

## COUNCIL ASSESSMENT REPORT

### SOUTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSTH-295 – DA10.2023.40347.1
<b>PROPOSAL</b>	Group Home – Seven (7) Residences, Retaining Walls, Car Parking, Front Fence, Vegetation Removal & Demolition
<b>ADDRESS</b>	Lot: 1 DP: 38393 located at 271 Bernhardt Street, East Albury
<b>APPLICANT</b>	Mr Darren Wooding from Housing Plus
<b>OWNER</b>	Housing Plus
<b>DA LODGEMENT DATE</b>	30 August 2023
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Item 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> for development that has a capital investment value of more than \$5 million for the purpose of a group home
<b>CIV</b>	\$5,168,000.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A
<b>KEY SEPP/LEP</b>	SEPP (Planning Systems) 2021 SEPP (Transport and Infrastructure) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Biodiversity and Conservation) 2021 Albury Local Environmental Plan 2010
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	<p>The application was publicly notified between 31 August 2023 and 20 September 2023.</p> <p>Eight (8) x submissions received opposing the proposed development</p> <p>The opposing submissions raise concerns in relation to the development devaluing existing properties in the area, potential increase in crime activity and unwanted attention, increased traffic flow, impact to amenity, management of stormwater flows, tree removal from</p>

	the site, construction noise, and impact to neighbourhood character (loss of existing dwelling and group home inconsistent with the surrounding built form).																																				
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	1. Development Plans 2. Statement of Environmental Effects and Supporting Documentation 3. Site Inspection Pictures 4. Redacted Submissions 5. Essential Energy response 6. Further information request and applicant response 7. Draft Determination																																				
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b>	N/A																																				
<b>RECOMMENDATION</b>	Approval																																				
<b>DRAFT CONDITIONS TO APPLICANT</b>	Yes																																				
<b>SCHEDULED MEETING DATE</b>	12 December 2023																																				
<b>PLAN VERSION</b>	<table border="1"> <tr><td>2</td><td>SURVEY</td></tr> <tr><td>3</td><td>PROPOSED DEMOLITION PLAN</td></tr> <tr><td>4</td><td>PROPOSED SITE PLAN</td></tr> <tr><td>5</td><td>PROPOSED EARTHWORKS PLAN</td></tr> <tr><td>6</td><td>RETAINING WALL DETAILS</td></tr> <tr><td>7</td><td>RETAINING WALL DETAILS</td></tr> <tr><td>8</td><td>PROPOSED FLOOR PLAN</td></tr> <tr><td>9</td><td>PROPOSED ROOF PLAN AND DRIVEWAY SECTION</td></tr> <tr><td>10</td><td>PROPOSED AREA CALCULATION</td></tr> <tr><td>11</td><td>PROPOSED SITE ELEVATIONS</td></tr> <tr><td>12</td><td>PROPOSED SITE ELEVATION AND SECTIONS</td></tr> <tr><td>13</td><td>PROPOSED CORE BUILDING</td></tr> <tr><td>14</td><td>PROPOSED COMMUNAL BUILDING</td></tr> <tr><td>15</td><td>PROPOSED UNIT 1, BIN &amp; STORAGE ROOM BUILDING</td></tr> <tr><td>16</td><td>PROPOSED UNIT 2, 3 AND 4 BUILDING</td></tr> <tr><td>17</td><td>PROPOSED UNIT 5, 6 AND 7 BUILDING</td></tr> <tr><td>18</td><td>PROPOSED BIN &amp; STORAGE ROOM BUILDING</td></tr> <tr><td>19</td><td>LANDSCAPE PLAN</td></tr> </table>	2	SURVEY	3	PROPOSED DEMOLITION PLAN	4	PROPOSED SITE PLAN	5	PROPOSED EARTHWORKS PLAN	6	RETAINING WALL DETAILS	7	RETAINING WALL DETAILS	8	PROPOSED FLOOR PLAN	9	PROPOSED ROOF PLAN AND DRIVEWAY SECTION	10	PROPOSED AREA CALCULATION	11	PROPOSED SITE ELEVATIONS	12	PROPOSED SITE ELEVATION AND SECTIONS	13	PROPOSED CORE BUILDING	14	PROPOSED COMMUNAL BUILDING	15	PROPOSED UNIT 1, BIN & STORAGE ROOM BUILDING	16	PROPOSED UNIT 2, 3 AND 4 BUILDING	17	PROPOSED UNIT 5, 6 AND 7 BUILDING	18	PROPOSED BIN & STORAGE ROOM BUILDING	19	LANDSCAPE PLAN
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<b>PREPARED BY</b>	Sharna Holland
<b>DATE OF REPORT</b>	22 November 2023

## EXECUTIVE SUMMARY

The Development Application (DA) 10.2023.40347.1 seeks consent for a group home development including an ancillary office and communal facilities, which is permissible with consent in the R1 General Residential zone.

The subject land is located at 271 Bernhardt Street, East Albury, and the application seeks to demolish the existing dwelling and sheds on site, and remove twenty-two (22) trees, to facilitate the construction of a single-storey group home development, comprising seven (7) residences, a communal building for the use of residents staying on site, and a core building, which will be used as an office for staff members and to provide professional support services to residents.

The project is for the purpose of a group home that has a Capital Investment Value (CIV) greater than \$5 million. Under the provisions of *State Environmental Planning Policy (Planning Systems) 2021* the development is a Regionally Significant Development (RSD).

The key issues associated with the development relate to several requested variations to Part 10, Division G – Residential Development enabled by a SEPP under Albury DCP 2010, the impact of the development upon the health and structural integrity of the existing trees identified to be retained, both within the site and adjacent to the site, and the minor shortfall of car parking spaces within the site. These matters have been further discussed within this report.

The development was publicly notified between 31 August 2023 and 20 September 2023 and eight (8) submissions have been received to date, all opposing the development. The submissions raise concerns in relation to the development devaluing existing properties in the area, potential increase in crime activity and unwanted attention, increased traffic flow, impact to amenity, management of stormwater flows, tree removal from the site, construction noise, and impact to neighbourhood character (loss of existing dwelling and group home inconsistent with the surrounding built form). These issues are considered further in this report.

It is considered that the works are consistent with the public interest as the proposed development will deliver economic and social benefits to the broader community through the creation of job opportunities, both during and post construction, and will provide valuable support to vulnerable members of the community who are at risk of homelessness.

Council staff have assessed the proposed development in accordance with Section 4.15 of *Environmental Planning and Assessment Act 1979*. This involved consideration of the

submitted information and planning controls and requirements contained within Albury LEP 2010, Albury DCP 2010 and the relevant State legislation.

Overall, it is concluded that the impacts of the proposed group home on the environment and neighbouring properties are reasonable with the development representing significant investment in a facility which will provide for the housing needs of women and children who are victims of domestic violence. The development is considered appropriate to the residential context and setting of the locality. The proposal is considered consistent with the objectives of the R1 General Residential zone and the assessment has concluded that the development achieves a suitable and satisfactory planning outcome.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the EP&A Act 1979, DA 10.2023.40336.1 is recommended for approval, subject to conditions contained within the Draft Development Consent at Attachment 7 of this report.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The subject land, 271 Bernhardt Street, East Albury, identified in the location map below (see Figure 1), comprises an existing dwelling, front fence, and several detached structures (see Figure 2). The total site area of the subject land is 3916.1m<sup>2</sup>. The site is an L-shaped battle axe lot (see Figure 3) and is 15.24m wide at the street frontage, 44.2 metres along the eastern boundary (adjoining 269 Bernhardt Street), 60.96 metres along the northern boundary (adjoining lots 259, 263, 267, 269 Bernhardt Street), 42.61 metres along the eastern boundary (adjoining lot 254 Walsh Street), 77.24 metres along the southern boundary, and 88.68 metres along the western boundary.

The subject land is zoned R1 General Residential under Albury LEP 2010 and is located in an established residential area. The existing site has one vehicle crossover, accessed from Bernhardt Street. There is a 6 metre wide drainage easement traversing the lower portion of the site, adjacent to the southern boundary.

The topography of the subject land is described as sloped, with a fall of 6 metres from Bernhardt Street to the rear of site (south-west boundary). Within the site, the slope of the land falls 4 metres from the north-east corner to the south-west corner of the allotment (see Figure 2). The site has several significant trees, with this application proposing to remove twenty-two (22) trees to facilitate the development (see Figure 4).

The site is located within East Albury and is within a 1km walk to Dean Street, which is the main street within Albury's commercial centre, via the pedestrian footbridge crossing the Hume Freeway. To travel to the commercial centre by vehicle, the distance is closer to 2.6km.

