that is designed to achieve a high standard of amenity.

##### **2 Permitted without consent**

*Environmental protection works; Home-based child care; Home occupations*

##### **3 Permitted with consent**

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Child care centres; Community facilities; Dwelling houses; Group homes; Helipads; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Sewage reticulation systems; Shop top housing; Water recycling facilities; Any other development not specified in item 2 or 4*

#### **4 Prohibited**

*Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Camping grounds; Car parks; Caravan parks; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Emergency services facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Mortuaries; Open cut mining; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water treatment facilities; Wharf or boating facilities; Wholesale supplies*

The development achieves the objectives of the 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 permissible in the zone as *multi dwelling housing* is permissible. The Affordable Housing SEPP provides for this development to be proposed as *affordable housing* where such *multi dwelling housing* is permissible and where the site is located within 400m of a *B4 Mixed Use* zone.

The objectives of the *B4 Mixed Use* zone are as follows

#### **Zone B4 Mixed Use Zone**

##### **1 Objectives of 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; Camping grounds; Caravan parks; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted 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; Animal boarding or training establishments; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Open cut mining; Recreation facilities (major); Research stations; Rural industries; Rural workers' dwellings; Sewerage systems; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Wharf or boating facilities*

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. The development is a permissible use (being *residential accommodation*) within the subject zone, as shown in the Land Use Table above.

### **2.6 Subdivision – consent requirements**

Clause 2.6 of Albury LEP 2010 requires consent for subdivision. The development includes the consolidation of all allotments into one lot as part of the development.

## **Part 3 Exempt and Complying Development**

The application is not Exempt or Complying Development. Consolidation of all allotments into one lot could be undertaken as *exempt development* under *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*, however the applicant has opted to include the consolidation in the development application.

## **Part 4 Principal Development Standards**

### **4.1 Minimum subdivision lot size**

The *R1 General Residential* zoned portion of the site is subject to a minimum allotment size of 450sqm and the *B4 Mixed Use* zoned portion of the site is subject to a minimum lot size of 300sqm. The development proposes the consolidation of all allotments to one allotment of 8,000sqm which significantly exceeds the minimum lot size.

### **4.3 Height of buildings**

The *B4 Mixed Use* zoned portion of the site is subject to a maximum height limit of 25 metres. The buildings proposed are below this maximum height.

### **4.4 Floor space ratio**

The *B4 Mixed Use* zoned portion of the site is subject to a maximum FSR of 1.5:1 under *Albury LEP 2010*. The Affordable Housing SEPP provides a bonus 0.5:1 FSR on this site. The development does not exceed the FSR under the LEP or the SEPP.

## **Part 5 Miscellaneous Provisions**

### **5.9 Preservation of trees or vegetation**

The proposed development will result in the removal of a number of existing trees on the site to make way for the proposed buildings. To offset this tree removal, the proponent has submitted a detailed landscape plan showing the location of new landscaping and tree plantings. These works are satisfactory in this instance.

## **Part 6 Urban Release Area**

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

## **Part 7 Additional Local Provisions**

### **7.1 Earthworks**

- 1) *The objectives of this clause are as follows:*
  - a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
  - b) *to allow earthworks of a minor nature without separate development consent.*
- 2) *Development consent is required for earthworks unless:*
  - a) *the work does not alter the ground level (existing) by more than 600 millimetres, or*
  - b) *the work is exempt development under this Plan or another applicable environmental planning instrument, or*
  - c) *the work is ancillary to other development for which development consent has been given.*
- 3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
  - a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
  - b) *the effect of the proposed development on the likely future use or redevelopment of the land,*

- c) *the quality of the fill or the soil to be excavated, or both,*
- d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- e) *the source of any fill material and the destination of any excavated material,*
- f) *the likelihood of disturbing relics,*
- g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

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

The site has a slight slope in a generally north to south alignment and is an existing overland flow path, however the north west portion of the site is a low point which requires filling to achieve flood protection. Pre-lodgement discussions highlighted the potential difficulty of the site to provide adequate drainage in the absence of significant improvement to existing services and potential filling to provide adequate fall to Council's reticulated services. An overland flow path from the northern boundary to the open space at the south (an existing retardation basin) has been provided in the design.

In addition, the site is identified as being potentially inundated in the event of a 1:100 year flood and a minimum finished floor level (FFL) of 500mm above the projected flood level is required to be achieved. The FFL required on the site is RL153.21AHD. Council requested further information to quantify the levels above existing ground level to be provided, as any significant increase in site levels could have detrimental impacts on neighbouring properties from consequent elevated floor levels on this site.