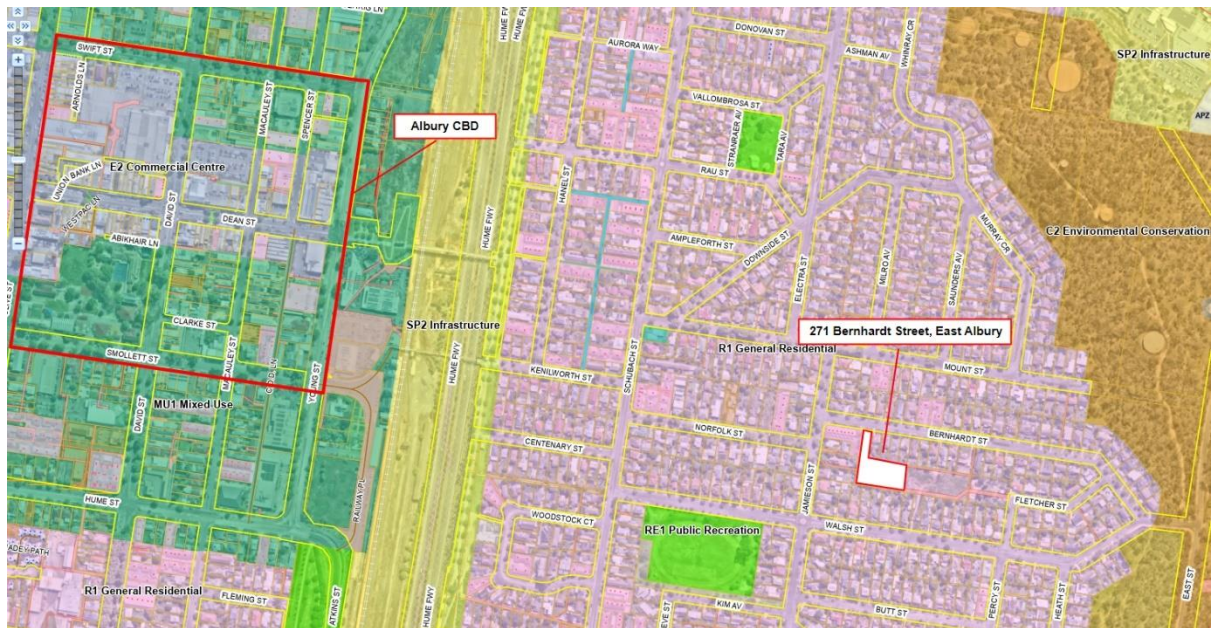


Figure 1: Location Map





Figure 2: Existing site conditions

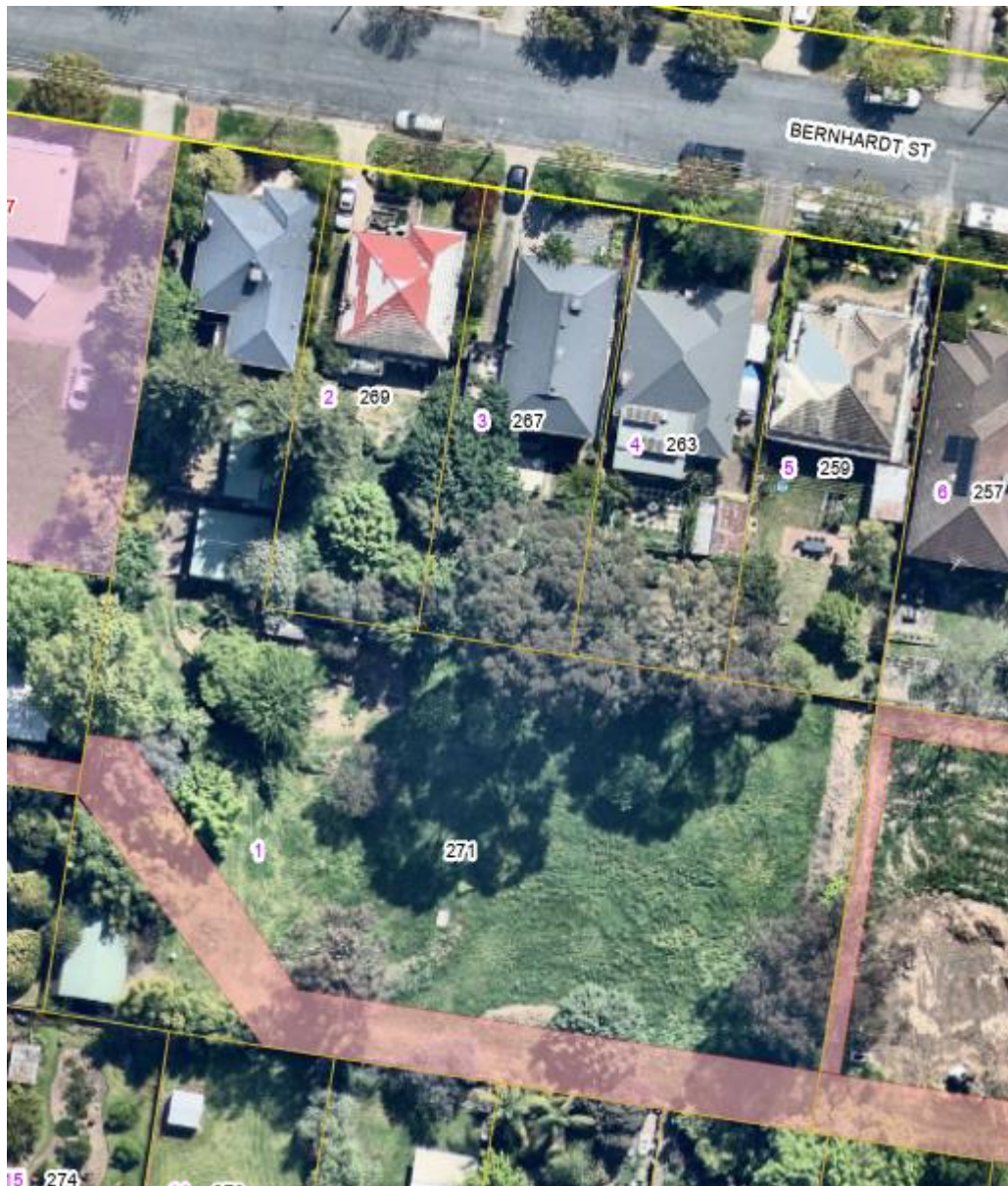
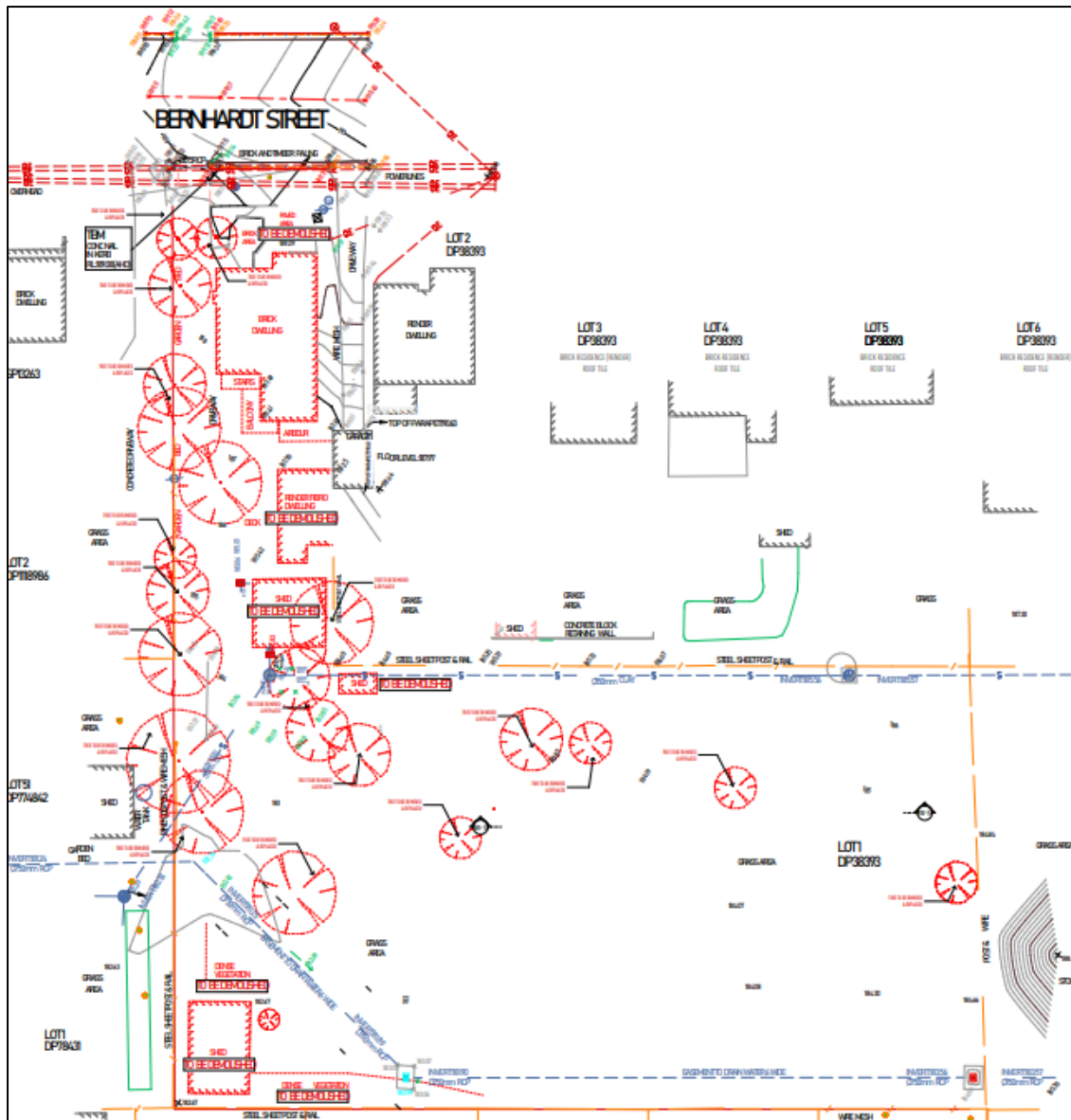


Figure 3: Aerial image of site



## 1.2 The Locality

The site is zoned R1 General Residential under *Albury Local Environmental Plan 2010* (Albury LEP 2010). The subject land is located in an established residential area.

The surrounding built form comprises principally of residential accommodation, characterised as single and two storey dwelling houses, and some multi dwelling housing.

Adjoining the site at the street frontage is a dwelling house, at 269 Bernhardt Street, and multi dwelling housing at 464 Jamieson Street. Within the site, there are several dwelling houses that back onto the subject land and a vacant parcel of land to the east (see Figure 5).

The site is within a 400m walk to a bus stop, which provides connection to Albury (QEII Square) via Albury Base Hospital (see Figure 6).



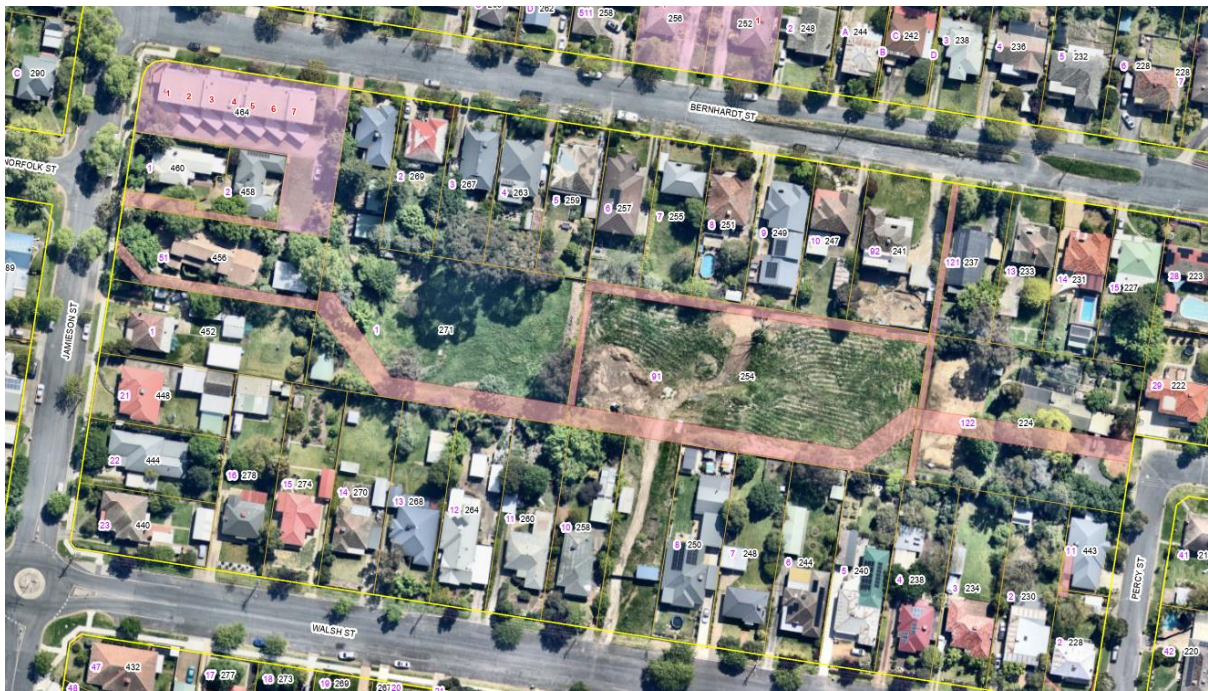


Figure 5: Aerial map identifying the surrounding built form

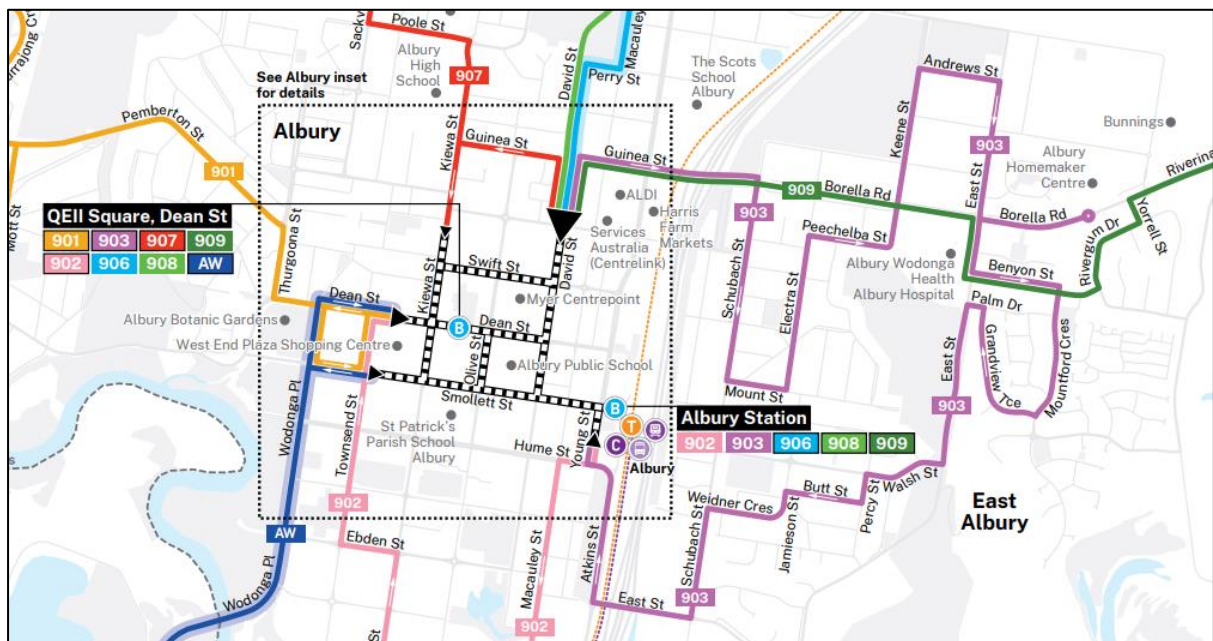


Figure 6: Public transport map

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The Development Application (DA) 10.2023.40347.1 seeks consent for a group home and ancillary office and communal facilities, which is permissible with consent in the R1 General Residential zone.

The subject land is located at 271 Bernhardt Street, East Albury, and the application seeks to demolish the existing dwelling and sheds on site, and remove twenty-two (22) trees, to facilitate the construction of a single-storey group home development (see Figure 7).

The proposed development comprises the following:

- seven (7) residences
- communal building (to facilitate communal dining and living for residents)
- core building (office to provide professional support services to residents, reception, and staff area)
- earthworks
- retaining walls
- ground level car parking (total of 7 spaces)
- pedestrian access ramp
- bin storage room
- front fence

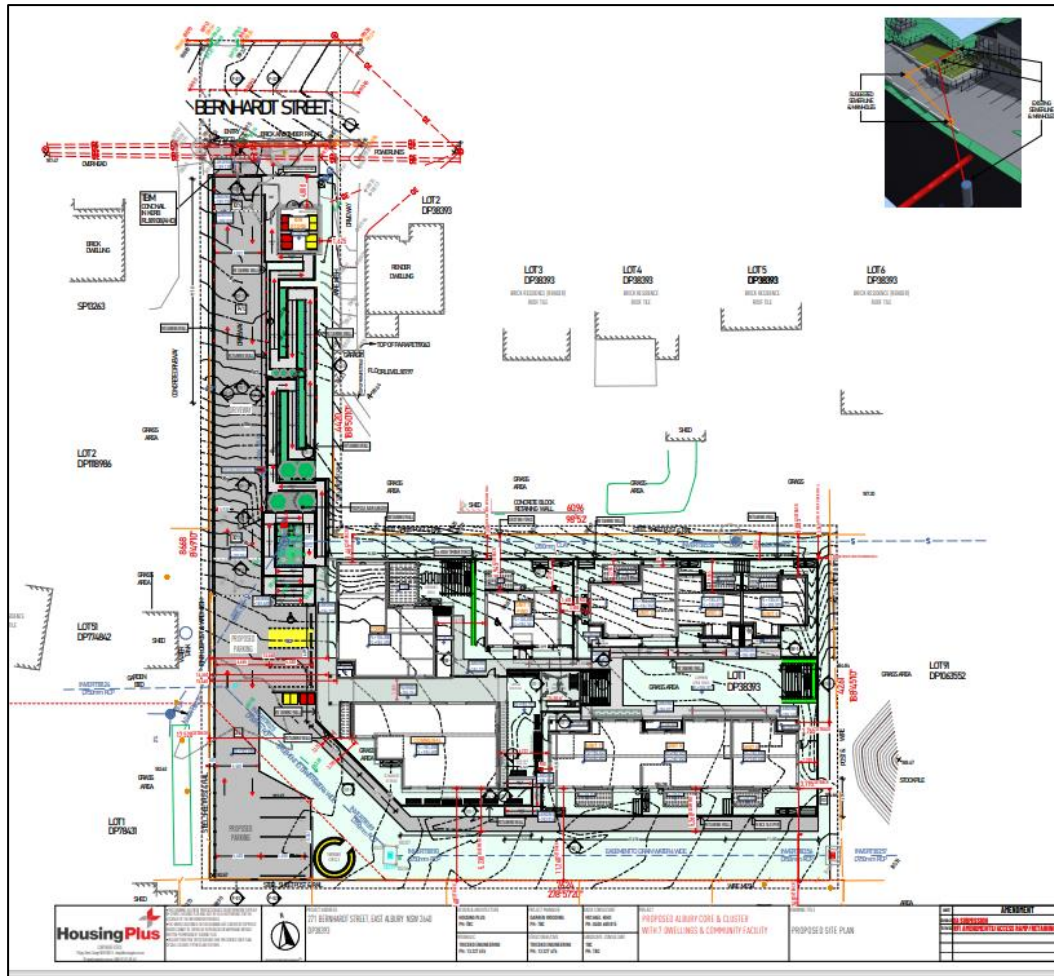


Figure 7: Proposed Site Plan

Table 1: Development Data

Control	Proposal
Site area	3,916.1m <sup>2</sup>
GFA	772.83m <sup>2</sup> Core building: 133.59 Communal building: 163.04 Unit 1: 64.15 Unit 2: 79.99 Unit 3: 45.90 Unit 4: 46.24 Unit 5: 64.87 Unit 6: 86.62 Unit 7: 88.43
Floor Space Ratio	0.19:1
Clause 4.6 Requests	N/A

No of apartments	Seven (7) residences
Landscaped area	Soft Landscape: 1,654.28m <sup>2</sup> Hard Landscape: 1,189.15m <sup>2</sup>
Car Parking spaces	Seven (7), inclusive of one (1) accessible space
Setbacks	<p>The development proposes the following setbacks to allotment boundaries:</p> <p><u>Northern boundary - primary street frontage</u> 4m setback to bin storage room</p> <p><u>Northern boundary – adjacent to proposed core building and residences 1 - 4 (adjoining lots 259, 263, 267, 269 Bernhardt Street</u> 3m setback to retaining wall 3.465m setback to core building 6.745m to unit 1 3.625m to unit 2 5.085m to unit 3 and unit 4</p> <p><u>Eastern boundary – upper side (adjoining lot 269 Bernhardt Street)</u> 1.625m setback to bin storage room</p> <p><u>Eastern boundary – lower side (adjoining lot 254 Walsh Street)</u> 1.3m setback to retaining wall 2.591m setback to unit 4 3.765m setback to unit 5</p> <p><u>Southern boundary - rear</u> 11.26m setback to units 5, 6, 7 11.26m setback to communal building 7.89m setback to retaining wall</p> <p><u>Western boundary - side</u> 17.52m setback to communal building 15.66m setback to core building 13m setback to retaining wall 8.66m setback to bin storage room</p>



## 2.2 Background

Several pre-lodgement meetings were held with the applicant providing advice in relation to the existing Council infrastructure within the site, including stormwater and sewer mains. The applicant was also advised that the ground levels within the drainage easement are to remain unchanged to maintain existing overland flow paths.