Amended plans and additional information were provided for the site identifying that approximately 762 cubic metres of fill is required to be imported to the site to provide for building pads which achieve the required FFL.

The development proposes earthworks to fill parts of the site to depths ranging from 0mm at Block A (adjacent to Olive Street) to 510mm for Blocks I and J (on the western portion of the site). The resulting increase in height of Blocks I and J does not create shadowing or privacy impacts for adjacent properties, as development to the north of Block J comprises the rear of existing commercial development accessed via Richs Lane and the western elevations of Block I and J do not contain windows and, as a result, no privacy impacts arise. Blocks G and H are raised by 160mm and 210mm, respectively, which is considered to have no impacts upon neighbouring sites to the north as the windows in the upper levels are high light windows which do not provide views of neighbouring properties. Blocks C and D are raised by 260mm, but as they adjoin and overlook Aloysius Park, no negative impacts result from the increased height.

The shadow diagrams lodged with the development have been projected utilising the increased FFLs and show that shadowing impacts from the development are minimal and do not significantly reduce solar access for adjoining properties and public spaces.

Overall, the proposed earthworks associated with this development will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. The earthworks proposed are ancillary to

the development proposed, and contained within the area affected by the proposed development, and therefore considered reasonable and appropriate. The main purpose of the earthworks is provide appropriate protection in the event of flooding. There is no significant concern in relation to contamination or likely significant adverse impacts upon adjoining properties.

#### **7.4 Flood planning**

There is no Flood Planning Map contained in the gazetted *Albury LEP 2010* maps, however the site is identified as being subject to flooding and a minimum floor height restriction applies. The development has been designed to provide the minimum Finished Floor Level (FFL) as specified by Council. *Albury DCP 2010* contains provisions for planning for hazards, including flooding.

#### **7.6 Essential services**

Essential services are currently available to the site and there is sufficient capacity for their extension and augmentation to meet the demands of the proposed development. Improved stormwater drainage will result from the development.

#### ***Section 79C(1)(a)(ii) Provisions of any Draft Environmental Planning Instruments***

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

#### ***Section 79C(1)(a)(iii) Provisions of Development Control Plans***

##### **Albury Development Control Plan 2010**

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

##### Part 3 Development Notification Policy

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

The notification period was from Tuesday 7 February 2017 and Friday 24 February 2017. Four submissions were received to the proposed development (annexed to this report as *Attachment 4*).

The amended plans and information were notified to submitters from 2 May 2017 to 12 May 2017. No additional submissions were received.

Submissions are assessed in more detail under the consideration of Section 79C(1)(d), below.

#### Part 4 Developer Contributions Plans

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. In compliance with this Direction, *Albury Infrastructure Contributions Plan 2014* exempts affordable housing from both Section 94 and Section 94A Contributions. Consequently, this development is exempt from 94A Contributions.

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. This activates Council's Albury ICP 2014 which requires monetary contributions to be paid pursuant to Section 64 of the *Local Government Act 1993* to provide Council with funds to provide coordinated infrastructure and services for the city.

To enable accurate calculation of the required contributions, the applicant was requested to provide details of the existing improvements on the site and the facilities contained within Quamby House and Orana Allanbie to enable recognition of the existing demand generated by those buildings when operational. Council's Contributions Planner has provided the following methodology to determine the contributions payable

*The units proposed are self-contained dwellings and not a boarding house therefore, as per the Water Directorate Guidelines, 'Multi Residential Lots' and Albury City Infrastructure Contributions Plan 2014 the bedrooms per dwelling have been used*

|                                    |                  |
|------------------------------------|------------------|
| Water & Sewer 0.33 ET x 23 (1 bed) | = 7.59ET         |
| Water & Sewer 0.66 ET x 14 (2 bed) | = 9.24ET         |
| Water & Sewer 1 ET x 1 (3 bed)     | = 1.00ET         |
| <b>TOTAL</b>                       | <b>= 17.83ET</b> |

#### Community Centre

*As per the Water Directorate Guidelines, a 'Community Centre' is defined as "insufficient data" and to use the 'Food Preparation & Amenities'.*

*Ground Floor Kitchenette = 6 x 2.1 = 12.6m<sup>2</sup>*

*First Floor Kitchen = 2.4 x 1.9 = 4.56m<sup>2</sup>*

*Total of kitchen & kitchenette = 17.16m<sup>2</sup>*

|                       |           |
|-----------------------|-----------|
| Water 0.03 ET x 17.16 | = 0.51ET  |
| Sewer 0.05 ET x 17.16 | = 0.86 ET |