Though the applicant identified it would be preferable to retain the existing dwelling on site, given the proposed group home development would generate additional traffic flows, it was advised that two-way access to and within the site would be required.

The proposed development has been designed to acknowledge the site constraints and is reflective of the engineering advice provided prior to the lodgement of the DA.

The development application was lodged on **30 August 2023**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 2: Chronology of the DA**

Date	Event
30 August 2023	DA lodged
31 August 2023	Exhibition of the application
30 August 2023	DA referred to external agencies (Albury Police)
6 September 2023	DA referred to external agencies (Essential Energy)
27 September 2023	Panel briefing and Site Inspection
19 October 2023	Request for Information from Council to applicant (see Attachment 6)
17 November 2023	Applicant submitted a response to the further information request (see Attachment 6)
11 December 2023	DA proposed to be presented to Councillors at Council meeting
12 December 2023	Proposed Final Briefing with Panel

## 2.3 Site History

The subject land has had several Development Applications issued by Council, which are summarised below:

10.2005.26118.2: Review of Determination – Medium Density Housing - 18 x 2 Storey Townhouses – Refused 19/12/2006  
10.2005.26118.1: Medium Density Housing - 18 x 2 Storey Townhouses – Refused 13/03/2006  
10.2005.25685.1: Shed – Approved 4/03/2005  
Building record 25989: Brick Residence – Approved 19/8/1953

Development Application 10.2005.26118.1 relates to a medium density housing development for 18 dwelling houses, located at 254 Walsh Street, East Albury, and partially located at 271 Bernhardt Street, East Albury. The development application was approved by the Land and Environment Court on 26/07/2007 with a Deferred Commencement.

### 3. STATUTORY CONSIDERATIONS

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). The matters of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is:

- Requiring concurrence/referral (s4.13) – Referral to Essential Energy under SEPP (Transport and Infrastructure 2021). Referral received and attached.

### 3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### (a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Albury Local Environmental Plan 2010*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 5: River Murray Lands	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and regional development  Section 2.19(1) declares the proposal regionally significant development pursuant to Item 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> for development that has a capital investment value of more than \$5 million for the purpose of a group home	Y

SEPP (Resilience & Hazards) 2021	Chapter 4: Remediation of Land  Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure  Section 2.48(2) (Determination of development applications – other development) – electricity transmission - the proposal is satisfactory subject to conditions.	Y
State Environmental Planning Policy (Housing) 2021	Chapter 3: Diverse Housing  Part 2 Group Homes	Y
Albury Local Environmental Plan 2010	Section 2.3 – Permissibility and zone objectives Section 2.7 – Demolition requires development consent Section 7.1 – Earthworks Section 7.6 – Essential services	Y
Albury Development Control Plan 2010	Part 3 – Development Notification Policy Part 4 – Developer Contributions Plans Part 5 – Vegetation Protection Part 6 – Planning for Hazards Part 10 – Division G, Residential development enabled by a SEPP Part 17 – Off Street Car Parking	Satisfactory

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### Chapter 5 River Murray lands (formerly Murray REP2)

The subject site is located within an area to which Chapter 5 River Murray lands applies. The aim of Chapter 5 is to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

In assessing this application, Council must take into consideration the principles listed under Section 5.8 General principles and 5.9 Specific principles of SEPP (Biodiversity and Conservation 2010).

As the subject land does not have direct frontage to the Murray River, Council officers are satisfied the development is not contrary to the principles listed under Section 5.9. It is



noted that the subject land is affected by stormwater during high rainfall weather events; however, the development has been designed to maintain the existing overland flow path and therefore Council officers are satisfied that the development will not significantly alter risk levels or substantially redirect water flows during storm events.

Given the development is not anticipated to adversely affect the riverine environment of the River Murray, it is considered that the development is not contrary to the planning principles under Part 5.2 of SEPP (Biodiversity and Conservation 2010), and is found to be supportable by Council.

## **State Environmental Planning Policy (Planning Systems) 2021**

### Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria of Item 5 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* for development that has a capital investment value of more than \$5 million for the purpose of a group home. The development seeks to demolish the existing dwelling and sheds on site, and remove twenty-two (22) trees, to facilitate the construction of a single-storey group home development, comprising seven (7) residences, a communal building for the use of residents staying on site, and a core building, which will be used as an office for staff members and to provide professional support services to residents. The estimated cost of the development is \$5,168,000.00 excluding GST. Accordingly, the Southern Regional Planning Panel (SRPP) is the consent authority for the application.

## **State Environmental Planning Policy (Housing) 2021**

### Chapter 3: Diverse Housing

#### Part 2 Group Homes

Section 61 *Development in prescribed zones* under *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) identifies that development consent is required for the purposes of a permanent group home or transitional group home.

**Comment:** The applicant has lodged a Development Application seeking consent for the proposed group home development.

Section 62 *Determination of development applications* under Housing SEPP states the following:

(1) *A consent authority must not—*

- (a) refuse consent to development for the purposes of a group home unless the consent authority has made an assessment of the community need for the group home, or*
- (b) impose a condition on a consent granted for a group home only because the development is for the purposes of a group home.*

(2) *This section applies to development for the purposes of a group home that is permissible with consent under this or another environmental planning instrument*

**Comment:** The provisions of Section 62 are not relevant as approval of this application is recommended, and no special conditions have been included on the consent in relation to the use of the site.

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### Chapter 4 Remediation of Land

#### 4.6 Contamination and remediation to be considered in determining development application

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* (SEPP Resilience and Hazards 2021) have been considered in the assessment of the development application. Section 4.6 of SEPP Resilience and Hazards 2021 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject site is 3916m<sup>2</sup> and is currently developed with an existing dwelling and detached sheds, with the remainder of the site undeveloped.

The applicant has not submitted a Preliminary Site Investigation, but has provided the following response in relation to potential land contamination:

*We have relied on the fact that site is vacant and located within a residential area to demonstrate that it is unlikely to be contaminated. Further, there doesn't appear to be any infrastructure or remnants of infrastructure that would suggest that the site has been used for another purpose historically.*

*I have reviewed the historic NSW aerial imagery for the site. Unfortunately, there is nothing available for this site.*

The subject site is currently developed for residential purposes, and there is no suggestion of any past use that could have contaminated the site. Given the site inspection did not reveal any noticeable physical evidence of contamination and the property is not listed on any Council contaminated lands lists, a preliminary investigation is not required under SEPP (Resilience and Hazards) 2021 in this instance.

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

### **Chapter 2 Infrastructure**

#### **Part 2.3 Development controls**

#### **Division 5 Electricity transmission or distribution**

#### Subdivision 2 Development likely to affect an electricity transmission or distribution network 2.48 Determination of development applications – other development

The subject site is located within proximity to electricity infrastructure and has been referred to Essential Energy for comment. As a result, Essential Energy have recommended general conditions to manage potential safety risks arising from the proposed works.

## **Albury Local Environmental Plan 2010**

The relevant local environmental plan applying to the site is the *Albury Local Environmental Plan 2010* (Albury LEP 2010). The aims of the Albury LEP 2010 include:

(1) *This Plan aims to make local environmental planning provisions for land in Albury in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*

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

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (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 is consistent with these aims as the proposal promotes sustainable urban development, which will provide a high level of amenity, and will add to the diversity of land uses within the residential area.

### General Controls and Development Standards (Part 2, 5, and 7)

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

The site is located within the R1 General Residential zone pursuant to Section 2.2 of the Albury LEP 2010 (see Figure 1).

The proposed use of the subject land is defined under Albury LEP 2010 as a *group home*.

**group home** means a permanent group home or a transitional group home.

*Note – Group homes are a type of **residential accommodation**—see the definition of that term in this Dictionary.*

**group home (transitional) or transitional group home** means a dwelling—

*(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and*

*(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to*

*provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,*

*but does not include development to which State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies.*

*Note—Transitional group homes are a type of **group home**—see the definition of that term in this Dictionary.*

The R1 zone objectives include the following (pursuant to the Land Use Table in Section 2.3):

- *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.*

The proposal is considered to be consistent with these zone objectives as the group home development will provide for the housing needs of the community and will provide a facility and service to support the needs of domestic violence victims and their dependents.

#### Section 2.7 Demolition

Section 2.7 of Albury LEP 2010 states that demolition of a building or work may be carried out only with development consent. This proposal involves demolition of the existing dwelling and detached sheds on the subject land, as identified in the attached plan set. The demolition is required to facilitate the proposed group home development and conditions will be recommended to minimise the impact of these works within the locality.

#### Section 5.10 Heritage Conservation

Section 5.10(4) of Albury LEP 2010 states that the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.

The site is within proximity to the C11 – Mount Street Conservation Area (see Figure 8).

It is considered that the proposed group home development will not detract from the heritage significance of the conservation area as it will be predominately screened from public view given the unique L-shaped battle axe allotment. Further, it is considered that adequate separation between the development site and surrounding heritage conservation area, is provided by way of roads (Bernhardt Street and Jamieson Street) to reduce potential impacts such as interruption of important views/sightlines from the public realm to heritage buildings.



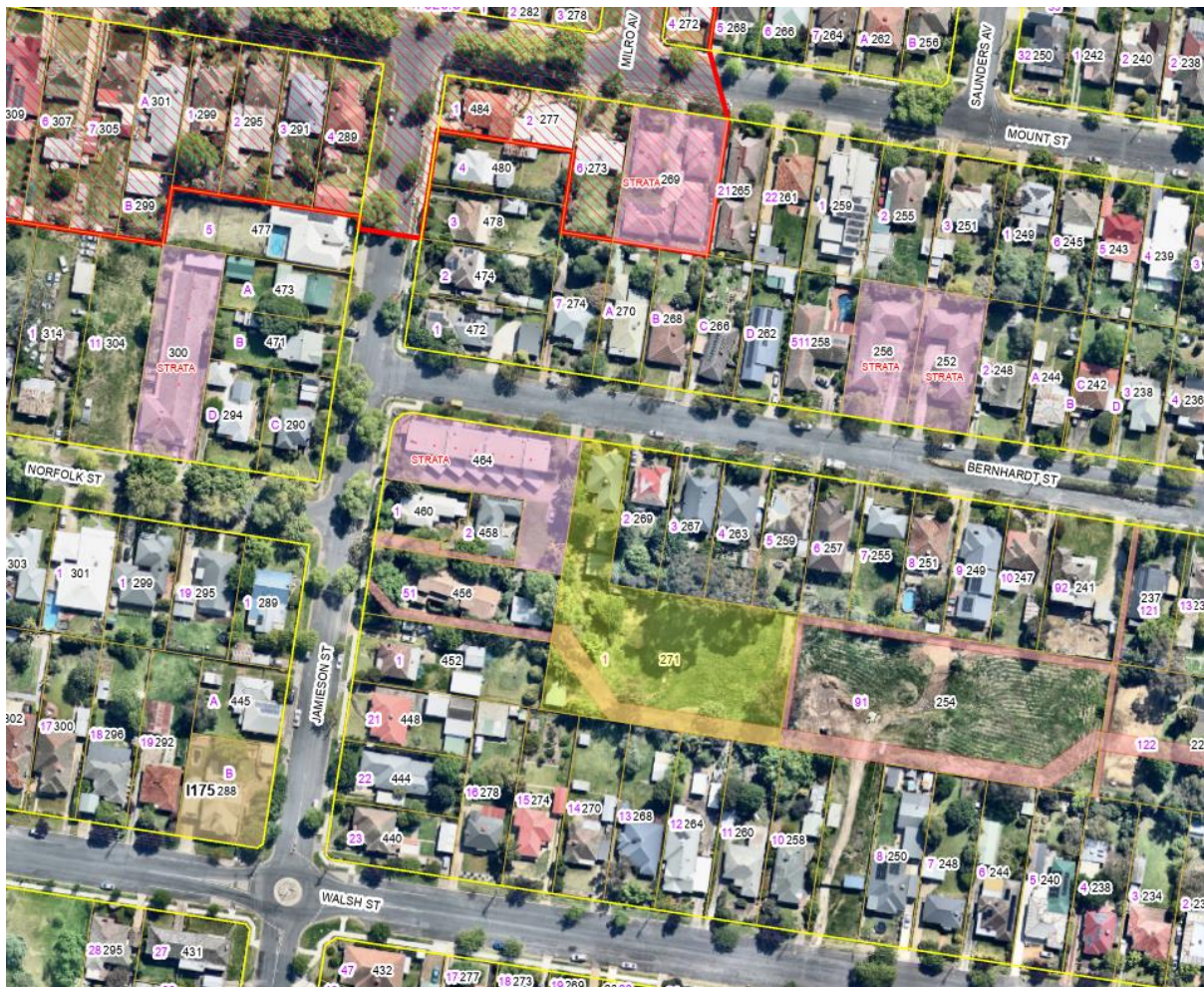


Figure 8: Aerial map identifying C11 – Mount Street Heritage Conservation Area

Section 5.10(8) of the Albury LEP 2010 states that the consent authority must consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment.

A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that there are no Aboriginal sites or Aboriginal places recorded or declared within 200m of 271 Bernhardt Street, East Albury.

#### Section 5.21 Flood planning

Section 5.21 of the Albury LEP 2010 relates to minimising flood risk to life and property and designing development to be compatible with the flood behaviour on the land. The subject land is mapped 'overland flooding' which indicates stormwater flooding may occur during high rainfall events.

The development has been designed to maintain the existing overland flow paths, with no works proposed within the 6m drainage easement, located in the southern portion of the subject land. To minimise risk to life and property, conditions will be recommended on

consent to ensure the ground levels within the drainage easement remain unchanged, which will assist to convey overland flows across the site.

### Section 7.1 Earthworks

Section 7.1 of the Albury LEP 2010 relates to earthworks and applies in this instance as the excavation works are not classified as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Consequently, consent is required for the earthworks and the provisions of this clause require consideration.

Before development consent can be granted, the following matters must be considered:

- a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
- b) the effect of the 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.*

The proposed development is consistent with these matters for consideration as follows:

- The development is not anticipated to adversely affect existing drainage conditions or soil stability in the area. Furthermore, the development will be undertaken in accordance with a sediment and erosion control plan which will be required to be submitted to Council prior to any works commencing on site.
- The earthworks are proposed to facilitate level surfaces to enable the redevelopment of the site as a group home.
- The quality of soil to be excavated is unknown as no PSI was submitted; however, the proposed cut and fill is considered suitable. Conditions will be recommended on consent in relation to soil management and compliance with AlburyCity requirements.
- The earthworks are not expected to have an adverse amenity impact on adjoining properties post excavation. Conditions will be recommended to implement measures to mitigate impacts whilst constructions works are occurring on site.
- Where excavation is required as part of the demolition and/or construction works, all excavated material will be stockpiled on site. Any material to be removed from the site will be taken to a registered landfill (Albury Waste Management Centre).
- The likelihood of disturbed relics is considered low given the developed nature of the site.
- The subject land is not classified as an environmentally sensitive area, nor will it adversely affect a drinking water catchment.

### Section 7.6 Essential services

Clause 7.6 of the Albury LEP 2010 refers to essential services and aims to ensure that all relevant services are available to the site. Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- a) *the supply of water,*
- b) *the supply of electricity,*
- c) *the disposal and management of sewage,*
- d) *stormwater drainage or on-site conservation,*
- e) *suitable road access.*

As confirmed above, the site is within an established urban area of Albury with existing suitable access and connection to reticulated water, sewer and electricity infrastructure, urban stormwater drainage and public road access. Internal services may be realigned and connected where necessary within the allotment boundaries.

Albury LEP 2010 contains no other specific controls relating to the site or proposed development. Notwithstanding, the proposal is considered to be generally consistent with Albury LEP 2010.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the EP&A Act, which may be relevant to the proposal.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The *Albury Development Control Plan 2010* (Albury DCP 2010) provides specific guidelines for development within the Albury City Local Government Area (LGA), including the subject site. Section 4.15(3A) of the EP&A Act requires a consent authority to apply its DCP provisions flexibly and allow reasonable alternative solutions that achieve the objects of those standards.

The following chapters of the Albury DCP 2010 are applicable to the proposed development:

- Part 3 – Development Notification Policy
- Part 4 – Developer Contributions Plans
- Part 5 – Vegetation Protection
- Part 6 – Planning for Hazards
- Part 10 – Division G, Residential development enabled by a SEPP
- Part 17 – Off Street Car Parking

The below details provide an assessment of the proposal against the relevant chapters of the DCP.

### Part 3 – Development Notification Policy

Part 3 of the Albury DCP 2010 identifies public notification as an essential component of the development assessment process and that it should be undertaken in accordance with the Community Participation Plan under Albury DCP 2010 Appendices.

Council's Community Participation Plan required the application to be notified to adjoining and adjacent landowners, advertised within the local newspaper, The Border Mail, and listed on Council's website (Application Tracker). The public notification period was between 31 August 2023 and 20 September 2023.

Eight (8) submissions have been received to date opposing the development. Submissions are further discussed under Section 4.15(1)(d) – Public Submissions of this report.

### Part 4 – Developer Contributions

Part 4 of the DCP provides details regarding the payment of developer contributions under Section 7.11 or 7.12 of the *Environmental Planning and Assessment Act 1979* and/or Section 64 of the *Local Government Act 1993*, to provide Council with funds to provide coordinated infrastructure and services for the City. Developer Contributions will be levied in accordance with the requirements of the *Albury Infrastructure Contributions Plan 2014* (Albury ICP 2014).

Section 2.2 of the Albury ICP 2014 states that all newly developed and redeveloped properties subject for payment of water supply and sewerage charges are liable for paying Developer Contributions and that an Equivalent Tenement (ET) is the basic unit of measure to quantify the demand or loading on water supply or sewerage systems respectively. The Plan states that ETs for commercial and industrial development will be charged in accordance with NSW Water Directorates Guidelines for Determining Water and Sewer ET Figures.

The amount of Developer Charges payable for a development is calculated as follows:

- Water supply: Demand in ETs x Developer Charge per ET
- Sewerage: Loading in ETs x Developer Charge per ET

Section 3.6(b) of the Albury ICP 2014 states the Plan applies to development that has a proposed cost of \$100,000 or more, insofar a Section 7.12 (formerly Section 94A) contribution is applicable.

Based on the above, the following Section 7.12 and Section 64 contributions are applicable to the proposed development, calculated as follows:

### Section 7.12 (formerly Section 94A)

Housing Plus are a registered charity under the Australian Charities and Not-for-profits Commission.



As per Clause 3.7.1 in the *Albury Infrastructure Contributions Plan 2014*, works undertaken for charitable purposes or by a registered charity are exempt from Section 7.12.

#### Section 64:

As per the *Water Directorate Guidelines 2017*, there is no specific category for 'Group Homes' and therefore, the development would be more aligned to 'Self-Care Retirement Units/Villas', as each dwelling has a basic internal kitchen and laundry. The suggested values for water and sewer ET is 'Residential Units'. Under the *Water Directorate Guidelines 2017*, residential units incur the following:

*Units – 1 bedroom = Water ET 0.40 / Sewer ET 0.50*

*Units – 2 bedroom = Water ET 0.60 / Sewer ET 0.75*

Based on the floor plan submitted (DOC23/422914), Section 64 is calculated as follows:

Unit 1 = 1 bedroom unit

Unit 2 = 2 bedroom unit

Unit 3 = 1 bedroom unit

Unit 4 = 1 bedroom unit

Unit 5 = 1 bedroom unit

Unit 6 = 2 bedroom unit

Unit 7 = 2 bedroom unit

Calculated based on 'Residential Units' (1 bedroom)

Water: 1.6 ET (4 x 0.40)

Sewer: 2 ET (4 x 0.50)

Calculated based on 'Residential Units' (2 bedroom)

Water: 1.8 ET (3 x 0.60)

Sewer: 2.25 ET (3 x 0.75)

The development includes a core building, which is calculated as 'Offices' as per the *Water Directorate Guidelines 2017*. The standard unit of measure is 'floor area m<sup>2</sup>'. As per the floor plan submitted (DOC23/422914), the floor area of the core building is 133.59m<sup>2</sup>.

*Water: 1.33 ET (133.59 x 0.01)*

*Sewer: 1.33 ET (133.59 x 0.01)*

The development includes a communal building, which is calculated as 'Public Amenities Block (per wc)' and 'Public Amenities Block (per shower)' as per the *Water Directorate Guidelines 2017*. The standard unit of measure is based on per wc and per shower. As per the floor plan submitted (DOC23/422914), there is one shower and one toilet within the communal building.

*Water: 0.8 ET (2 x 0.40)*

*Sewer: 1.26 ET (2 x 0.63)*

### Credit

1 ET for Water and 1 ET for Sewer for the existing lot

### Summary:

A condition is recommended on consent requiring \$28,874.21 to be paid to Council prior to the issue of a Construction Certificate.

### Part 5 – Vegetation Protection

Part 5 of Albury DCP 2010 guides the management and preservation of trees, vegetation, and native vegetation across the Albury LGA.

The development proposes the removal of twenty-two (22) trees within the site. The tree removal has been considered assessed against the criteria of Section 7.2 under the *Biodiversity Conservation Act 2016*, and the development is not considered to significantly affect threatened species as the trees to be removed are scattered throughout the site, the subject land is not biodiversity mapped and the tree removal is not likely to exceed 0.25 hectares as all grasses are exotic and a number of the trees to be removed are fruit trees and small shrubs. Consequently, a BDAR is not required in this instance.

Council's Environmental Planning team have reviewed the requested tree removal and have raised no objection, subject to conditions to ensure the safe removal of trees from the site.

The applicant has submitted an Arboricultural Impact Assessment Report prepared by Northern Tree Care (see Attachment 2) which provides a detailed assessment of the trees to be retained within the site, and significant trees adjacent to the site.

Council's Environmental Planning team have raised concerns in relation to the proposed earthworks and redevelopment of the site impacting upon the root systems of the existing vegetation, noting that the works may jeopardise the health and structural integrity of these trees.

In response to these concerns, the applicant has submitted a revised Arborists Report which states the following:

*The roots lost during construction will be replaced by the growth of new roots. The new roots will have completely replaced the lost roots within 2 years of the roots being cut (Struve 1990) (Hamilton 1988). Studies have shown a better root regrowth response when the tree roots are broken rather than cut cleanly and a significant root replacement occurs after only 1 year (Gray 2023).*

Based on the statements made in the submitted Arborist Report, the development is not anticipated to have a significant impact upon the long term health of the retained trees both within the site and adjacent to, providing the trees are protected in accordance with AS 4970-

2009 and appropriate Tree Protection Zones (TPZ) are implemented whilst construction works are occurring on site.

Conditions will be recommended on consent to ensure the tree protection recommendations within the Arborists Report are satisfactorily applied prior to works commencing on site.

#### Part 6 – Planning for Hazards

Part 6 of Albury DCP 2010 seeks to minimise the risks associated with natural hazards, including bushfire, flooding, and land contamination. The subject land is mapped 'overland flooding' which indicates flooding may occur during high rainfall events.

The development has been designed to maintain the existing overland flow paths, with no works proposed within the 6m drainage easement, located in the southern portion of the subject land. To minimise risk to life and property, conditions will be recommended on consent to ensure the ground levels within the drainage easement remain unchanged, which will assist to convey overland flows across the site.

#### Part 10 – Development in Residential Zones

Part 10 of Albury DCP 2010 contains the controls applicable to residential development. The group home development must be considered against the Guidelines and Performance Criteria of Part 10, Division G – Residential development enabled by a SEPP.

##### *1. Objectives*

*Objectives for development to which Division G applies are to be considered by Council when a development application is determined. The objectives are, to:*

- a. Ensure development to which this division applies responds to the environmental conditions of the site and the locality.*
- b. Enable development to which this division applies to be compatible with the streetscape and to contribute positively to the character of the locality in which development is proposed.*
- c. Create reasonable amenity for occupants of development to which this division applies without causing unreasonable impacts on the amenity of neighbours.*

##### *2. Residential development enabled by a SEPP*

- a. This clause applies to erection of new buildings, alterations and additions to and adaptation of existing buildings, for:*
  - i. Seniors housing,*
  - ii. Boarding houses, and*
  - iii. Group homes.*
- b. The purpose of this clause is to supplement the applicable provisions of the SEPPs that apply to the types of development specified by cl. 2. a.*

- c. *This clause applies to ancillary development, as defined by the Codes SEPP, that is not exempt or complying development under that policy or any other environmental planning instrument.*
- d. *Satisfaction of performance criteria is to be demonstrated to justify departures from numerical guidelines and non-numerical guidelines as set out in the Development Guidelines Table to this clause.*
- e. *Where there is no guideline for a design element, information is to be provided with a development application to demonstrate that relevant performance criteria are satisfied.*

Development Guidelines Table: Division G – Residential development enabled by a SEPP