#### **COMBINED DEMAND**

|                          |           |
|--------------------------|-----------|
| Water = 17.83ET + 0.51ET | = 18.34ET |
| Sewer = 17.83ET + 0.86ET | = 18.69ET |



#### Credits/Offsets

An email received from Hawes and Swan Planning on 19/4/17 (DOC 17/59424) advised the following existing bedrooms:

*“24 bedrooms are contained in the existing building known as Orana Allanbie and 11 bedrooms in Quamby House. A total of 35 bedrooms are contained in the existing buildings on site.”*

*As Orana Allanbie and Quamby House are defined as a ‘Boarding House’ under the Water Directorate Guidelines, the following offsets apply:*

*Water 0.33 ET x 35 = 11.55 ET*

*Sewer 0.50 ET x 35 = 17.5ET*

*Therefore, TOTAL DEMAND = Combined demand – historic use (credits)*

*Water 18.34ET – 11.55ET = 6.69ET*

*Sewer 18.69ET – 17.5ET = 1.19ET*

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**

A condition to this effect will be placed on any consent issued if the Panel were of a mind to approve the development.

#### Part 5 Tree Preservation

##### **5.2 Tree Preservation Order**

The application proposes the removal of some existing vegetation on the site. The issue of tree removal has been considered earlier in this report in relation to Clause 5.9 of *Albury LEP 2010*.

In conclusion, the tree removal proposed is consistent with the requirements of *Albury LEP 2010* and subsequently *Albury DCP 2010* and is acceptable in this instance.

#### Part 6 Planning for Hazards

This part of the DCP relates to both natural and man-made hazards and includes controls for flooding, bushfire and potentially contaminated sites.

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.

The requirements of *Albury DCP 2010* in regard to planning for hazards have been adequately addressed by the 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. However the following assessment under the relevant provisions of *Albury DCP 2010* is provided:

#### **10.6 Multi Dwelling Housing**

##### **10.6.1 Multi Dwelling Housing – Neighbourhood and Development Character**

The development has been assessed under the relevant provisions of Affordable Housing SEPP as being consistent with the character of the surrounding area.

##### **10.6.2 Multi Dwelling Housing - Greenfield and Established Area Siting Requirements**

The development complies with the locational requirements for established areas.

##### **10.6.4 Multi Dwelling Housing – Streetscape Design Principles**

Setbacks are consistent with setbacks on neighbouring properties and the design of the development is consistent with the character of the area. The development achieves the requirements of the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development*.

##### **10.6.5 Multi Dwelling Housing – Site Landscaping**

Landscaped area is prescribed by the Affordable Housing SEPP and has been addressed previously. The development includes large trees on the western side of the buildings, consistent with Council's requirements.

##### **10.6.6 Multi Dwelling Housing – Site Facilities**

The development includes letterbox and garbage facilities for all dwellings. The applicant has stated that lighting in accordance with Council's requirements will be provided to internal access ways and that a condition may be imposed to achieve this.

##### **10.6.7 Multi Dwelling Housing – Open Space and Solar Access**

Solar access is prescribed by the Affordable Housing SEPP and has been addressed previously. Open space is also prescribed by the Affordable Housing SEPP and has been addressed previously

##### **10.6.8 Setbacks and Privacy**

The development exceeds the required setbacks under *Albury DCP 2010*.

##### **10.6.9 Multi Dwelling Housing – Car Parking and Access**

Car parking required for the dwellings is prescribed by the Affordable Housing SEPP and has been addressed previously.

## Part 11 Development in the Commercial Zones

### **11.4 Residential Development in the Commercial Zones**

This section provides that where residential development is permissible in the B4 zone, it is to be compliant with the requirements of Part 10 of *Albury DCP 2010*. These matters have been addressed above.

## Part 16 Outdoor Advertising

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

## Part 17 Off Street Car Parking

### **17.2 Parking Provision by Land Use**

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, and Council's DCP requires parking at the following rates

**Table 17.1 Car Parking Provision by Land Use (extract)**

| <b>Land Use</b>    | <b>Minimum parking spaces required</b>            |
|--------------------|---|
| Community facility | 1 per 5 seats or 1 per 10sqm whichever is greater |
| Office             | 1 per 40sqm of gross floor area                   |

Consequently, the car parking required for the Community Centre (which totals approximately 90sqm of activity space after excluding toilets and stairs) and offices (which totals approximately 200sqm after excluding toilets and stairs) would be 9 spaces (Community Centre) + 5 spaces (offices) = 14 spaces (total). The development provides 5 spaces for staff and 5 for visitors (it being noted that 4 of those spaces are located within the residential section of the site for visitors to the residents and therefore not considered to cater for the Community Centre specifically), resulting in a shortfall of 8 spaces at worst and 4 spaces at best.