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
a. Site planning.			Comment
<p>i. Min. landscaped area.</p> <p>Min. width of landscaped areas (to count as part of the min. landscaped area).</p> <p>Min. proportion of the primary street setback to be landscaped area.</p> <p>Refer to Figure 13 in the Schedule.</p>	<p>30% of the lot.</p> <p>1m.</p> <p>25%</p> <p>Erection of ancillary development is not to reduce the min. landscaped area or private open space to an amount less than that required.</p>	<p>Adequate landscaped area is provided, to ensure:</p> <ul style="list-style-type: none"> <li>• Space for growing plants, including trees,</li> <li>• Absorption of rainwater into the ground,</li> <li>• Reasonable amenity for residents,</li> <li>• Lots are not over-developed with buildings, structures and paving, and</li> <li>• Paving and buildings do not dominate the streetscape.</li> </ul>	<p><b>Complies.</b></p> <p><b>The soft landscaped area is 1,654m<sup>2</sup>. Given the site area is 3,916m<sup>2</sup>, the landscaped area is 42%, which satisfies the Albury DCP 2010 landscaped area requirements.</b></p>
<p>ii. Development on a battle-axe lot.</p>	<p>Development guided by this clause is not favoured on a battle-axe lot, unless:</p> <ul style="list-style-type: none"> <li>• The lot adjoins or has an outlook to public open space or another type of public reserve, or land in an environmental protection zone, and,</li> <li>• Access to the lot is suitable for the development.</li> </ul>	<p>Development on a battle-axe lot:</p> <ul style="list-style-type: none"> <li>• Provides reasonable amenity for occupants and neighbours,</li> <li>• Is compatible with the public domain and the character of the locality,</li> <li>• Addresses public open space or another type of public reserve, or land in an environmental protection zone, and</li> <li>• Is provided suitable access.</li> </ul>	<p><b>Complies.</b></p> <p><b>The proposed vehicle and pedestrian access to the site from Bernhardt Street is considered suitable.</b></p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
iii. Max. basement area.	Within applicable building setbacks.	Basements do not impact the ability to maintain or plant vegetation on the lot.	<b>Not applicable.</b>
<b>b. Building height.</b>			
i. Max. no. of storeys.	2.  Does not apply in R3 and B4 zones.	The number of storeys is compatible with the streetscape and the character of the locality.  The number of storeys reasonably maintains acceptable relationships with adjoining development, in terms of bulk and scale and resident-amenity.	<b>Complies.</b>  <b>The development proposes single storey dwellings only.</b>
ii. Max. no. of storeys in the rear 40% of a lot, measured as a percentage of the average length of the two side boundaries.	1.  Does not apply in the R3 and B4 zones (except when the lot adjoins land in the R1 or R2 zones), or when the lot adjoins a rear lane, or is a corner lot, or is in a heritage conservation area.	Development in the rear of a lot maintains resident amenity and is compatible with local character.	<b>Complies.</b>  <b>As addressed above, the dwellings are single storey only.</b>
iii. Earthworks, retaining walls & related structures.  Refer to Figure 14 & 15 in the Schedule.	Development is to be stepped to align as closely as possible with the slope of the lot.  Earthworks and related structures are not to result in finished ground levels that differ by more than 600mm from existing ground levels at any boundary with adjoining land.  If the lot was benched when the land was subdivided, earthworks and related structures are not to further increase or decrease finished ground levels at any boundary with adjoining land.  All earthworks and related structures are to be properly drained and not direct surface water onto adjoining land.	Adverse impacts of earthworks and related structures on adjoining land, resident-amenity, streetscape and the character of the locality are avoided, or acceptably minimised or mitigated.	<b>Variation.</b>  <b>Earthworks will be required to enable level surfaces for the proposed group home development and vehicle manoeuvring area, which will result in ground levels variation that will exceed 600mm at the allotment boundaries.</b>  <b>Retaining walls are proposed either adjacent to, or adjoining the shared allotment boundaries, and vary in height given the topography of the subject land. Details of the retaining walls are shown on the submitted plans.</b>  <b>A variation is considered supportable in this instance as any development on this site would require some form of earthworks to create level surfaces given the topography</b>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
			<p>of the land, and unique shape of the site.</p> <p>A condition will be recommended on consent requiring the lodgement of a Stormwater Drainage Plan prior to any works commencing on site.</p>
	Structures related to earthworks that differ by more than 600mm from existing ground levels, including any retaining, drainage works or other works, are to be designed by a suitably qualified and experienced engineer.	Earthworks and related structures and infrastructure are properly designed.	<p><b>Noted.</b></p> <p>A condition will be recommended on consent to ensure that retaining walls are designed by a suitably qualified engineering professional.</p>
	<p>Appropriate construction techniques, including minimising removal of vegetation where possible, are to be implemented to assist in erosion and sediment control during and post construction.</p> <p>An erosion and sediment control plan is to be submitted with a development application, except when development does not involve soil disturbance or when soil disturbance is insignificant.</p>	Construction of earthworks and related structures does not adversely impact stormwater flows and the environment.	<p><b>Noted.</b></p> <p>A condition will be recommended on consent requiring erosion and sediment measures to be in place prior to works commencing on site.</p>
<b>c. Setbacks.</b>			
<p>i. Min. primary street setback.</p> <p>Refer to Figure 16 in the Schedule.</p>	<p>Average setback of the two buildings closest to the lot, in the same street and on the same side of the street.</p> <p>4m when averaging as set out above is impractical.</p>	<p>Setbacks are compatible with the setback of neighbouring buildings.</p> <p>Setbacks contribute to a consistent streetscape and character in the locality.</p>	<p><b>Complies.</b></p> <p>Given the L-shaped battle axe allotment, the majority of the development is setback greater than 47m from the street boundary.</p> <p>The development proposes an enclosed 4.9m x 5.5m bin storage room, which is setback 4m from the Bernhardt Street boundary; however, it will be predominately screened from view by the proposed 1.8m front fence.</p>



Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
i. Min. secondary street setback on a corner lot.	50% of the primary road setback.		<b>Not applicable.</b>
ii. Min. setback from a rear lane.	0m, provided there is adequate area for access into and egress from a garage.  Entry to and exit from a garage is to be demonstrated by plans of swept paths of vehicles, if required.	Safe and practical entry to and exit from a garage off a rear lane is provided.	<b>Not applicable.</b>
iii. Min. side setback.	0.9m, when building height closest to the boundary does not exceed 4.5m. 1.5m, when building height closest to the boundary exceeds 4.5m.	Adequate building separation is provided at side boundaries, for access, safety, private open space, privacy and sunlight access.	<b>Complies.</b>  <b>The development is suitably setback from the shared boundaries, as demonstrated in the submitted plan set.</b>
iv. Min. rear setback.	3m, when building height closest to the boundary does not exceed 4.5m. 6m, when building height closest to the boundary exceeds 4.5m.	Adequate building separation is provided at rear boundaries, for access, safety, private open space, privacy and sunlight access.	<b>Complies.</b>  <b>The communal building and units 5, 6 and 7, is setback 11.26m from the rear (southern) boundary.</b>  <b>The retaining wall is setback 6.03m from the rear boundary.</b>
v. Build-to boundary/zero setbacks (0mm-900mm).	Not permitted on a lot > 20m wide at the primary street setback.  0 – 900mm setback is permitted to one side boundary only.  Walls setback < 900mm must be of masonry construction and have no openings.  3m max. wall height.  Unbroken length cannot be greater than 10m, or	Appropriate flexibility for building siting and design is enabled on lots < 20m in width.  Access between the front and rear of a lot is available on one at least one side of a dwelling.  Adequate area is provided for building maintenance.  Amenity of occupants of neighbouring	<b>Not applicable.</b>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	<p>one third of the boundary length, whichever is less.</p> <p>Maximum length of 15m provided that the wall contains at least one break of 3m.</p> <p>A building adjacent to a wall with a zero setback is to be set back 1.5 metres from the common boundary, despite any other provision of this DCP.</p>	<p>development is maintained or created.</p> <p>A harmonious streetscape is maintained or created.</p>	
vi. Exceptions to the primary street setback.	<p>In areas undergoing change in their character due to various circumstances (e.g. a change in zoning or land economics), a site and context analysis is to be carried out to establish an appropriate setback to the street, when an exception is sought to the primary street setback.</p> <p>Applicants are to consult with Council regarding the appropriate application of this guideline when preparing a development application.</p>	The primary street setback is established in accordance with a site and context analysis, that has considered the area's character and specific circumstances related to the site and its development.	<b>Not applicable.</b>
vii. Other exceptions to setbacks.	<p>450mm is the minimum side or rear setback for any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height, or any other structure, installation or appliance associated with the provision of a utility service.</p> <p>Side or rear setbacks do not apply to fences, fascias, gutters, downpipes, light fittings, electricity or gas meters, driveways, open carports, paths or paving.</p> <p>Setbacks from streets and lanes do not apply to</p>	<p>Services and utilities are able to be located within side and rear setbacks, without unreasonable adverse impacts on neighbours' amenity.</p> <p>Enables siting of ancillary works that must be located on, over or between lot boundaries and buildings.</p>	<b>Not applicable.</b>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	driveways, fences, paths, or retaining walls.		
<b>d. Character &amp; the public domain.</b>			
i. Character.	The building is designed to be compatible with the streetscape and character of the locality.	<p>Development is of high architectural quality and contributes positively to local character and a safe public domain.</p> <p>Design and choice of materials and colours are compatible with surrounding development and contribute to a pleasant and attractive public domain.</p> <p>The mass and form of development integrates with and promotes diversity in the locality through quality urban design.</p>	<p><b>Complies.</b></p> <p>The subject land adjoins residential dwelling houses, which are one and two storey in design.</p> <p>Given the unique shape of the site, the development will be mostly screened from public view from the surrounding streets; therefore, it is not anticipated to have any detrimental impacts to the streetscape or character of the locality.</p> <p>It is noted that the proposed front fence has been designed using materials that will complement the development and contribute to a pleasant public domain.</p>
ii. Design, massing & articulation.  Refer to Figure 17 in the Schedule.	<p>Massing and articulation are to reduce apparent scale and bulk and create visually interesting buildings.</p> <p>Materials, textures and colours are to complement the massing and design of the building.</p> <p>Buildings are to be suitably articulated using harmonious architectural elements in the design, such as verandahs, porticos, awnings, bay windows, balconies or terraces. Elements such as these may be forward of the primary street setback.</p> <p>Simple roof forms are to be designed to complement other building elements and minimise bulk and scale of the building. Roof forms are to be</p>		<p><b>Complies.</b></p> <p>The single storey design of the proposed development is considered to be compatible with the surrounding built form of the East Albury area.</p> <p>The proposed group home development incorporates a variety of exterior materials and finishes to create a good level of building articulation.</p> <p>Consequently, the mass, form and siting of the development is considered to respond to the site constraints and is appropriate for the location.</p> <p>Conditions will be recommended on consent to ensure infrastructure and services are located to meet Council's engineering guidelines.</p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	<p>compatible with those of nearby buildings.</p> <p>Infrastructure and services are to be integrated into to the development's design or screened.</p>		
iii. Community safety & surveillance.	<p>Principal pedestrian entries are to address, be readily identifiable and directly accessible from the street.</p> <p>Principal pedestrian entries are not to be from a lane.</p> <p>When a building façade faces a reserve or other element of the public domain, that façade is to include windows and/or doors to address that reserve or other element of the public domain.</p> <p>Fencing and landscaping are not to unacceptably diminish informal surveillance of the public domain.</p>	<p>A safe method of access to and egress from development is provided.</p> <p>Development contributes to community safety and informal surveillance of the public domain.</p>	<p><b>Complies.</b></p> <p><b>A safe method of access to and egress from the development is provided.</b></p> <p><b>The development proposes two-way vehicle access from Bernhardt Street, and an accessible ramp to ensure the separation of pedestrians from the driveway.</b></p> <p><b>It is considered that development of the vacant land will increase passive surveillance of the public domain.</b></p>
<b>e. Resident-amenity.</b>			
i. Sunlight access. Refer to Figures 21 & 22 in the Schedule.	<p>Windows and doors of habitable rooms (except bedrooms) and private open space of all dwellings are to be sited and oriented to receive at least 3 hours direct sunlight between 9am and 3pm on the winter solstice.</p>	<p>Sunlight access to primary indoor living areas and private open space is optimised.</p> <p>Sunlight access enables passive solar heating in winter and provides a pleasant and healthy indoor environment.</p>	<p><b>Complies.</b></p> <p><b>The proposed residential units incorporate windows in habitable rooms, with the open plan primary living spaces oriented to receive direct sunlight access from both ground floor and clerestory windows.</b></p>

**Division G cl. 2 Residential development enabled by a SEPP**

Design elements	Guidelines	Performance criteria	
<p>ii. Overshadowing.</p>	<p>Proposed development must retain at least 3 hours of sunlight between 9am and 3pm on the winter solstice for existing neighbouring residential accommodation's:</p> <ul style="list-style-type: none"> <li>• Windows and doors of habitable rooms except bedrooms,</li> <li>• At least 50% of private open space,</li> <li>• Photovoltaic and solar hot water systems, and</li> <li>• Outdoor clothes drying facilities.</li> </ul> <p>If areas or utilities specified in the above paragraph of existing neighbouring residential accommodation receive less than 3 hours sunlight at the time a development application is lodged for adjoining land, the amount of sunlight received is not be reduced as a result of proposed development.</p> <p>When existing neighbouring residential accommodation may have its sunlight access impacted by proposed development, a shadow diagram is to be submitted with the application for the proposed development, based on the winter solstice, in hourly intervals from 9am to 3pm.</p>	<p>Sunlight access to existing neighbouring residential accommodation is reasonably maintained.</p>	<p><b>Complies.</b></p> <p><b>The development will not result in any significant overshadowing of existing adjoining properties.</b></p>
<p>iii. Climate management for west-facing residential accommodation.</p> <p>Refer to Figure 18 in the Schedule.</p>	<p>Where habitable rooms face west (between north-west and south-west), architectural elements are to be used, such as:</p> <ul style="list-style-type: none"> <li>• Extended eaves,</li> <li>• Verandahs,</li> <li>• External shutters or louvres, or</li> <li>• Awnings.</li> </ul>	<p>Heat-gain is reduced to improve thermal performance and comfort for occupants of residential accommodation.</p>	<p><b>Variation.</b></p> <p><b>No additional architectural elements or treatments are proposed to reduce heat gain to the west facing windows of the units or core building.</b></p> <p><b>A variation is considered to be supportable as the development has been</b></p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	Architectural design elements can be complemented by landscaping.		designed to comply with the Section J requirements under the Building Code of Australia (BCA), and the housing provider may opt to utilise other mitigation measures not tied to the construction to improve thermal performance i.e., external shutters or awnings, block out blinds, etc.
iv. Privacy.  Refer to Figure 23 in the Schedule.	<p>When privacy of occupants of proposed development or neighbours is likely to be affected, siting and design of the proposed development is to maintain reasonable levels of privacy.</p> <p>Principal siting and design techniques to consider and use, include:</p> <ul style="list-style-type: none"> <li>• Building orientation,</li> <li>• Position of habitable rooms,</li> <li>• Window size and location,</li> <li>• Building separation and setbacks,</li> <li>• Avoiding or minimising direct lines of sight, and</li> <li>• Location of balconies and terraces adjacent indoor living areas.</li> </ul> <p>When principal techniques may not maintain reasonable levels of privacy, supplementary techniques to consider and use include:</p> <ul style="list-style-type: none"> <li>• Recessed balconies or vertical fins,</li> <li>• Solid or partially solid balustrades,</li> <li>• Bay or pop-out windows,</li> <li>• Planter boxes,</li> <li>• Privacy screens,</li> <li>• Sill heights, or</li> </ul>	Privacy between residents of proposed development and neighbours is reasonably protected.	<p><b>Complies.</b></p> <p><b>The proposed group home development is appropriately sited and designed to maintain the privacy of neighbouring property owners, and residents of the facility.</b></p>



Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	<ul style="list-style-type: none"> <li>Opaque window glazing.</li> </ul>		
v. Private open space.  Min. area.  Min. length and width.  Max. grade.  When provided above ground, min. length and width to count towards min. private open space area.  Refer to Figure 19 in the Schedule.	24m <sup>2</sup> .  4m.  1:20.  2m.	Private open space is sited and designed to accommodate various functions such as outdoor leisure and dining, gardening and landscaping, clothes drying, and bin storage.	<b>Complies.</b>  <b>Each unit is provided with a clear covered pergola and outdoor area, which satisfies the private open space requirements of Albury DCP 2010.</b>  <b>Further, a communal building and grassed area with playground is provided for the use of residents, which will add to the amenity of the development.</b>
vi. Principal private open space.  At ground level:  Min. area.  Min. length and width.  Max. grade.  Above ground level:  Min. area.  Min. depth.  Refer to Figure 19 in the Schedule.	Principal private open space is located adjacent to and directly accessible from a habitable room in a dwelling, other than a bedroom.  16m <sup>2</sup> .  4m.  1:50.  12m <sup>2</sup> .  2m.	Principal private open space is located and designed to provide high amenity for dwelling occupants.	<b>Complies.</b>  <b>Each unit is provided with a clear covered pergola, which exceeds the minimum length and width requirements; consequently, the development satisfies the principal private open space requirements of Albury DCP 2010.</b>
vii. Landscape design.	A landscape concept plan is to be provided, prepared in accordance with Council's Engineering Guidelines Subdivisions and Development Standards.	Landscape planning and design is properly conducted for development.	<b>Complies.</b>  <b>A landscape plan has been submitted as part of the application which identifies suitable landscaping within the site.</b>  <b>It is considered the landscaping proposed will soften the appearance of the development and add to the resident amenity of the group home for residents.</b>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
viii. Safer by design.	<p>Development applications for the following developments are to be accompanied by a safer by design (crime prevention through environmental design) assessment:</p> <ul style="list-style-type: none"> <li>Seniors housing of more than 6 dwellings and/or beds,</li> <li>Group homes accommodating more than 6 people (excluding caretakers), and</li> <li>Boarding houses accommodating more than 6 people.</li> </ul>	<p>The risk of anti-social behaviour, criminal activity and reduced public safety is avoided, minimised or mitigated.</p> <p>Development is liveable and safe for its occupants.</p>	<p><b>Complies.</b></p> <p><b>The applicant has identified within the SEE that the development is designed in accordance with the 'Crime Prevention Through Environmental Design' principles, as per below:</b></p> <p><i>"The guidelines prepared by the NSW Department of Urban Affairs and Planning (DUAP 2001) identify four (4) Crime Prevention Through Environmental Design (CPTED) principles to be considered in a Development Application to ensure developments do not create or exacerbate crime risk. The four key principles of the guidelines include surveillance, access control, territorial reinforcement, and space management.</i></p> <p><i>The proposed development will rely on closed-circuit television (CCTV) to monitor access points, the boundaries of the site and internal areas. Windows from the Core building enable views to the driveway and at-grade carpark, the central communal area and entries to individual units. Similarly, windows associated with living rooms in the units enable casual surveillance of the central communal area, as well as entries to other dwellings.</i></p> <p><i>The proposed development ensures access control and territorial reinforcement through the provision of 1.8 metre-high fencing around the facility that clearly delineates the site boundary from the public domain and neighbouring properties. This is combined with gates and doors throughout to ensure that persons are unable to access various zones in the facility without first being granted access by staff.</i></p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
			<i>The proposed development will ensure space management through the employment of maintenance staff that will maintain the facility in a tidy condition.</i>
ix. Noise & air quality.	<p>Development is to be sited and designed to acceptably reduce the impact of noise in the locality.</p> <p>When there is a risk development will be impacted by a nearby source of noise or offensive or hazardous emissions to the atmosphere, the development is to be designed and sited to acceptably reduce that risk.</p> <p>When deemed necessary by Council, a noise impact assessment is to be submitted with a development application and the development's design is to adopt the recommendations of that assessment.</p>	Impacts of noise and air-emissions are avoided or effectively mitigated and minimised.	<p><b>Complies.</b></p> <p><b>The proposed development has been sited and designed to minimise noise transfer to neighbouring properties; consequently, the use of the group home is not anticipated to result in any offensive noise or hazardous emissions following the completion of construction.</b></p> <p><b>Conditions of consent will be recommended to limit hours of construction.</b></p>
x. Waste Management.	<p>Provide bin storage in accordance with Council's kerbside requirements, in a readily accessible location for residents.</p> <p>Bins are not to be stored forward of the primary street setback, or in a location visible from the public domain.</p> <p>Construction and demolition waste are to be managed and disposed of in accordance with the requirements of Council</p>	<p>Waste storage meets residents' requirements, reasonably maintains resident-amenity and the qualities of the streetscape and the character of the locality.</p> <p>Waste from the development is effectively managed in accordance with applicable requirements.</p>	<p><b>Noted.</b></p> <p><b>The development proposes an enclosed bin storage room, which will accommodate storage for general rubbish, recycling and organics bins.</b></p> <p><b>The applicant has submitted a Waste Management Plan as part of this application.</b></p> <p><b>Following review of this document, a condition will be recommended on consent to require a revised Waste Management Plan that will be subject to Council approval prior to the issue of a Construction Certificate.</b></p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	or another authority, when applicable.		<p>It is anticipated that the revised Waste Management Plan will appropriately address any potential impacts related to waste removal, once the site is operational.</p> <p>In relation to construction waste, conditions will be recommended on consent to ensure any development waste or excavated soils is managed in accordance with the requirements of Council and disposed of prior to the issue of the Occupation Certificate.</p>
xi. Building materials.	Reflective building materials are not to be used.	Building materials do not unreasonably diminish neighbours' amenity.	<p><b>Complies.</b></p> <p>The materials proposed to facilitate the group home development are considered to be suitable given the residential context of the area.</p> <p>A condition will be recommended on consent to ensure no reflective materials are used to construct the development or any ancillary buildings/structures.</p>
<b>f. Boundary treatments (fences &amp; walls).</b>			
<p>i. Max. height of a boundary treatment forward of the primary street setback.</p> <p>Refer to Figure 24 in the Schedule.</p>	<p>1.2m, or</p> <p>1.8m, with at least 50% being see-through.</p>	<p>Amenity is protected for residents without adverse impact on the streetscape.</p> <p>Informal surveillance is enabled, and the boundary treatment contributes positively to the streetscape.</p>	<p><b>Variation.</b></p> <p>The development proposes a solid 1.8 metre front fence.</p> <p>The front fence is considered to be supportable in this instance given the proposed use of the site, which is to provide accommodation to domestic violence victims and their dependents.</p> <p>The proposed front fence is suitably articulated and is not anticipated to detract from the streetscape.</p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
ii. Max. height of a gate, forward of the primary street setback.	As above.	Gates are of the same height as and compatible in appearance with the remainder of front boundary treatment and maintain safety on the public road.	Complies.  <b>A condition will be recommended on consent to ensure the gate has a maximum height of 1.8 metres.</b>
iii. Max. height of side and rear boundary treatment behind the primary street setback.	1.8m.	Side and rear fencing enables privacy and security without being visually intrusive or dominant.	Complies.  <b>A condition will be recommended on consent to limit side and rear boundary fencing to a maximum height of 1.8 metres.</b>
iv. Boundary treatment materials and colours.	<p>To be consistent with the materials and colours of the development on the lot and compatible with the streetscape.</p> <p>On a lot adjoining semi-rural or rural land, or land in an Environmental zone, boundary treatments on that lot are to be compatible with the character of the land adjoining the lot. Post and rail or post and wire fencing are examples of suitable fencing. Solid metal or timber fencing, or masonry walls are discouraged.</p>	Boundary treatments contribute positively to the streetscape and are compatible with the character of the locality.	Noted.
<b>g. Access &amp; parking.</b>			
i. Pedestrian access.	<p>Pedestrian entries are to be clearly identifiable and visible from the street.</p> <p>Entries are to provide direct access to letter boxes.</p> <p>Entries and paths from the street are to be suitably lit at night.</p> <p>Pedestrian paths are to be separate from driveways, when possible, or shared ways design to minimise</p>	Pedestrian entries to development are safe and provide amenity for and informal surveillance of the street.	<p>Complies.</p> <p><b>The proposed ramped pedestrian access into the site from Bernhardt Street will provide safe access and egress for residents of the group home facility.</b></p> <p><b>Given the nature of the development, being to provide temporary housing to domestic violence victims and their children, access will be provided to residents, staff, and approved visitors only, via a security key fob.</b></p>

Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	vehicle speed to walking speed (5 km/h).		
ii. Min. no. parking spaces.	Specified by Part 17.	The number of on-site parking spaces is adequate and acceptably impacts parking supply on local streets.	<b>Noted.</b>  <b>See assessment under Part 17 of Albury DCP 2010.</b>
iii. Internal access design.  Refer to Figure 25 in the Schedule.	<p>Internal access design is to consider and be based on a combination of these principles:</p> <ul style="list-style-type: none"> <li>• Avoid unrelieved, long, straight driveways that are visually dominant.</li> <li>• Vary the alignment of driveways to avoid a 'gun-barrel' effect'.</li> <li>• Set back garages behind the predominant primary street setback to reduce their visibility from the street</li> <li>• Avoid driveways running the length of the site.</li> <li>• Minimise the impact of driveways on streetscape.</li> <li>• Terminating vistas with trees, vegetation, open space or a dwelling, not garages or parking.</li> <li>• Use planting to soften driveway edges</li> <li>• Varying the driveway surface material to break it up into series of smaller spaces.</li> <li>• Limiting driveway widths on narrow sites to single vehicle width with</li> </ul>	Internal access design is safe, functional, visually appealing and contributes positively to the streetscape.	<p><b>Complies.</b></p> <p><b>Internal access design is considered to be safe, functional and visually acceptable.</b></p> <p><b>Given the unique shape of the site, the development will be predominantly screened from public view from the surrounding streets; therefore, is not anticipated to have any detrimental impacts to the streetscape or character of the locality.</b></p> <p><b>The development proposes landscaping within the site which will soften the appearance of the vehicle manoeuvring areas and buildings.</b></p> <p><b>A condition will be recommended to ensure all landscaped areas are maintained in good health by the operator of the group home for the perpetuity of the development.</b></p>



Division G cl. 2 Residential development enabled by a SEPP			
Design elements	Guidelines	Performance criteria	
	passing bays when required.		
iv. Carports forward of the primary street setback.	<p>A carport erected forward of the primary street setback is to:</p> <ul style="list-style-type: none"> <li>• Have max. dimensions of 6m x 3m,</li> <li>• Be setback at least 1m from the front boundary,</li> <li>• Not exceed 4.5m in height,</li> <li>• Only be enclosed one side, either at the rear of the carport or on the side closest to a side lot boundary, and</li> <li>• Be designed and built of materials and colours compatible with the main building(s) on the lot.</li> </ul>	Carports forward of the primary street setback do not unreasonably affect the amenity of neighbours and are compatible with other buildings on the lot and the streetscape.	<b>Not applicable.</b>
<b>h. Utility infrastructure.</b>			
i. Access to the development and associated road works.		<p>Access to the development and associated road works are consistent with Council's Engineering Guidelines for Subdivisions and Development Standards.</p> <p>On bush fire prone land, access is provided in accordance with RFS guidelines.</p>	<p><b>Complies.</b></p> <p><b>The application was referred to Council's Transport team, who have not objected to the proposed development.</b></p> <p><b>It is considered that the existing road network is capable of absorbing any addition traffic generation as a result of the proposed group home development.</b></p> <p><b>An advisory condition will be recommended on consent requiring the vehicle crossover to be consistent with Council's Engineering Guidelines for Subdivisions and Development Standards.</b></p>
ii. Water and sewer supply.		If required, arrangements are made with Council, the water and sewer authority, for	



Based on Part 17 of Albury DCP 2010, the development generates a demand for a total of 11 spaces on site. The development proposes 7 spaces on site, inclusive of an accessible parking space. This results in a shortfall of 4 spaces.

It is considered that the development provides suitable access to and within the site, through the inclusion of a two-way driveway, accessed via Bernhardt Street, and an accessible ramp for pedestrians. The car parking spaces within the site are anticipated to be shared between residents of the group home and staff members.

A variation is considered to be supportable as the subject land is located within an established residential area within walking distance of central Albury and public transport (bus stop); therefore, alternate modes of transport may be utilised by residents.

Additionally, there is opportunity within the site to provide bicycle racks near the core or communal building, which will encourage this form of transport for residents, employees, and visitors to the site. A condition will be recommended on consent to provide bicycle racks for a minimum of four (4) bicycles on site.

The development has been internally referred to Council's Transport team who have no objection to the proposed parking arrangement and identified shortfall of spaces.

**(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- *If demolition of a building proposed - provisions of AS 2601;*

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

**3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting

The subject land is zoned R1 General Residential and the land surrounding the development site is generally developed with detached single-storey and two-storey dwelling houses, all of which are designed to address the public road.

The subject land is a L-shaped allotment, comprising 3916.1m<sup>2</sup> in area, with the topography of the site sloping downwards with a fall of 6 metres from Bernhardt Street to the rear of site (south-west boundary) and a fall of 4 metres from the north-east corner to the south-west corner of the allotment. The site has several scattered trees and shrubs, with this application proposing to remove twenty-two (22) trees to facilitate the development.

The site is considered to be well positioned in terms of access to Albury's commercial centre, being a 1km walk to Dean Street, via the pedestrian footbridge crossing the Hume Freeway, and a 400m walk to public transport (bus stop).

The proposed group home development has been designed to be compatible with the surrounding built form, being a single storey development that is well setback from the adjoining allotment boundaries, that incorporates exterior finishes and materials that are consistent with the residential context of the locality. Given the road frontage to Bernhardt Street is only 15.24m and a 1.8m fence is proposed along this boundary, the development will be predominately screened from the surrounding public roads.

Accordingly, the site is considered suitable for the development and will provide a valuable facility for vulnerable members of the community.

- Access and traffic

The site is an L shaped allotment and is accessed via Bernhardt Street. The existing crossover will require alteration to accommodate the proposed two way traffic arrangement. The development provides 7 car parking spaces within the site, inclusive of 1 accessible parking space; however, overall, there is a shortfall of 4 car parking spaces on site.

It is considered that the development provides suitable access to and within the site, through the inclusion of a two-way driveway and an accessible ramp for pedestrians. The car parking spaces within the site are anticipated to be shared between residents of the group home and staff members.

The subject land is located within an established residential area within walking distance of central Albury and public transport (bus stop), which will provide residents with a variety of transport options.

Additionally, there is opportunity within the site to provide bicycle racks near the core or communal building, which will encourage this form of transport for residents, employees, and visitors to the site. A condition will be recommended on consent to provide bicycle racks for a minimum of four bicycles on site.

The development has been considered in regard to potential traffic impacts and deemed suitable, and the established road network is capable of accommodating the relatively minor traffic increase associated with the proposed development.

- Public Domain

The proposed works are not anticipated to significantly impact upon the public domain. A condition is included on the consent to ensure the existing street tree within Bernhardt Street is not damaged or removed whilst construction works are occurring on site.

- Utilities

The subject site is located in an established urban area where the development has access to all necessary reticulated infrastructure and services including water, sewerage, gas, telecommunications, electricity and stormwater drainage. It is understood that there is adequate capacity within these networks to accommodate the development.

A condition will be recommended on consent to require a detailed Stormwater Management Plan prior to the issue of a Construction Certificate to demonstrate the existing stormwater network within the site has capacity to cater for flows resulting from the proposed development.