The Community Centre and office will provide services to the residents of this development, but will also provide other services as required. A full time site manager and 5 permanent staff will be accommodated in the building.

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.

#### Part 18 Albury Airport

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

#### ***Section 79C(1)(a)(iia) 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. Key areas for consideration in respect to the subject application are:

#### **Context and Setting**

The development will not have a detrimental impact on the scenic qualities, character and amenity of the locality and streetscape. This has been assessed in detail under the applicable provisions of the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development*.

#### **Streetscape**

The design and response to the streetscape has been assessed in detail in regard to the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development* and has been found to be an appropriate design in the 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.

A condition limiting any fences in Olive Street to 1.2m in height will assist in providing an open, landscaped streetscape character.

### **Site Design and Internal Design**

The site and internal design has been considered previously in this report under the provisions of the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development* are addressed in detail above. 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.

### **Traffic, Access and Parking**

As outlined earlier in this assessment, the Affordable Housing SEPP prevails over the provisions of Part 17 and Council's parking standards cannot be applied to this development. The development complies with the provisions of the SEPP.

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 applicant provided further information that the internal traffic flow would be adjusted to provide one-way flow to remove the concerns of Council in regard to internal conflicts and the capacity of Richs Lane. The applicant also provided further consideration of the impact upon on-street parking in the area. As a result, the local road network and on-street parking is considered to be capable of absorbing the additional traffic and any resultant parking demands from the development.

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, as noted earlier in the report.

The consultant concludes that Council should give favourable consideration to designating all internal roads as pedestrian shared zones through the Albury Local Traffic Committee and RMS. However, it is noted that internal roads in this development will not be public roads and therefore neither Council nor RMS are empowered to designate the internal roads as pedestrian shared zones to address this concern.

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.

### **Public Domain**

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

### **Utilities**

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

### **Construction**

Standard conditions associated with the development, including soil and water management practices, construction hours and traffic management during construction, are recommended to be imposed, if consent was granted. A Construction Management Plan incorporating those matters is recommended to be lodged and approved prior to any Construction Certificate being issued.

### **Water Quality and Stormwater**

Standard conditions associated with the development, including soil and water management practices, are recommended to be imposed, if consent was granted. The proposed stormwater design and provision has been assessed as being satisfactory to cater for development and maintain overland flow for the surrounding area.

### **Soils, Soil Erosion**

As indicated earlier in this assessment, the proposed fill to be imported is satisfactory to achieve compliance with flooding minimum FFLs and will have no impact upon surrounding private and public lands.

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

## **Noise and Vibration**

The proposed development has the potential to result in increased noise during construction. The extent of the noise generated is not considered to be unreasonable and is of a temporary nature whilst construction works are carried out. Appropriate hours of construction and management of construction will minimise the potential impacts.

## **Flora and Fauna**

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

## **Natural Hazards**

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.

## **Safety, Security and Crime Prevention**

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

## **Overlooking - Overshadowing**

It is considered that there are no unreasonable impacts in relation to privacy or overshadowing for nearby residential properties, 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*.

## **Waste**

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

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

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

The notification period was from Tuesday 7 February 2017 and Friday 24 February 2017. Four submissions were received to the proposed development (annexed to this report as *Attachment 4*).

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 this 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 this 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.

The relevant issues raised in the objections are summarised below

- **Limited onsite parking and impact upon surrounding streets**

Comment: The provisions of the Affordable Housing SEPP prevail in respect of car parking. The development has provided parking in excess of the requirements under the SEPP. The additional information provided by the applicant in respect to the impacts upon on-street parking is considered supportable. Consequently, the issue raised in the objection cannot be used to refuse the application.

- **Limited open space provided to each unit**

Comment: Whilst Council's assessment of the application agrees that there is insufficient private open space provided to all units, the development exceeds the required landscape area provision and cannot be refused on this ground. Consequently, this issue cannot be used to refuse the application.

- **Setback of Block H results in a bulky and imposing structure being visible from Hume Street and potentially impacts upon privacy and enjoyment of neighbouring properties**

Comment: Block H is a two storey building containing two dwellings, with an increased setback for the upper level and highlight windows to protect privacy. The bulk and scale of the building is not out of context with the area and will not result in a significantly bulky or intrusive building form in the area. Ground level open space and living areas for Block H will not impact upon amenity of neighbouring sites. Suitable boundary fencing and landscaping is proposed.