- Heritage

The site is not identified as a heritage item or located within a heritage conservation area as defined by Schedule 5 under Albury LEP 2010.

The site is within proximity to the C11 – Mount Street Conservation Area (see Figure 8). It is considered that the proposed group home development will not detract from the heritage significance of the conservation area as it will be mostly screened from public view given the unique L-shaped battle axe allotment. Further, it is considered that adequate separation between the development site and surrounding heritage conservation area, is provided by way of roads (Bernhardt Street and Jamieson Street) to reduce potential impacts such as interruption of important views/sightlines from the public realm to heritage buildings.

A review of the Aboriginal Heritage Information Management System (AHIMS) database was undertaken, and it is confirmed that there are no recorded items of Aboriginal cultural significance within 200 metres of the subject site.



- Other land resources

The proposed development will have no significant impact on any land resources.

- Water/air/soils impacts

Due to the existing topography of the subject land, the development requires earthworks within the site to facilitate level surfaces for the group home development and vehicle manoeuvring areas.

In order to avoid impacts of sediment loss or erosion, a condition recommending an Erosion and Sediment Control Plan (ESCP) will be required to be prepared in accordance with Council guidelines prior to the application of a relevant Construction Certificate.

The erosion and sediment control plan shall demonstrate the capacity of drainage infrastructure to service the development, treat and retard stormwater, and reduce any impacts on soil and water downstream of the proposed development. This plan shall provide for (as a minimum):

- The diversion of uncontaminated run-off around cleared or disturbed areas.
- The erection of a silt fence to prevent debris escaping into drainage systems or waterways.
- The prevention of tracking of sediment by vehicles onto roads.
- The stockpiling of topsoil, excavated material, construction and landscaping supplies and debris within the site, and the removal or utilisation (where appropriate) of that stockpile after completion of the works.
- Maintenance of control measures until the land is effectively rehabilitated and stabilised beyond the completion of construction.

Matters regarding erosion and sediment control are considered to be satisfactorily addressed via the above condition of consent.

- Flora and fauna impacts

The development proposes the removal of twenty-two (22) trees within the site. Council's Environmental Planning team have reviewed the proposed tree removal and have raised no objection, subject to recommended conditions of consent.

The applicant has submitted an Arboricultural Impact Assessment Report prepared by Northern Tree Care (see Attachment 2) which provides a detailed assessment of the trees to be retained within the site, and significant trees adjacent to the site. Council has raised concerns in relation to the proposed earthworks and redevelopment impacting upon the root systems of the existing vegetation, noting that the works may jeopardise the health and structural integrity of these trees.

In response to these concerns, the applicant has submitted a revised Arborists Report which states the following:

*The roots lost during construction will be replaced by the growth of new roots. The new roots will have completely replaced the lost roots within 2 years of the roots being cut (Struve 1990) (Hamilton 1988). Studies have shown a better root regrowth response when the tree roots are broken rather than cut cleanly and a significant root replacement occurs after only 1 year (Gray 2023).*

Based on the statements made in the submitted Arborist Report dated 1 November 2023, the development is not anticipated to have a significant impact upon the long term health of the retained trees both within the site and adjacent to, providing the trees are protected in accordance with AS 4970-2009 and appropriate Tree Protection Zones (TPZ) are implemented whilst construction works are occurring on site.

A condition will be recommended on consent requiring the submission of a Tree Management Plan, which will be subject to Council's approval prior to the issue of a Construction Certificate.

- Natural environment

The subject land is zoned R1 General Residential and is located within an established urban area. The development of the site will involve tree removal and earthworks to facilitate level surfaces within the developable area; however, given the development incorporates 1,654m<sup>2</sup> of soft landscaped area, representing 42% of the site, the proposal is considered to provide suitable compensatory planting to offset the group home development.

- Noise and vibration

Whilst it is expected some noise will be generated during the construction phase of the development, a condition will be included on the consent to limit construction and demolition works between the hours of 7am and 6pm Monday to Friday and 8am and 1pm on Saturdays. No work is permitted on Sundays and Public Holidays.

Once constructed, it is expected that only minimal noise from mechanical equipment to service the development will be generated.

- Natural hazards

The subject land is not identified as contaminated or bushfire prone; however, is identified as overland flood affected during high rainfall weather events.

The development has been designed to maintain the existing overland flow paths, with no works proposed within the 6m drainage easement, located in the southern portion of the subject land. The applicant has submitted a Stormwater Management Report prepared by Spiire (see Attachment 2), which has been reviewed by Council's Development Engineers and consequently, the development can be supported subject to satisfying recommended conditions of consent.

To minimise risk to life and property, conditions will be recommended on consent to ensure the ground levels within the drainage easement remain unchanged, which will assist to convey overland flows across the site.

- Safety, security, and crime prevention

The proposed development has been designed with regard to safety and security of residents. The development proposes a 1.8m fence around all boundaries, the inclusion of CCTV within the site, and security access fobs will be given to residents, staff, and approved visitors. These measures are considered to be appropriate and will enhance the sense of security for women and children staying at the group home facility.

A condition of consent is recommended to require the submission of a formalised Site Management Plan which will outline operational matters and appropriate consideration of relevant matters including crime and safety risks for the site.

- Social impact

In relation to social impacts, the applicant has provided the following information in the SEE, which is summarised below:

*Domestic Violence NSW, the peak body for specialist and family violence services in NSW, reports that 1 in 4 Australian Women (23%) have experienced physical or sexual violence by a current or former intimate partner since the age of 15.*

*While there are many other statistics which may be cited in relation to the prevalence and nature of domestic violence, the key message is that domestic violence has a serious impact on women's health, which contributes to a range of negative health outcomes, including poor mental health, problems during pregnancy and birth, alcohol and illicit drug use, suicide, injuries, and homicide.*

*The Core and Cluster model is an accommodation model that seeks to improve the quality of accommodation available for women and children seeking refuge from domestic violence. Traditionally, accommodation has been provided in the form of share house environments which required residents to share all amenities and facilities other than bedrooms. The Core and Cluster model improves on the former share house model by providing self-contained living quarters for each resident, including private kitchen and bathroom facilities. Notwithstanding, the Core and Cluster model continues to operate as a single household.*

*Under the Core and Cluster model, self-contained living quarters (the 'Cluster') are located in close proximity to communal facilities (the 'Core'), which provide access to services such as counselling, legal assistance, education and employment support as well shared spaces.*

*The fundamental principle of the Core and Cluster model is that the residents have direct access to critical support and assistance while also having the personal space and necessary amenities to effectively deal with personal issues and trauma.*

It is determined that the proposed group home development will deliver a quality facility which will provide temporary housing and support for at risk members of the community, providing a valuable benefit for vulnerable women and their children.

- Economic impact

The proposed development represents investment in infrastructure to support women and children escaping domestic violence. The positive flow-on effects to the regional economy include economic benefit through trades and services during construction in the short term, and additional job opportunities via employment of staff and professional support services once the group home is operational.

- Site design and internal design

The development is designed in a form which is responsive and respectful to the existing built form of the surrounding residential context. The development proposes increased boundary setbacks, quality external finishes, and landscaping, which will contribute to the visual appearance of the group home from adjoining landowners.

The development is designed to meet the 'Core and Cluster' model, which provides a purpose built women and children's domestic and family violence centre, and consists of a 'core' building, containing a reception area, meeting rooms, kitchenette and facilities for staff, a 'communal' building for residents to socialise and interact, and seven units comprising 1 and 2 bedroom configurations.

The site is an L shaped allotment and is accessed via Bernhardt Street. The existing crossover will require alteration to accommodate the proposed two way traffic arrangement. Seven (7) car parking spaces are located adjacent to the core and communal building, which is in the lower portion of the site.

The proposed group home development is considered to be compatible with the surrounding built form and residential character of the area.

- Construction

The potential impacts from construction have been adequately mitigated in recommended conditions or consent.

- Cumulative impacts

The proposal will not result in any adverse cumulative impacts. It is generally consistent with the planning controls and key issues have been satisfactorily addressed through design and recommended conditions of consent.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(c) - Suitability of the site**

The subject land is zoned R1 General Residential and is 3916.1m<sup>2</sup> in area and the minimum lot size applicable to this land is 450m<sup>2</sup>, therefore, the land is suitable for a medium density residential development. Though the site is currently developed with a dwelling house fronting Bernhardt Street, to enable safe and efficient access into the rear of the land, the existing residence and all ancillary structures were required to be demolished.

The land surrounding the development site is predominately developed with single-storey and two-storey dwelling houses, all of which are designed to address the public road. The proposed group home development has been designed to be compatible with the surrounding built form, being a single storey development that is well setback from the adjoining allotment boundaries.

Given the road frontage to Bernhardt Street is only 15.24m and a 1.8m fence is proposed along this boundary, the development will be predominantly screened from the surrounding public roads. Consequently, the development would not be considered to result in an unreasonable impact on the amenity of nearby properties. Accordingly, the site is considered suitable for the development and will provide a valuable facility for vulnerable members of the community.

### **3.4 Section 4.15(1)(d) - Public Submissions**

Public submissions are considered below under Section 5 of this report.

### **3.5 Section 4.15(1)(e) - Public interest**

The public interest is best served by the orderly and economic use of land for appropriate and permissible land uses. In this instance, the proposal represents a land use which is permissible in the R1 zone and is generally consistent with the relevant planning policy.

The subject land is an L-shaped battle axe lot, which has limited street frontage as a substantial portion of the site is located behind adjacent and nearby allotments that front both Bernhardt and Walsh Streets. It is considered that the proposed development will be well screened from surrounding public roads; therefore, will not have any significant impacts to the character of the streetscape.

The development will be visible to adjoining property owners, however there are no negative impacts envisaged as the proposed group home development is single storey only and well setback from the shared allotment boundaries. The development is designed in a form which is responsive to the existing built form and the surrounding context of the area and

incorporates a variety of exterior materials and finishes to create a good level of building articulation.

The development will deliver economic and social benefits to the broader community through the creation of job opportunities, both during and post construction, and will provide valuable support to vulnerable members of the community who are at risk of homelessness.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 4.

There are no outstanding issues arising from these referral requirements subject to the imposition of the recommended conditions of consent.

**Table 4: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act) – Not applicable</b>			
<b>Referral/Consultation Agencies</b>			
Electricity supply authority	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Section 2.48 – Development near electrical infrastructure	Conditions to be imposed on consent to require a minimum safe distance of 1 metre from the existing underground powerline(s) adjacent to the subject land.	Y
<b>Integrated Development (S 4.46 of the EP&amp;A Act) – Not applicable</b>			

### 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined Table 5.

**Table 5: Consideration of Council Referrals**

Officer	Comments	Resolved
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Transport	No significant concerns raised. Several conditions recommended to ensure compliance with AS2890.	Y
Engineering	No significant concerns raised. Several conditions recommended to address matters relating to stormwater and sewer infrastructure, earthworks, overland flooding, and carpark design.	Y
Building	No significant concerns raised. Conditions will be recommended on consent to ensure compliance with National Construction Code (NCC).	Y
Plumbing	No concerns raised. Standard conditions recommended.	Y
Environmental Health	No significant concerns raised. Several conditions recommended to manage potential environmental impacts of the development both during construction and once the site is operational.	Y
Environmental Planning	Concerns raised in relation to the retained vegetation both within the site and immediately adjacent to the site. Conditions recommended to minimise risk of damage to retained trees during and post construction, and to ensure health of landscaping once the site is operational.	Y
Water and Wastewater	No significant concerns raised. Several conditions will be recommended on consent to relating to water and wastewater design requirements.	Y
Contributions	No concerns raised. Standard condition recommended.	Y
Resource Recovery	No significant concerns raised. A condition will be recommended on consent to require a revised Waste Management Plan which will be subject to approval by Council prior to the issue of a Construction Certificate.	Y
Community Safety Officer	No significant concerns raised, and no specific conditions recommended on consent.	Y

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

#### 4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 31 August 2023 and 20 September 2023. The notification included the following:

- An advertisement in the local newspaper, The Border Mail;
- Notification on Albury City Council website (Application Tracker);
- Notification letters sent to adjoining and adjacent properties.

The Council received a total of eight (8) unique submissions, opposing the development. The issues raised in these submissions are considered below. A copy of the redacted submissions is included as Attachment 4.

Council is satisfied that the application has been suitably notified to adjoining landowners to provide the opportunity for any concerns to be raised and considered prior to the determination of the application.

#### Loss of property values

- *"This is a well known highly sort after area that has increased in value over the years and a lot of local home owners have invested a lot of money in improving and updating their homes and having this in our street will devalue our properties".*

**Planning Comment:** Property value is a relatively complex matter not simply associated with the impacts of neighbouring development. It is noted that while impact on property values is not a planning consideration, the impact of the development has been considered in the assessment of the development application and is considered to be acceptable.

#### Increase of criminal activity

- *"Our street is filled with young family's that walk to and from school having a facility like this in our street brings people from an unstable background and increases the risk of crime, noise pollution and vulnerability to existing home owners and their families".*
- *"What risk assessment has been done for the residents of the facility and nearby residents?"*
- *"Having a facility like this will bring unwanted attention to our area, we live in a nice quite street and this will bring a variety of different people into our area drawing attention to our properties putting our families and properties at risk of theft and misconduct".*
- *"This form of accommodation is in high need, but has no place within an established area, placing existing residents at heightened risk and creating a massive divide between the developers and the existing residents".*

**Planning Comment:** Several submissions raised concern relating to the potential increase in crime activity as a result of the proposed group home. The applicant has provided the following response in relation to safety, security and crime prevention:

*The guidelines prepared by the NSW Department of Urban Affairs and Planning (DUAP 2001) identify four Crime Prevention Through Environmental Design*

*(CPTED) principles to be considered in a Development Application to ensure developments do not create or exacerbate crime risk. The four key principles of the guidelines include surveillance, access control, territorial reinforcement, and space management.*

*The proposed development will rely on closed-circuit television (CCTV) to monitor access points, the boundaries of the site and internal areas. Windows from the Core building enable views to the driveway and at-grade carpark, the central communal area and entries to individual units. Similarly, windows associated with living rooms in the units enable casual surveillance of the central communal area, as well as entries to other dwellings.*

*The proposed development ensures access control and territorial reinforcement through the provision of 1.8 metre-high fencing around the facility that clearly delineates the site boundary from the public domain and neighbouring properties. This is combined with gates and doors throughout to ensure that persons are unable to access various zones in the facility without first being granted access by staff.*

*The proposed development will ensure space management through the employment of maintenance staff that will maintain the facility in a tidy condition.*

It is considered that the 1.8m fence around all boundaries, inclusion of CCTV and security access fobs for residents, staff and approved visitors, are appropriate security measures to ensure the safety of the group home residents and surrounding property owners. A condition of consent is recommended to require the submission of a formalised Site Management Plan which will outline operational matters and appropriate consideration of relevant matter including crime and safety risks for the site.

#### Increased traffic flow

- *"Having a facility like this in our street increases traffic flow our street is unfit for regular use as it is, in is not level in any way and requires updating as is it, some areas of the street are very narrow and hard to pass cars parked in the street it is also uneven and has pot holes".*
- *"With the potential of up to 30 residents at any one time, plus care workers, and security, this proposed complex will certainly create increased traffic flow and this, again, will impact directly, and adversely on the existing streets which are lined predominantly with single dwellings in quiet and established, family-oriented streets".*
- *"Traffic and transport impacts associated with both resident movements and that of support staff are unknown given that information provided amongst supporting documentation is vague and speculative (in the absence of a detailed traffic and transport assessment report being provided)".*

**Planning Comment:** Several submissions raised concern relating to the increase in traffic generation resulting from this development. The proposal includes a total of 7 units, with 4 x 1 bedroom and 3 x 2 bedroom, total of 10 bedrooms. Under Part 17 of Albury DCP 2010, this results in a requirement for 7 spaces. The proposal also requires a further 3.33 spaces for the core building. The development provides 7 car parking spaces within the site, inclusive of 1 accessible parking space; however, overall, there is a shortfall of 4 car parking spaces on site.

It is considered that the development provides suitable access to and within the site, through the inclusion of a two-way driveway, accessed via Bernhardt Street, and an accessible ramp for pedestrians. The car parking spaces within the site are anticipated to be shared between residents of the group home and staff members.

The subject land is located within an established residential area within walking proximity to central Albury and public transport (bus stop), which will provide residents with a variety of transport options.

Additionally, there is opportunity within the site to provide bicycle racks near the core or communal building, which will encourage this form of transport for residents, employees, and visitors to the site. A condition will be recommended on consent to provide bicycle racks for a minimum of four bicycles on site.

The development has been considered in regard to potential traffic impacts and deemed suitable. Further, the established road network is capable of accommodating the relatively minor traffic increase associated with the proposed development.

#### Impact to amenity

- *"This area is a relative quiet, family friendly, safe area for individuals to live and it is my strong belief that this facility would change the liveability of the area".*
- *"This neighbourhood, into which I have only recently purchased, is exceptionally quiet, leafy and clean. I expect it to stay that way, and that any new development should assist in retaining these values".*
- *"I feel for the poor neighbours who will be forced to stare at this monstrosity every day, let alone what this will do for the value of their homes".*

**Planning Comment:** Several submissions raised concern in relation to the impact of the development on existing resident amenity. The vacant allotment is residential zoned, and the development proposed is a permissible land use which is consistent with the zone objectives of the site.

The single-storey design of the proposed development is considered to be compatible with the surrounding built form of the East Albury area. The proposed group home development

incorporates a variety of exterior materials and finishes to create a good level of building articulation. Consequently, the mass, form and siting of the development is considered to respond to the site constraints and is appropriate for the location.

The occupation of the group home development and operation of the site is not anticipated to have any significant impacts to the amenity of the adjoining property owners.

#### Construction impacts

- *"I work from home, and I am concerned about the noise from the building works to negatively impact my work".*

**Planning Comment:** Construction hours and noise are regulated and controlled by conditions of consent. It is considered that the proposed development has been sited and designed to minimise noise transfer to neighbouring properties; consequently, the use of the group home is not anticipated to result in any offensive noise or hazardous emissions following the completion of construction.

#### Use of development

- *"The developing agency runs facilities for a range of purposes. Is there a guarantee that this facility will be used solely for domestic violence survivors and their families, and that it cannot be 'repurposed', for example to house post-release individuals?"*

**Planning Comment:** The development application seeks approval for a group home development to provide temporary support to domestic violence victims and their families. Whilst Council can recommend conditions in relation to how the site will operate, we cannot restrict the service provider or ongoing use of the site for this purpose only. As it is proposed as a group home, it could potentially be utilised for other purposes consistent with the definition of a group home, but that is not the intent of the current application. Any change in occupancy would need to comply with the conditions of consent and operational parameters approved under this consent or seek further approval to amend any relevant requirements.

#### Removal of trees and vegetation

- *"It seems that virtually the entire residential block area joining my property will be denuded of trees; then hard landscaped and fitted with a storage area for dumpsters. This will result in the immediate area adjoining my residential housing as functionally being a combination of a roadway and near industrial-scale refuse storage. The visual and functional impacts are not consistent with a residential neighbourhood, and the plans do not demonstrate any efforts that will be made to ameliorate these impacts".*
- *"The two large trees (ornamental pears, I think) which overhang the driveway are on the boundary of the property and provide summer shade to the hardscaping on both sides of the fence. Given that the climate is getting increasingly hotter, can't the developers find a*

*way to retain at least these two trees if not more of the advanced plants along the fence line, and so retain vital shade?"*

**Planning Comment:** Whilst the concerns raised in relation to tree removal are acknowledged, the requested tree removal is to facilitate the redevelopment of the site. It is noted that the group home development identifies some substantial vegetation is still being retained on the site.

The applicant has included a Landscape Plan that identifies that 1,654m<sup>2</sup> of the site will be landscaped, representing 42% of the site area. The Landscape Plan indicates a variety of trees, shrubs and grass covers will be utilised, which will provide high amenity to residents of the group home development.

The retention of the trees along the western boundary was specifically requested and the applicant advised that *"Unfortunately we are unable to decrease the driveway width due to many access concerns. We will intend to plant some type of hedging to the Western Boundary to soften the look and feel."* A condition of consent has been recommended requiring the submission and approval of a Landscaping Plan and this will also include the requirement for suitable shade trees to be planted along the western boundary.

#### Bin storage area

- *"Given that the bins will contain refuse for presumably seven families plus employees, probably with a higher-than-usual proportion of nappies, can the developers guarantee that there will not be a smell coming from this bin area into my residential area?"*

**Planning Comment:** The applicant has submitted a Waste Management Plan as part of this application. Following review of this document, a condition will be recommended on consent to require a revised Waste Management Plan that will be subject to Council approval prior to the issue of a Construction Certificate.

It is anticipated that the revised Waste Management Plan will appropriately address any potential impacts related to waste removal, once the site is operational.

#### Security and storage room

- *"What are the details of the building for the security system and storage?"*

**Planning Comment:** The applicant was asked to revise plans to provide accessible access from the street boundary and as a result, the security and storage room was removed from the plans to accommodate the access ramps. As the changes to the plans are considered minor, public notification of the plans was not required in this instance.

### Signage

- *"I consider commercial signage is inappropriate for this residential neighbourhood."*

**Planning Comment:** No signage is proposed as part of this application.

### Stormwater in Bernhardt Street

- *"Has there been any allowance for storm water from the Bernhardt Street side?"*

**Planning Comment:** A conceptual Stormwater Management Plan has been provided for the proposed development and conditions of consent are recommended to require the approval of more detailed plans prior to any development occurring on site.

### Group home development out of character with the surrounding built form

- *"It is my belief that a building of this size is going to be completely out of place being positioned in the middle of a block of land. This land should be turned into a community space or similar."*
- *"Please think very carefully before approving this development, there are thousands of acres around Albury Wodonga available with walking access to shops, services, and amenities. Putting a building of this scale in the old part of East Albury is putting a cat amongst the pigeons".*
- *"The scale of this proposed complex is out of character and is being placed on vacant land for the sake of availability, rather than for suitability. A large complex, such as the one being proposed, is surely more suited to areas which are not locked by existing houses and has the potential to be more suitably built without directly impacting current pre-existing dwellings in a highly established area".*
- *"I object to the abovementioned application on the basis that this location is simply not appropriate for such a facility".*
- *"The scale of the development proposal (consisting of communal buildings and seven (7) villas including 1-3 bedroom independent units) is not consistent with the current built environment".*
- *"Safety and security provision (including CCTV) to monitor access, boundaries and internal areas and fencing that will have the effect of zoning areas is a clear indication that residents are vulnerable (at risk). Whilst there is no debate that such a facility would certainly require such measures to be incorporated into design (for at risk residents), the obvious question is whether this would be considered typical of a group home development that would ordinarily be developed and characteristic (consistent) with surrounding development in an established residential area".*



**Planning Comment:** Several submissions raised concerns relating to the proposed group home development being inconsistent with the character of the locality and built form. It is considered that the land is zoned R1 General Residential, and the proposed land use is permissible in this zone.

The Objectives of the R1 zone are as follows:

- *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.*

The proposal is considered to be consistent with these zone objectives as the group home development will provide for the housing needs of the community and will provide a facility and service to support the needs of domestic violence victims and their dependents.

In regard to the concerns raised about the development being inconsistent with the built form, it is acknowledged the land surrounding the development site is predominately developed with single-storey and two-storey dwelling houses, all of which are designed to address the public road.

The subject land is an L-shaped battle axe lot, 3,916.1m<sup>2</sup> in area, and is 15.24m wide at the street frontage with a substantial portion of the site being located behind adjacent and nearby allotments which front both Bernhardt and Walsh Streets. It is considered that the proposed development will be predominately screened from surrounding public roads; therefore, will not have any significant impacts to the character of the streetscape.

The development will be visible to adjoining property owners, however there are no negative impacts envisaged as the proposed group home development is single storey only and well setback from the shared allotment boundaries. The development incorporates a variety of exterior materials and finishes to create a good level of building articulation, and will be further complemented and softened by 1,654m<sup>2</sup> of soft landscaped areas.

Noting the above, the site is considered suitable for the proposed group home development.

## **5. KEY ISSUES**

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Protection of Retained Vegetation

The development requires the removal of twenty-two (22) trees, and concerns have been raised by Council's Environmental team in relation to how the proposed development will impact upon the existing trees within the site and immediately adjacent to the site, that are proposed to be retained.

As addressed within the report under Part 5 of Albury DCP 2010, based on the statements made in the submitted Arborist Report, the development is not anticipated to have a significant impact upon the long term health of the retained trees both within the site and adjacent to, providing the trees are protected in accordance with AS 4970-2009 and appropriate Tree Protection Zones (TPZ) are implemented whilst construction works are occurring on site.

The matter is considered to be resolved via recommended conditions of consent, to the satisfaction of Council's Environmental team.

### 5.2 Variations to Albury DCP

The development complies with the Albury DCP 2010, with the exception of three requested departures to the guidelines under Part 10 – *Development in the Residential Zone, Division G – Residential development enabled by a SEPP* and one requested departure to the controls under Part 17 – *Off Street Car Parking*.

1. Part 10, Division G, Clause 2, b. ii., provides guidelines for earthworks, retaining walls and related structures.

Earthworks will be required to provide level surfaces for the proposed group home development and vehicle manoeuvring area, which will result in ground level changes that will exceed 600mm at the allotment boundaries.

Retaining walls are proposed either adjacent to, or adjoining the shared allotment boundaries, and vary in height given the topography of the subject land. Heights and locations of the retaining walls are detailed on the submitted plans.

A variation is considered supportable in this instance as any development on this site would require some form of earthworks to create level surfaces given the topography of the land, and unique shape of the site. A condition will be imposed on consent to require retaining walls to be designed by a suitably qualified engineering professional.

2. Part 10, Division G, Clause 2, e. iii., provides guidelines for west facing habitable rooms.

No additional architectural elements or treatments are proposed to reduce heat gain to the west facing windows of the units or core building.

A variation is considered to be supportable as the development has been designed to comply with the Section J requirements under the *Building Code of Australia (BCA)*, and the

housing provider may opt to utilise other mitigation measures not tied to the construction to improve thermal performance, ie. external shutters or awnings, block out blinds, etc.

3. Part 10, Division G, Clause 2, f. i, provides guidelines to require a maximum front fence height of 1.8m, with at least 50% being see-through.

The 1.8m solid front fence is considered to be supportable in this instance given the proposed use of the site, which is to provide accommodation to domestic violence victims and their dependents. The proposed front fence is suitably articulated and is not anticipated to detract from the streetscape.

4. Table 17.1 under Part 17 – *Off Street Car Parking* of the Albury DCP 2010 requires resident parking to be provided at the rate of 1 space per 1 or 2 bedroom dwelling and parking for the office building at 1 space per 40m<sup>2</sup> gross floor area (GFA).

The proposal includes a total of 7 units, with 4 x 1 bedroom and 3 x 2 bedroom. This results in a requirement for 7 spaces. The proposal also requires a further 3.33 spaces for the core building. The development proposes 7 spaces on site, which is a shortfall of 4 car spaces.

It is considered that the development provides suitable access to and within the site, through the inclusion of a two-way driveway, accessed via Bernhardt Street, and an accessible ramp for pedestrians. The car parking spaces within the site are anticipated to be shared between residents of the group home and staff members.

A variation is considered to be supportable as the subject land is located within an established residential area within walking distance of central Albury and public transport (bus stop). Additionally, there is opportunity within the site to provide bicycle racks near the core or communal building, which will encourage this form of transport for residents, employees, and visitors to the site. A condition is recommended on consent to provide bicycle racks for a minimum of four bicycles on site.

The development has been assessed for traffic and transport impacts and the proposed parking arrangement and identified shortfall of spaces have been considered as suitable for support.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the planning controls and requirements contained within Albury LEP 2010, Albury DCP 2010 and relevant State legislation, and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 5 can be resolved with conditions, as shown on the recommended draft conditions at Attachment 7.

Overall, it is concluded that the impacts of the proposed development on the environment and neighbouring properties are reasonable with the development providing for the housing needs of the community and delivering a facility and service to support the needs of domestic violence victims and their dependents.

The development is considered appropriate to the context and setting of the site. The proposed development is considered consistent with the objectives of the R1 General Residential zone and the assessment has concluded that the proposed development provides a suitable and satisfactory planning outcome.

## 7. RECOMMENDATION

That the Development Application 10.2023.40347.1 for Group Home – Seven Residences, Retaining Walls, Car Parking, Front Fence, Vegetation Removal & Demolition located at 271 Bernhardt Street (Lot 1 DP38393), East Albury, be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, subject to the draft conditions of consent attached to this report.

The following attachments are provided:

1. Development Plans
2. Statement of Environmental Effects and Supporting Documentation
3. Site Inspection Pictures
4. Redacted Submissions
5. Essential Energy response
6. Further information request and applicant response
7. Draft Determination