- **Internal road width is a potential traffic hazard with garage doors opposite each other**

Comment: To an extent, Council shares concerns in regard to the internal road, however not in respect of the access to garages. The internal road widths are capable of providing satisfactory access to garages. The change to one-way flow will assist to reduce internal conflict points for vehicles.

- **Development is at odds with the density of the surrounding area**

Comment: The provisions of the Affordable Housing SEPP prevail in respect of density and landscape area. The proposed development is significantly below the maximum permitted FSR and density on the site and provides for more landscape area than required under the SEPP. Consequently, determining weight cannot be given to the objection.



- **Provision of green space**

Comment: The provisions of the Affordable Housing SEPP prevail in respect to landscape area. The development provides for more landscape area than required under the SEPP. Consequently, this cannot be used to refuse the application.

- **Provision of adequate storage and screening for garbage**

Comment: Council agreed with this concern in regard to the original facilities provided in the development. The amended plans have provided for increased capacity, improved screening and provided for cleaning facilities for the garbage area which is satisfactory.

- **Provision of facilities for clothes drying**

Comment: The development is provided with adequate laundry facilities and whilst dedicated outdoor drying areas are not provided, the provision of internal facilities for residents will address the needs of those residents. Council cannot regulate that no clothes be dried on balconies or in view of the street and this is an internal site management issue.

- **Boundary fencing not detailed on plans**

Comment: The proposed boundary fencing was not shown adequately on the original plans and amended plans were requested as a result. The amended plans included satisfactory details of all fencing proposed and were notified to submitters.

- **Building materials not adequately documented**

Comment: Adequate detail of the materials has been provided, notwithstanding that the colour selections are to be finalised. The area is not a heritage conservation area and has a mixed character with a wide range of materials and colours in the area. However, a condition is recommended that details of the colours and materials of all external materials (including hard ground surfaces) be provided for Council's approval prior to the issue of any Construction Certificate.

- **Access to site**

Comment: The submitter was concerned that access was only provided via Olive Street and requested that the main access be provided via Richs Lane. As detailed in the report, above, Richs Lane is not considered to be a safe alternative two way access and the traffic flow has been changed to one-way through the site. In Council's opinion this is a suitable access arrangement for the site.

- **Increase in foot and motor traffic in local roads**

Comment: This is an inevitable result of development in areas proximate to the CBD. Additional traffic assessment information has addressed the concerns in relation to the capacity of the local roads and on-street parking in the area. Concerns relating to internal pedestrian safety have been raised earlier in the report.

- **Increase in crime and anti-social behaviour**

Comment: The objector claims that there is a direct link between affordable housing and increased crime and disorder and an increased fear of crime in areas with a high volume

of affordable housing establishments. No evidence is provided to support this claim. An assessment of the proposal under the CPTED principles has not raised any concerns.

- **Decreased street appeal**

Comment: The proposed development has been assessed against the requirements of the Affordable Housing SEPP and the *Seniors Living Policy: Urban Design Guidelines for Infill Development* and has been found to be an appropriate design in the streetscape. The proposed design is considered to be high quality, with appropriate regard being given to the streetscape by the location of the taller buildings to the south and west of the site. The removal of the existing dilapidated buildings and erection of new suitably articulated and designed dwellings is a positive outcome for the area.

- **Right of way not maintained in the development**

Comment: A Right of Way (ROW) benefitting the property at 402 Kiewa Street (to the west) is located along the western boundary of the site to provide access to Richs Lane. The original plans did not provide for this ROW to be permanently trafficable by the beneficiary. Amended plans were requested and have addressed this issue.

Council's Team Leader Transport and Traffic has recommended that bollards be installed at the end of the turning head of the internal road to prevent the ROW being used as an alternative vehicular access to the affordable housing site. Locating the bollards in that location will also assist in keeping the access available for use by the neighbouring property. A condition can be imposed to this effect.

### ***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.

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

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

## **Recommendation**

That the Southern Joint Regional Planning Panel:

- a. Receive and note the contents of this report; and
- b. Grant consent to Development Application 10.2017.35189.1 for an Affordable Housing Development comprising Demolition of Existing Buildings and the erection of Thirty Eight (38) Multi Dwelling Units, Community Centre and Office, Car parking, Landscaping and consolidation of all lots at 401-407 Olive Street and 18-22 Richs Lane South Albury subject to the conditions contained in the *Draft* Determination shown as *Attachment 6* to this report

## **• Attachments**

1. Plans and Elevations
2. Statement of Environmental Effects (including updated information received 19 April 2017)
3. Traffic and Parking Impact Assessment (including updated information received 19 April 2017).
4. Submissions received
5. Request for further information
6. *Draft* Determination.